

## CHAPTER 20

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Commentary and editing by Thomas J. Nicola, J.D.

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# *Calls of the House; Quorums*

## A. CALLS OF THE HOUSE

### § 1. In General; Scope

Article I, section 5, of the Constitution,<sup>(1)</sup> provides that “a Majority of each [House] shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.” A quorum consists of a majority<sup>(2)</sup> of those Members sworn and living,<sup>(3)</sup> whose membership has not been terminated by resignation or action of the House.<sup>(4)</sup>

A quorum is presumed to be present unless a point of no

quorum is made.<sup>(5)</sup> Although it is not the duty of the Chair to take cognizance of the absence of a quorum unless disclosed by a vote or questioned by a point of no quorum,<sup>(6)</sup> failure of a quorum to vote on a roll call cannot be ignored; the Chair must announce that fact although it was not objected to from the floor.<sup>(7)</sup>

After the absence of a quorum has been announced, no “business” including a unanimous-consent request to withdraw the point of no quorum,<sup>(8)</sup> is in order until a quorum has been established.<sup>(9)</sup> Nonetheless, the motion to adjourn, the motion for a call of the House<sup>(10)</sup> and motions incidental to a call of the House<sup>(11)</sup> are in order in the absence of a quorum. Similarly, the House may adjourn *sine die* in the absence of a quorum where both Houses

1. See *House Rules and Manual* §§ 52–57 (1979), for a discussion of earlier precedents relating to this provision.

For earlier treatment of the quorum, see 4 Hinds’ Precedents §§ 2884–2979; and 6 Cannon’s Precedents §§ 638–677; discussion of calls of the House appears in 4 Hinds’ Precedents §§ 2980–3055; and 6 Cannon’s Precedents §§ 678–707.

2. § 1.1, *infra*.

3. § 1.2, *infra*.

4. 4 Hinds’ Precedents §§ 2889, 2890; and 6 Cannon’s Precedents § 638.

5. § 1.3, *infra*.

6. 6 Cannon’s Precedents § 565.

7. 4 Hinds’ Precedents §§ 2953, 2963; and 6 Cannon’s Precedents § 624.

8. See §§ 10, 18.7, *infra*, for a discussion of the definition of “business.”

9. § 1.5, *infra*.

10. § 1.6, *infra*.

11. § 1.11, *infra*.

have adopted a concurrent resolution providing for a *sine die* adjournment on that day.<sup>(12)</sup> Moreover, under the precedents, a quorum is not required for the opening prayer and Members are not recognized for such a point of order.<sup>(13)</sup>

In the 93d Congress, on Apr. 9, 1974, certain changes were adopted in the rules governing the time for making a point of no quorum, as well as the proper procedures relating to quorum calls. These changes will be discussed in detail in supplements to this edition as they appear. Broadly, under the new procedures, a point of no quorum may not be entertained (1) before or during the offering of prayer; (2) during the administration of the oath of office to the Speaker, Speaker pro tempore, Member, Delegate, or Resident Commissioner; (3) during the reception of any message from the President or the Senate; and (4) during the offering, consideration, and disposition of any motion incidental to a call of the House. The *House Rules and Manual*, published each Congress, can serve as a reference for changes of the rules relating to the establishment of a quorum which have oc-

curred following the publication date of this volume.

In addition, since the beginning of the 93d Congress, once the Chairman of the Committee of the Whole determines during a quorum call that a quorum is present, he may, under Rule XXIII clause 2(a), declare that a quorum is constituted, whereupon proceedings under the call are considered vacated.

Similarly, after the presence of a quorum is ascertained, a further point of no quorum may not be made or entertained during reading of the Journal, pending a report from the Committee of the Whole to the House, during special orders, or any other time until additional business intervenes. A quorum is not required in the Committee of the Whole for agreement to a motion that the Committee rise.

In the 94th and 95th Congresses, other changes were adopted in the rules regarding the necessity for and establishment of a quorum. Under clause 6(e)(1) of Rule XV, the Speaker may not entertain a point of order of no quorum when he has not put a question to a vote in the House, but under clause 6(e)(2) the Speaker may at any time in his discretion recognize a Member of his choice to move a call of the

12. § 1.13, *infra*; see also § 8, *infra*, for a discussion of the motion to adjourn.

