

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

THE SPEAKER:<sup>(1)</sup> The question is on the motion of the gentleman from Oklahoma.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, on that I ask for a division.

The question was taken; and there were—ayes 154, noes 2.

So a call of the House was ordered.

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

THE SPEAKER: On this rollcall 339 Members have answered to their names, a quorum is present.

Without objection, further proceedings under the call will be dispensed with.

MR. WILLIAMS: I object, Mr. Speaker.

MR. ALBERT: Mr. Speaker, I move that further proceeding under the call be dispensed with.

The question was taken; and on a division (demanded by Mr. Williams) there were—ayes 213, noes 8.

So the motion was agreed to.

## B. EFFECT OF PRESENCE OR ABSENCE OF A QUORUM

### § 10. Introductory

This section focuses on the effect of presence or absence of a quorum, including an analysis of proceedings which do and do not require a quorum. An axiom of parliamentary procedure is that the House cannot conduct business after the absence of a quorum has been announced.<sup>(2)</sup> However, “business” is a term of

art which does not encompass all activities.

Prior to inclusion in the 93d Congress of clause 6 (a)–(d), Rule XV, on Apr. 9, 1974,<sup>(3)</sup> as amended by the addition of paragraph (e) on Jan. 4, 1977,<sup>(4)</sup> in the 95th Congress, proceedings which, under the precedents, required a quorum included reading and approval of the Journal,<sup>(5)</sup> reading veto messages<sup>(6)</sup> and other messages from the President and Sen-

1. John W. McCormack (Mass.).

2. §§ 10.4–10.7, *infra*.

3. Rule XV clause 6(a)–(d), *House Rules and Manual* § 774c (1981) provides as follows:

4. Rule XV clause 6(e), *House Rules and Manual* § 774c (1979) provides as follows:

5. Annotation to U.S. Const. art. I, § 5, *House Rules and Manual* § 55 (1979);

4 Hinds' Precedents §§ 2732, 2733; and 6 Cannon's Precedents §§ 625, 629. See also § 11, *infra*, for a discussion of objections to a point of no quorum in proceedings related to the Journal.

6. 4 Hinds' Precedents § 3522; 7 Cannon's Precedents § 1094.

ate,<sup>(7)</sup> receiving the report of the Chairman of the Committee of the Whole,<sup>(8)</sup> and debate.<sup>(9)</sup> Proceedings which did not require a quorum included the prayer,<sup>(10)</sup> administration of the oath to a Member,<sup>(11)</sup> receipt of messages from the President or the Senate,<sup>(12)</sup> motions incidental to a call of the House,<sup>(13)</sup> and motions to adjourn<sup>(14)</sup> or for a call of the House<sup>(15)</sup> (where those motions

7. See §12, *infra*, for a discussion of points of no quorum as related to messages.
8. Annotation to U.S. Const. art. I, §5, *House Rules and Manual* §55 (1979); and 6 Cannon's Precedents §666.
9. 6 Cannon's Precedents §659.
10. See §12, *infra*, for a discussion of points of no quorum as related to the prayer.
11. Annotation to U.S. Const. art. I, §5, *House Rules and Manual* §56 (1979); 1 Hinds' Precedents §174; and 6 Cannon's Precedents §22. But see 2 Hinds' Precedents §875.
12. See §12, *infra*, which relates to receipt of messages.
13. Annotation to Rule XV clause 2(a), *House Rules and Manual* §771a (1979); 4 Hinds' Precedents §§2994, 3029; and 6 Cannon's Precedents §681.
14. Annotation to U.S. Const. art. I, §5, *House Rules and Manual* §55 (1979); and 5 Hinds' Precedents §5365. See also §8, *supra*, for a discussion of points of no quorum as related to adjournment.
15. Annotation to U.S. Const. art. I, §5, *House Rules and Manual* §55 (1979);

4 Hinds' Precedents §2950; and 6 Cannon's Precedents §680.

"6. (a) It shall not be in order to make or entertain a point of order that a quorum is not present—

"(1) before or during the offering of prayer;

"(2) during the administration of the oath of office to the Speaker or Speaker pro tempore or a Member, Delegate, or Resident Commissioner;

"(3) during the reception of any message from the President of the United States or the United States Senate, and

"(4) during the offering, consideration, and disposition of any motion incidental to a call of the House.

"(b) A quorum shall not be required in Committee of the Whole for agreement to a motion that the Committee rise.

"(c) After the presence of a quorum is once ascertained on any day on which the House is meeting, a point of order of no quorum may not be made or entertained—

"(1) during the reading of the Journal;

"(2) during the period after a Committee of the Whole has risen after completing its consideration of a bill or resolution and before the Chairman of the Committee has reported the bill or resolution back to the House; and

"(3) during any period of a legislative day when the Speaker is recognizing Members (including a Delegate or Resident Commissioner) to address the House under special orders, with no measure or matter then under consideration for disposition by the House.

are decided in the affirmative). Further discussion of precedents under the quorum rule (Rule XV clause 6) after Apr. 9, 1974, will appear in supplements to this edition and are carried in the *House Rules and Manual* at § 774c.

“(d) When the presence of a quorum is ascertained, a further point of order that a quorum is not present may not thereafter be made or entertained until additional business intervenes. For purposes of this paragraph, the term ‘business’ does not include any matter, proceeding, or period referred to in paragraph (a), (b), or (c) of this clause for which a quorum is not required or a point of order of no quorum may not be made or entertained.”

“(e)(1) Except as provided by subparagraph (2), it shall not be in order to make or entertain a point of order that a quorum is not present unless the Speaker has put the pending motion or proposition to a vote.

“(2) Notwithstanding subparagraph (1), it shall always be in order for a Member to move a call of the House when recognized for that purpose by the Speaker, and when a quorum has been established pursuant to a call of the House, further proceedings under the call shall be considered as dispensed with unless the Speaker, in his discretion, recognizes for a motion under clause 2(a) of this rule or for a motion to dispense with further proceedings under the call.”

### *In General*

#### **§ 10.1 Where a quorum fails to develop on an automatic roll call, it is not necessary for the Chair to announce the result of the vote other than to inform the House that a quorum has not developed.**

On Dec. 22, 1932,<sup>(16)</sup> Speaker John N. Garner, of Texas, made a statement regarding announcement of the vote of an automatic roll call.

MR. [EDWARD T.] TAYLOR of Colorado: Mr. Speaker, I move the previous question on the motion [to recommit].

The previous question was ordered.

The question was taken; and on a division (demanded by Mr. De Priest) there were—ayes 34, noes 73.

MR. [OSCAR] DE PRIEST [of Illinois]: Mr. Speaker, I object to the vote on the ground that there is not a quorum present.

THE SPEAKER: Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 110, nays 95, not voting 224, as follows: . . .

MR. [HENRY T.] RAINEY [of Illinois]: Mr. Speaker, I move that the House do now adjourn.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, may we have the vote announced?

16. 76 CONG. REC. 942, 943, 72d Cong. 2d Sess.

THE SPEAKER: It has developed there is not a quorum present.

MR. SNELL: Mr. Speaker, what was the vote?

THE SPEAKER: It is not necessary to give that out, so the Parliamentarian informs the Chair, but the Chair may announce that so far the vote is—yeas 110, nays 95. There is not a quorum present.

**§ 10.2 The Speaker indicated that if a quorum failed to materialize on a yea and nay vote on a motion to adjourn decided in the negative, the House would proceed to establish a quorum under the call of the House which was in progress when the motion to adjourn was made.**

On Oct. 14, 1969,<sup>(17)</sup> in the course of a call of the House during a debate on Vietnam, Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries regarding the procedure if a motion to adjourn failed.

MR. [GILLESPIE V.] MONTGOMERY [of Mississippi]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

17. 115 CONG. REC. 30054-56, 91st Cong. 1st Sess.

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

MR. ALBERT: Mr. Speaker, I would prefer not to make this motion at this time, but in view of the parliamentary situation, I move that the House do now adjourn.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, on that I demand the yeas and nays.

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. GERALD R. FORD: Mr. Speaker, if the motion to adjourn does not prevail, and a quorum is not present what is the situation then?

THE SPEAKER: The Chair will state that the House would continue to proceed under the call of the House to establish a quorum.

MR. GERALD R. FORD: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. GERALD R. FORD: Mr. Speaker, does that entail another quorum call at that point?

THE SPEAKER: The Chair will state that we would be continuing under the previous call, the call that was in existence prior to the motion to adjourn.

**§ 10.3 To make a quorum at the end of a roll call vote on a conference report, the Speaker asked the Clerk to call his name.**

On Oct. 20, 1966,<sup>(18)</sup> after a vote on Conference Report No. 2327 on

18. 112 CONG. REC. 28254, 28255, 89th Cong. 2d Sess.

H.R. 13103, the Foreign Investors Tax Act of 1966, Speaker John W. McCormack, of Massachusetts, cast his vote.

THE SPEAKER: The question is on agreeing to the conference report.

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

MR. [GLENN] CUNNINGHAM [of Nebraska]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll. . . .

[The result of the vote was, yeas 171, nays 46.]

THE SPEAKER: The Clerk will call my name.

The Clerk called the name of Mr. McCormack, and he answered "yea."

So the conference report was agreed to.

***Conducting Business After Quorum Fails to Appear***

**§ 10.4 The House cannot conduct business after the absence of a quorum has been announced.**

On Oct. 14, 1969,<sup>(19)</sup> during a call of the House in the course of debate on Vietnam, Speaker John

19. 115 CONG. REC. 30055, 91st Cong. 1st Sess.

W. McCormack, of Massachusetts, answered a parliamentary inquiry regarding business that could be conducted in the absence of a quorum.