13. § 1.12, *infra*.

House. Clause 6(e)(2) was amended in the 96th Congress to dispense with further proceedings under any call of the House when a quorum appears unless the Speaker in his discretion recognizes for a motion.<sup>(14)</sup> Changes since the 93d Congress in Rule XXIII clause 2 relating to quorum calls in Committee of the Whole are discussed in detail in § 7, *infra*.

#### Collateral Reference

Constitution of the United States of America; Analysis and Interpretation, S. Doc. No. 92-82, 112, 113, 92d Cong. 2d Sess.

### *Majority as Quorum*

#### § 1.1 A majority of the House constitutes a quorum to do business.

On Feb. 18, 1958,<sup>(15)</sup> Speaker Sam Rayburn, of Texas, after counting 217 Members, stated that a quorum was present.

MR. [MICHAEL J.] KIRWAN [of Ohio]: Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

THE SPEAKER: The question is on the motion to recommit.

14. See Rule XV clause 6(e) (1) and (2), *House Rules and Manual* § 774c (1979).

15. 104 CONG. REC. 2317, 85th Cong. 2d Sess.

MR. [BEN F.] JENSEN [of Iowa]: Mr. Speaker, on that I ask for the yeas and nays.

The yeas and nays were refused.

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

MR. JENSEN: 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. [After counting.] Two hundred and seventeen Members are present, a quorum.<sup>(16)</sup>

The question is on the passage of the bill.

#### § 1.2 A quorum of the House consists of a majority of those Members sworn and living; the Speaker's vote may be counted to make a quorum.

On Oct. 20, 1966,<sup>(17)</sup> the Speaker voted on a conference report in order to make a quorum.

THE SPEAKER:<sup>(18)</sup> 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

16. At this time 431 Members were chosen, sworn, and living; consequently 216 would have constituted the necessary quorum.

17. 112 CONG. REC. 28254, 28255, 89th Cong. 2d Sess.

18. John W. McCormack (Mass.).

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 171, nays 46, not voting [216], as follows: . . .

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.

### *Presumption of Quorum*

#### **§ 1.3 In the House of Representatives a quorum is presumed always to be present unless a point of no quorum is made.**

On July 18, 1949,<sup>(19)</sup> Speaker Sam Rayburn, of Texas, made a statement regarding presumption of a quorum.

MR. [CLARK E.] HOFFMAN of Michigan: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HOFFMAN of Michigan: Mr. Speaker, it is my understanding this is Consent Calendar day. In view of the recent Supreme Court decision in the

19. 95 CONG. REC. 9654, 81st Cong. 1st Sess.

Christoffel case,<sup>(20)</sup> which held affirmatively that unless a quorum is present the committees of the House and the House are not legal tribunals, would the House now be competent to consider bills on the Consent Calendar, it being apparent a quorum is not present?

THE SPEAKER: The gentleman knows, of course, that unless a point of no quorum is made, it is presumed that a quorum is always present.

### *Proceeding Requiring a Quorum*

#### **§ 1.4 Ascertaining the presence of a quorum is the first order of business when the House convenes following a sine die adjournment.**

On Jan. 7, 1964,<sup>(21)</sup> Speaker John W. McCormack, of Massachusetts, ascertained the presence of a quorum immediately after the prayer.

This being the day fixed by Public Law 247, 88th Congress, enacted pursuant to the 20th amendment to the Constitution, for the meeting of the 2d session of the 88th Congress, the Members of the House of Representatives of the 88th Congress met in their Hall, and at 12 o'clock noon were called to order by the Speaker, the Honorable John W. McCormack, a Representative from the State of Massachusetts.

20. *Christoffel v United States*, 328 U.S. 84 (1949). See § 17, *infra*, for a discussion of this case.

21. 110 CONG. REC. 4, 5, 88th Cong. 2d Sess.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the . . . prayer. . . .

## CALL OF THE HOUSE

THE SPEAKER: The Clerk will call the roll to ascertain the presence of a quorum. . . .