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Speaker, so long as a quorum is not produced and in the event the House should instruct the Sergeant at Arms, would it be possible for the House to proceed, or would the House have to stand in abeyance with no further proceedings?

THE SPEAKER: The Chair will state that the House cannot do business without a quorum.

MR. FRASER: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. FRASER: Mr. Speaker, in order to see if I have that point clearly in mind, if there were an instruction to bring in absent Members and it did not succeed during the period of time, during that period of time the House could proceed with no other business; is that correct?

THE SPEAKER: The House cannot proceed at all until a quorum established.

*Parliamentarian's Note:* Once the Chair has announced the absence of a quorum, the point of no quorum cannot then be withdrawn even by unanimous consent, as such a request would constitute business (4 Hinds' Precedents §§2928-31; 6 Cannon's Precedents §657).

**§ 10.5 Where a quorum is not present and a call of the**

**House is ordered, the pending business cannot continue until a quorum is obtained and further proceedings under the call are dispensed with.**

On Oct. 8, 1968,<sup>(1)</sup> Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries regarding procedures before and after a quorum appears.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. [BROCK] ADAMS [of Washington]: Mr. Speaker, if under a call of the House, after the call has been made and there is not a motion to dispense with further proceedings, is it true that the doors remain locked, and those that are here must remain present, but that it takes a majority vote of those present to issue a call to the Sergeant at Arms to bring others to the Chamber?

In other words, that if the doors remain locked, and we did not have a dispensing with further proceedings under the call, what would happen is that the situation would freeze, that those who were present would be required to stay, and that a warrant would not be issued unless there was a majority vote?

THE SPEAKER: The Chair will state that no further business would be transacted until further proceedings under the call had been dispensed with.

MR. ADAMS: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. ADAMS: It is my understanding that under rule XV—and I direct this as a parliamentary inquiry—that though the call had been made, if there was not a motion made for a majority vote to go and get the Members, and a quorum was present and the doors were locked, the business could proceed even though the call had been started? Is that correct or incorrect?

THE SPEAKER: The Chair will state that further proceedings—in this case the reading of the Journal—could not proceed until further proceedings under the call have been dispensed with.

**§ 10.6 After the Speaker has ascertained the absence of a quorum and a call of the House has been ordered, the House may not conduct legislative business until a quorum is established.**

On Oct. 5, 1972,<sup>(2)</sup> Speaker Carl Albert, of Oklahoma, ruled that the House could not proceed with legislative business.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, we have performed legislative business here, and there is no evidence of a quorum being present. I insist on my point of order.

THE SPEAKER: Evidently a quorum is not present.

MR. [JOHN J.] MCFALL [of California]: Mr. Speaker, I move a call of the House.

1. 114 CONG. REC. 30094, 90th Cong. 2d Sess.

2. 118 CONG. REC. 34039, 92d Cong. 2d Sess.

A call of the House was ordered.

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Speaker, will the gentleman withhold that request?

THE SPEAKER: The Chair has announced the absence of a quorum, and the House cannot proceed until a quorum is established. The Clerk will call the roll.

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

THE SPEAKER: On this rollcall 344 Members have answered to their names, a quorum.

**§ 10.7 The Chair refuses to recognize Members after the absence of a quorum has been announced by the Chair, and no business is in order until a quorum has been established.**

On June 8, 1960,<sup>(3)</sup> Speaker Sam Rayburn, of Texas, made a ruling regarding recognition of Members in the absence of a quorum.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, I make the point of order that there is no quorum. I am telling you now, I told you I was coming here.

THE SPEAKER: The gentleman from Michigan has already made a point of no quorum.

MR. HOFFMAN of Michigan: I will renew it, if necessary.

THE SPEAKER: The gentleman has made the point of order of no quorum,

3. 106 CONG. REC. 12142, 86th Cong. 2d Sess.

and he should not try to speak in that time.

The Chair will count. [After counting.] A quorum is not present.

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

THE SPEAKER: The Clerk will call the roll.

MR. HOFFMAN of Michigan: Mr Speaker—

THE SPEAKER: The Chair cannot recognize the gentleman because a point of order of no quorum has been made, and the Chair announced that there was no quorum.

The Clerk will call the roll.

***Question of Privilege Pending Vote on Point of No Quorum***

**§ 10.8 Where a Member objects to a negative vote on a motion to adjourn on the ground that a quorum is not present, the Chair will not entertain a question of privilege pending disposition of the point of no quorum.**

On Apr. 15, 1970,<sup>(4)</sup> Speaker pro tempore Charles M. Price, of Illinois, refused to entertain a question of personal privilege, where the House had just refused to adjourn and objection had been

4. For the proceedings of this date, see § 8.6, supra.

raised to that vote on the ground that a quorum was not present.

***Definition of Vacating Proceedings***

**§ 10.9** Where a quorum failed to develop on an automatic roll call under Rule XV clause 4,<sup>(5)</sup> and the House adjourned, the word “vacate” in the rule was construed by action of the House as meaning solely the voiding of the proceedings incident to such call; the word did not mean the deletion of the record of proceedings from the Record and the Journal.

On Dec. 23, 1932,<sup>(6)</sup> and Dec. 27, 1932,<sup>(7)</sup> the interpretation of the word “vacate” in Rule XV clause 4, and the effect of vacating proceedings for purposes of the Journal and Record were discussed.<sup>(8)</sup>

***Adjourning or Continuing Proceedings***

**§ 10.10** The absence of a quorum having been dis-

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

6. 76 CONG. REC. 980, 981, 983, 984, 72d Cong. 2d Sess.

7. *Id.* at pp. 986, 987.

8. See §2.22, *supra*, for relevant proceedings on these dates.

**closed on an automatic roll call under Rule XV clause 4,<sup>(9)</sup> the House may adjourn or continue the proceedings under the call until a quorum of record is obtained.**

On Oct. 12, 1962,<sup>(10)</sup> during a roll call on H.R. 12900, the public works appropriation bill for 1962, Speaker John W. McCormack, of Massachusetts, outlined the alternatives available in the absence of a quorum.

MR. [WILLIAM M.] COLMER [of Mississippi] (interrupting the rollcall): Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. COLMER: Mr. Speaker, in the event that a quorum is shown not to be present what procedure is then left to the House?

THE SPEAKER: The House can wait until a quorum arrives, or a motion to adjourn would be in order.

*Parliamentarian's Note:* The leadership had kept the House in session on this date, hoping that the two Houses might reach agreement on certain outstanding issues and adjourn *sine die*. The roll call was taken very slowly so that all available Members and hopefully a quorum of the House

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

10. 108 CONG. REC. 23434, 87th Cong. 2d Sess.

might reach the Chamber. When the call had proceeded for over 50 minutes the Majority Leader asked the Speaker to announce the vote. When it appeared that a quorum was not present, the Majority Leader moved to adjourn.

***Adjourning or Instructing Sergeant at Arms***

**§ 10.11 If a quorum fails to develop on an automatic call of the House under Rule XV clause 4,<sup>(11)</sup> the House may decide to adjourn, or, in the absence of such a motion, the Speaker may, in his discretion, sign warrants for use by the Sergeant at Arms in arresting absentees.**

On Oct. 18, 1966,<sup>(12)</sup> during a roll call on House Resolution 1062, directing the Speaker to certify to a United States attorney a report of the Committee on Un-American Activities relating to the refusal of Jeremiah Stamler to testify before that committee, Speaker John W. McCormack, of Massachusetts, outlined the alternatives available when a quorum fails to appear.

THE SPEAKER: The question is on agreeing to the resolution.

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

12. 112 CONG. REC. 27512, 27513, 89th Cong. 2d Sess.

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

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: The Chair will count. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 174, nays 37, not voting 221, as follows: . . .

MR. [CHARLES L.] WELTNER [of Georgia]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. WELTNER: Mr. Speaker, in the event that the result of the vote is announced and it appears that less than a quorum, or less than 218 Members, have voted, and unanimous consent is not given to dispense with further proceedings under the call, am I correct in understanding that the Sergeant at Arms will then be under an obligation to produce the nonvoting Members?

THE SPEAKER: The Chair will state, in response to the inquiry, that if a quorum is not present one of two alternatives remain; one, to adjourn the House, and the other, to instruct the Sergeant at Arms.

The Chair wants to state, frankly, the Chair would not instruct the Sergeant at Arms. . . .

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. HALL: In the event of the stipulations made by the Speaker as to whom he would recognize and not recognize, if further proceedings under the call of the House are not dispensed with, would it not be automatic that the Sergeant at Arms would be instructed by the Speaker to enjoin a quorum in the House?

THE SPEAKER: The Chair will state that this is an automatic rollcall on the adoption of the resolution. The question of dispensing with further proceedings under the call would not be involved.

In answer to the second part of the gentleman's inquiry, that would not automatically follow. . . .

MR. [LESLIE C.] ARENDS [of Illinois]: Like the Speaker, I hope the people will come out of the woodwork. Let us finish our business and keep on going.

THE SPEAKER: Apparently they are not going to.

The result of the vote was announced as above recorded.

THE SPEAKER: A quorum not being present, this matter will be taken up as the first order of business tomorrow. . . .

#### ADJOURNMENT

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock p.m.) the House adjourned until tomorrow, Wednesday, October 19, 1966, at 12 o'clock noon.

*Parliamentarian's Note:* See §5.10, supra, for similar discus-

sion to the effect that while under Rule XV clause 4 the House has adopted a standing rule ordering the Sergeant at Arms to bring in absent Members during the ye and nay vote, nevertheless to actually make an arrest under that rule the Sergeant at Arms must have in his possession a warrant signed by the Speaker at his discretion.

**§ 10.12 Where a quorum fails to develop on a call of the House on motion under Rule XV clause 2,<sup>(13)</sup> the House has only two alternatives: to adjourn or to instruct the Sergeant at Arms to secure the attendance of absentees.**

On Oct. 14, 1969,<sup>(14)</sup> during a call of the House while the House debated American military involvement in Vietnam, Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry regarding alternatives available when a quorum fails to appear.

MR. [GILLESPIE V.] MONTGOMERY [of Mississippi]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

13. See *House Rules and Manual* §768 (1979).

14. 115 CONG. REC. 30054, 30055, 91st Cong. 1st Sess.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

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

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. FRASER: I would like to ask, if I may, where the matter stands now of the call of the House which was made by the majority leader. As I understand it, there is not yet a quorum recorded at the desk.

THE SPEAKER: The gentleman is correct.

MR. FRASER: Now, Mr. Speaker, what are the options open to the House at this point?

THE SPEAKER: The Chair is patiently waiting to see. Regular order is the establishment of a quorum. If a quorum is not established, then a motion to adjourn would be in order.

MR. FRASER: Mr. Speaker, am I correct that if a quorum is not established, there are only two choices open to the House—either a motion to adjourn or a motion to instruct the Sergeant at Arms to produce the missing Members?

THE SPEAKER: The gentleman is correct.

### ***Arresting Absent Members***

#### **§ 10.13 In response to a parliamentary inquiry, the Speaker pro tempore stated**

**that the failure of a quorum to respond on a roll call vote (decided in the negative) on a motion to adjourn being conducted under Rule XV clause 4,<sup>(15)</sup> would require the Sergeant at Arms to arrest absent Members without further order of the House.**

On Apr. 15, 1970,<sup>(16)</sup> Charles M. Price, of Illinois, the Speaker pro tempore, described the procedure if a quorum failed to appear.<sup>(17)</sup>

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Ohio.

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

MR. HAYS: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

. . .

THE SPEAKER PRO TEMPORE: The Chair will count. . . .

Evidently a quorum is not present.

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

16. 116 CONG. REC. 11940, 11941, 91st Cong. 2d Sess.

17. *Parliamentarian's Note*: See §§5.10, 10.11, supra, where the Speaker indicated that during an automatic vote by the yeas and nays, the Speaker must still sign arrest warrants at his discretion.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 81, nays 75, not voting 274, as follows: . . .

So the motion was agreed to. . . .

MR. [FLETCHER] THOMPSON of Georgia: Mr. Speaker a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.

MR. THOMPSON of Georgia: Mr. Speaker, if there is no quorum present, and there is a negative vote, what is the action of the Chair?

THE SPEAKER PRO TEMPORE: The Chair will state that the action of the Chair is to wait until a quorum appears.

MR. THOMPSON of Georgia: If no quorum appears, then what?

THE SPEAKER PRO TEMPORE: The Chair will state that if a quorum does not appear, then the House operates under the automatic rule that they would bring the Members in.

MR. THOMPSON of Georgia: Is a motion in order to go out and arrest the Members and bring them in?

THE SPEAKER PRO TEMPORE: Under the rule, the Sergeant at Arms would bring the Members in.

### ***Proceedings After Quorum Fails to Appear on Vote to Suspend Rules***

#### **§ 10.14 Where a quorum fails on a teller vote seconding a motion to suspend the rules,**

**the Chair counts the House; if upon that count a quorum is found to be present, and the vote was in the affirmative, the second is ordered.**

On Feb. 28, 1931,<sup>(18)</sup> Speaker Nicholas Longworth, of Ohio, counted the House.

THE SPEAKER: Is a second demanded?

MR. [SAMUEL] DICKSTEIN [of New York]: Mr. Speaker, I demand a second.

MR. [THOMAS A.] JENKINS [of Ohio]: Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

MR. [FIORELLO H.] LAGUARDIA [of New York]: Mr. Speaker, I object.

THE SPEAKER: The vote for demanding a second is taken by tellers.

The Chair appointed Mr. Jenkins and Mr. Dickstein as tellers.

The House divided; and the tellers reported that there were—ayes 153, noes 2.

MR. LA GUARDIA: I make the point of order that there is no quorum present.

THE SPEAKER: There was no quorum on the teller count; but if the gentleman makes the point of order of no quorum, the Chair will count.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, do I understand if the motion has been seconded by teller vote this would be the unfinished business on Monday morning?

THE SPEAKER: The gentleman from New York objects on the ground that the teller vote does not disclose a

18. 74 CONG. REC. 6575, 71st Cong. 3d Sess.

quorum. Therefore the Chair will count to see whether there is a quorum present. In case a quorum develops a second will be ordered. [After counting.] The Chair has counted with the utmost care and has counted 238 Members present, a quorum.

So a second was ordered.

**§ 10.15 An automatic roll call under Rule XV clause 4,<sup>(19)</sup> ensued where a quorum failed when the question was put by tellers on ordering a second on a motion to suspend the rules.**

On Feb. 3, 1936,<sup>(20)</sup> Speaker Joseph W. Byrns, of Tennessee, ordered an automatic roll call.

MR. [THOMAS F.] FORD of California: Mr. Speaker, I move to suspend the rules and pass the resolution (H.J. Res. 164) authorizing the President to invite foreign countries to participate in the Pacific Exposition of 1938 at Los Angeles, Calif. . . .

THE SPEAKER: Is a second demanded?

MR. [JOHN] TABER [of New York]: Mr. Speaker, I demand a second.

MR. FORD of California: Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

THE SPEAKER: Is there objection to the request of the gentleman from California?

MR. TABER: Mr. Speaker, I object.

<sup>19</sup>. See *House Rules and Manual* § 773 (1979).

<sup>20</sup>. 80 CONG. REC. 1404, 74th Cong. 2d Sess.

THE SPEAKER: The question is on ordering a second.

The Chair appointed Mr. Ford of California and Mr. Taber to act as tellers.

The House divided; and the tellers reported there were—ayes 63 and noes 31.

MR. TABER: Mr. Speaker, I object to the vote on the ground that there is not a quorum present.

THE SPEAKER: The Chair will count. [After counting.] Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

***Proceedings During Special Order***

**§ 10.16 Absence of a quorum precipitated a call of the House during a special order that followed the business of the day.**

On Sept. 22, 1965,<sup>(1)</sup> absence of a quorum precipitated a call of the House during special order speeches.

THE SPEAKER:<sup>(2)</sup> Under previous order of the House the gentleman from New York [Mr. Multer] is recognized for 20 minutes. . . .

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

<sup>1</sup>. 111 CONG. REC. 24716, 89th Cong. 1st Sess.

<sup>2</sup>. John W. McCormack (Mass.).

THE SPEAKER: Evidently a quorum is not present.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

*Parliamentarian's Note:* See supplements to this edition for discussion of provisions in Rule XV clause 6 adopted in the 93d Congress on Apr. 9, 1974, to the effect that after the presence of a quorum is once ascertained, a point of no quorum may not be made or entertained during any period of a legislative day when the Speaker is recognizing Members to address the House under special orders, with no measure or matter then under consideration for disposition by the House.

### *Unfinished Business*

**§ 10.17 Where a quorum fails to respond on an automatic roll call vote on a pending motion and the House adjourns, the vote on the motion becomes the unfinished business when the House again reconvenes. At the later meeting, the Speaker puts the question de novo.**

On Oct. 12, 1962,<sup>(3)</sup> the House adjourned after a quorum failed to appear on a motion to recede from

3. 108 CONG. REC. 23432-34, 87th Cong. 2d Sess.

its disagreement on a Senate amendment to H.R. 12900, providing for public works appropriations for the 1963 fiscal year.<sup>(4)</sup>

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Cannon moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert: \$791,580,500.

MR. CANNON: Mr. Speaker, I move the previous question. . . .

THE SPEAKER:<sup>(5)</sup> Without objection, the previous question is ordered.

The question is on the motion offered by the gentleman from Missouri [Mr. Cannon] to recede and concur in the Senate amendment with an amendment.

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

MR. CANNON: Mr. Speaker, I ask for the yeas and nays.

Mr. Speaker, I make the point of order that a quorum is not present and ask for the yeas and nays.

THE SPEAKER: Does the gentleman object to the vote on the ground that a

4. See also 112 CONG. REC. 27641, 27642, 89th Cong. 2d Sess., Oct. 19, 1966; 112 CONG. REC. 27512, 27513, 89th Cong. 2d Sess., Oct. 18, 1966; 86 CONG. REC. 13552, 76th Cong. 3d Sess., Oct. 14, 1940; and 86 CONG. REC. 13534, 13535, 76th Cong. 3d Sess., Oct. 10, 1940, for other illustrations of this principle.

5. John W. McCormack (Mass.).

quorum is not present or ask for the yeas and nays?

Does the gentleman object to the vote?

MR. CANNON: I make the point of order that a quorum is not present and ask for the yeas and nays.

THE SPEAKER: The gentleman from Missouri makes the point of order that a quorum is not present and objects to the vote on the ground that a quorum is not present.

The Chair will count.

Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll. . . .

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask that the Chair announce the vote.

THE SPEAKER: On this vote, there were 84 yeas and 120 nays. So a quorum is not present.

#### ADJOURNMENT

MR. ALBERT: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 31 minutes p.m.), the House adjourned until tomorrow, Saturday, October 13, 1962, at 12 o'clock noon.

On Oct. 13, 1962,<sup>(6)</sup> immediately after the opening prayer and approval of the Journal, Speaker John W. McCormack, of Massachusetts, presented the question de novo.

THE SPEAKER: The unfinished business is the vote on the motion of the

6. 108 CONG. REC. 23474-76, 87th Cong. 2d Sess.

gentleman from Missouri [Mr. Cannon].

Without objection, the Clerk will again report the motion of the gentleman from Missouri.

There was no objection.

The Clerk read as follows:

Mr. Cannon moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "\$791,580,500".

THE SPEAKER: The question is on the motion.

The question was taken, and the Speaker announced that the yeas appeared to have it.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 93, nays 143, not voting 199, as follows: . . .

The result of the vote was announced as above recorded.

**§10.18 Where a Member objects to a vote on the ground that a quorum is not present, and, pursuant to a unanimous-consent agreement putting roll calls over until later in the week, further pro-**

**ceedings are postponed and the Speaker puts the question de novo when the bill is again before the House as unfinished business, any Member has the same rights as when the question was originally put and may ask for the yeas and nays, if not earlier refused, or, if a quorum is not present, may object to the vote on that ground.**

On Oct. 7, 1965,<sup>(7)</sup> Speaker John W. McCormack, of Massachusetts, answered an inquiry regarding the procedure for unfinished business.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. HALL: Mr. Speaker, if on a previous day where under the unanimous-consent agreement of October 1, 1965, of this House objection was made on the basis that a quorum was not present and the point of order was made that a quorum was not present and the Speaker thereafter did state that evidently a quorum was not present and that the bill would be put over per the prior agreement; should that rollcall come automatically today when we are back in session and released from that agreement?

THE SPEAKER: In response to the parliamentary inquiry, the Chair will

state that the vote comes up de novo and Members have the same rights that they had when the matter was being considered on the previous day.

MR. HALL: Mr. Speaker, a further parliamentary inquiry.

If I understand the distinguished Speaker correctly, then being de novo, objection would still have to be made on the same basis and as to whether a quorum was then present, it would still be honored?

THE SPEAKER: A Member could demand the yeas and nays and if a sufficient number of Members are in favor of taking the vote by the yeas and nays, there would be a rollcall vote of course. Or a Member could object to the vote on the ground that a quorum is not present and, of course, if a quorum is not present the rollcall would be automatic.

MR. HALL: Mr. Speaker, a further parliamentary inquiry.

If there was then a quorum present, however, it would not revert to the previous fact and therefore an individual Member would have to have stood on his rights at the time the unanimous-consent request was given rather than make the point of order that a quorum was not present on the current day?

THE SPEAKER: The Chair will state that further consideration of certain bills was passed over in accordance with the unanimous-consent request entered into by the House on October 1 and the question of final passage comes up before the House today.

As the Chair has previously stated, if any Member wants a rollcall vote, he can demand a rollcall vote or . . . he can make the point that he objects to the vote on the ground that a quorum is not present.

7. 111 CONG. REC. 26243, 89th Cong. 1st Sess.

**§ 10.19 The mere fact that a quorum was not present on a prior day, when the vote was objected to, does not assure a roll call when the question is again put as unfinished business.**<sup>(8)</sup>

*Calendar Wednesday*

**§ 10.20 Where a quorum fails on ordering the previous question on a bill under consideration on Calendar Wednesday, and the House adjourns, the vote goes over until the next Calendar Wednesday when that committee's business would again be in order.**

On Mar. 7, 1935,<sup>(9)</sup> Speaker Joseph W. Byrns, of Tennessee, answered inquiries with respect to whether a prior motion for the previous question was still pending.

MR. [FREDERICK R.] LEHLBACH [of New Jersey]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. LEHLBACH: Yesterday the previous question was moved on a bill then pending, and upon a division the vote was 36 to 16, whereupon a point

8. See §10.18, *supra*, for a discussion of the proceedings of Oct. 7, 1965.

9. 79 CONG. REC. 3121, 74th Cong. 1st Sess.

of no quorum was made. Under the rules of the House there would follow an automatic roll call on the question of ordering the previous question, but before proceedings could be had the gentleman from New York [Mr. O'Connor] moved that the House adjourn, and the House accordingly adjourned. My inquiry is, is the motion for the previous question still pending?

THE SPEAKER: The motion is pending and the vote will again be taken the next time the committee is called under the Calendar Wednesday rule; that will be the first business in order when the Judiciary Committee is again called on Calendar Wednesday.

*Senate Precedents*

**§ 10.21 Where the Senate recesses over the weekend because of lack of a quorum, the Vice President at the next meeting of that body causes the roll to be called to secure a quorum.**

On Mar. 7, 1938,<sup>(10)</sup> Vice President John N. Garner, of Texas, commented on the procedure following a recess.

THE VICE PRESIDENT: The Chair has examined the Record and finds that when the Senate took a recess on Friday last no quorum was present. The Chair, therefore, thinks it is his duty to direct the clerk to call the roll for the purpose of securing a quorum, for the Senate begins now just where it left off last Friday.

10. 83 CONG. REC. 2903, 2904, 75th Cong. 3d Sess.

The Chief Clerk called the roll, and the following Senators answered to their names: . . .

THE VICE PRESIDENT: Eighty-six Senators have answered to their names. A quorum is present.

**§ 10.22 A motion to adjourn to a specific day is not in order in the absence of a quorum of the Senate.**

On Apr. 30, 1948,<sup>(11)</sup> President pro tempore Arthur H. Vandenberg, of Michigan, ruled on a motion to adjourn to a specific day.

THE PRESIDENT PRO TEMPORE: Forty-three Senators having answered to their names, a quorum is not present.

MR. [WILLIAM F.] KNOWLAND [of California]: I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

THE PRESIDENT PRO TEMPORE: The Sergeant at Arms will execute the order of the Senate.

After a little delay Mr. McCarthy and Mr. O'Daniel entered the Chamber and answered to their names.

MR. [SCOTT W.] LUCAS [of Illinois]: Mr. President, a parliamentary inquiry.

THE PRESIDENT PRO TEMPORE: The Senator will state it.

MR. LUCAS: Is a motion to adjourn until Monday at 12 o'clock in order?

THE PRESIDENT PRO TEMPORE: It is not, in the absence of a quorum.

11. 94 CONG. REC. 5101, 5102, 80th Cong. 2d Sess.

MR. [RICHARD B.] RUSSELL [of Georgia]: Mr. President, a parliamentary inquiry.

THE PRESIDENT PRO TEMPORE: The Senator will state it.

MR. RUSSELL: Does the Chair rule that a motion to adjourn is not in order in the absence of a quorum? My understanding of the rule is that the only motion in order when there is not a quorum is a motion to adjourn.

THE PRESIDENT PRO TEMPORE: The Senator from Illinois inquired whether a motion to adjourn until Monday was in order in the absence of a quorum. A motion to adjourn is in order.

MR. RUSSELL: I did not catch the words "until Monday"; but I knew that a motion to adjourn was in order.

MR. LUCAS: Mr. President, another parliamentary inquiry.

THE PRESIDENT PRO TEMPORE: The Senator will state it.

MR. LUCAS: When would the Senate reconvene if the Senator from Illinois made a motion to adjourn and it was carried?

THE PRESIDENT PRO TEMPORE: Tomorrow at 12 o'clock noon.

MR. LUCAS: I thank the Chair.

**§ 10.23 The Senate recessed in absence of a quorum, pursuant to an order previously agreed to which provided for a recess at the "conclusion of the business of the day."**

On Apr. 4, 1964,<sup>(12)</sup> the Senate recessed.

MR. [MICHAEL J.] MANSFIELD [of Montana]: Mr. President, if there are

12. 110 CONG. REC. 6862, 6863, 88th Cong. 2d Sess.

no further questions I should like to suggest the absence of a quorum.

I now suggest the absence of a quorum.

THE ACTING PRESIDENT PRO TEMPORE:<sup>(13)</sup> The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names: . . .

THE ACTING PRESIDENT PRO TEMPORE: A quorum is not present.

MR. MANSFIELD: Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

MR. [JOHN J.] WILLIAMS [of Delaware]: Mr. President, I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

RECESS TO 10 A.M. MONDAY NEXT

MR. MANSFIELD: Mr. President, a parliamentary inquiry.

THE ACTING PRESIDENT PRO TEMPORE: The Senator from Montana will state it.

MR. MANSFIELD: Is it in order at this time to move that the Senate stand in recess under the order previously entered?

THE ACTING PRESIDENT PRO TEMPORE: The rollcall has not started; and such a motion would be in order.

MR. MANSFIELD: Mr. President, if I may be heard in relation to my parliamentary request, I am afraid we are face to face with a travesty on the legislative process. I am doubtful—and I am indeed sorry to say this—that we will be able to get a quorum in the Senate today.

I believe it is a shame and an indignity upon this institution.

13. Lee Metcalf (Mont.).

In order to prevent this situation from turning into a farce, I move, under the previous order, that the Senate now stand in recess until Monday morning next at 10 o'clock.

MR. WILLIAMS of Delaware: Mr. President, I ask for the yeas and nays on that motion.

The yeas and nays were ordered. . . .

The result was announced—yeas 27, nays 14, as follows: . . .

So Mr. Mansfield's motion was agreed to; and (at 11 o'clock and 41 minutes a.m.) the Senate took a recess under the order entered on Wednesday, April 1, 1964, until Monday, April 6, 1964, at 10 a.m.

This recess was taken pursuant to an order entered on Apr. 1, 1964, as follows:<sup>(14)</sup>

MR. [HUBERT H.] HUMPHREY [of Minnesota]: Mr. President, I ask unanimous consent that when the Senate completes its business on Saturday, it stand in recess until 10 a.m. on Monday.

THE PRESIDING OFFICER:<sup>(15)</sup> Without objection, it is so ordered.

## § 11. As Related to the Journal

Rule I clause 1<sup>(16)</sup> directs the Speaker to examine the Journal of

14. 110 CONG. REC. 6746, 88th Cong. 2d Sess.

15. Daniel B. Brewster (Md.).

16. *House Rules and Manual* §621 (1979).