On this roll call 342 Members have answered to their names. A quorum is present.

**§ 1.5 The Chair refuses to recognize Members for business after an absence of a quorum has been announced; no business is in order until a quorum has been established.**

On June 8, 1960,<sup>(1)</sup> Speaker Sam Rayburn, of Texas, refused to entertain business until a quorum was established.

## CALL OF THE HOUSE

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, and he should not try to speak in that time.

1. 106 CONG. REC. 12142, 86th Cong. 2d Sess.

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

MR. [RICHARD W.] 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.

**§ 1.6 A quorum not being present, no motion is in order but for a call of the House or a motion to adjourn; at this stage a motion to adjourn has precedence over the motion for a call of the House.**

On Apr. 24, 1956,<sup>(2)</sup> Speaker Sam Rayburn, of Texas, presented the question on a motion to adjourn before addressing himself to a prior motion for a call of the House.

**§ 1.7 Where the Speaker after a count announces that no quorum is present, all proceedings and debate are sus-**

2. 102 CONG. REC. 6891, 84th Cong. 2d Sess.

For proceedings of the House on this date, see § 8.14, *infra*.

**ended until a quorum is secured or the House adjourns.**

On Mar. 25, 1937,<sup>(3)</sup> Speaker William B. Bankhead, of Alabama, made a statement regarding the effect of a quorum.

MR. [SCOTT W.] LUCAS [of Illinois]: Mr. Speaker, will the gentleman yield?

MR. [RALPH E.] CHURCH [of Illinois]: When I finish my statement, please.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: I demand the gentleman be protected in his rights.

THE SPEAKER: The gentleman has declined to yield.

MR. [FRANK E.] HOOK [of Michigan]: Mr. Speaker, I make the point of no quorum.

THE SPEAKER: The gentleman from Michigan makes the point there is no quorum present. The Chair will count. [After counting.] One hundred and ten Members are present, not a quorum.

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, I move that the House do now adjourn.

MR. [ADOLPH J.] SABATH [of Illinois]: Mr. Speaker, will the gentleman yield?

MR. RAYBURN: No business can be conducted in the absence of a quorum.

MR. SABATH: I should like to answer these despicable statements.

THE SPEAKER: The gentleman from Texas moves the House do now adjourn.

MR. CHURCH: I will yield to the gentleman. I want to be fair.

THE SPEAKER: No business of any character can be transacted during the

absence of a quorum. It raises a constitutional question. A quorum is not present. The gentleman from Texas has moved that the House do now adjourn, which is not a debatable motion.

The question was taken; and the Speaker announced that the ayes had it.

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Speaker, I ask for the yeas and nays.

THE SPEAKER: The gentleman from New York demands the yeas and nays.

The yeas and nays were refused.

So the motion to adjourn was agreed to.

**§ 1.8 A quorum is required to agree to a resolution to adjourn sine die.**

On Oct. 18, 1972,<sup>(4)</sup> House Concurrent Resolution 726 was passed.

PROVISION FOR SINE DIE  
ADJOURNMENT

MR. [THOMAS P.] O'NEILL [of Massachusetts]: Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 726) and ask for its immediate consideration.

The Clerk read as follows:

H. CON. RES. 726

*Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall adjourn on Wednesday, October 18, 1972, and that when they adjourn on said day, they stand adjourned sine die.*

3. 81 CONG. REC. 2793, 75th Cong. 1st Sess.

4. 118 CONG. REC. 37061, 37062, 92d Cong. 2d Sess.

The Speaker:<sup>(5)</sup> The question is on the concurrent resolution.

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

MR. [JAMES G.] O'HARA [of Michigan]: 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 Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were yeas 240, nays 21, not voting 170, as follows: . . .

So the concurrent resolution was agreed to.

**§ 1.9 Where the Chair after counting announces that a quorum is not present, a Member may not even by unanimous consent withdraw his point of no quorum to permit the House to continue with its business without first having obtained a quorum.**

On Dec. 18, 1937,<sup>(6)</sup> Speaker William B. Bankhead, of Alabama, made a ruling regarding withdrawal of a point of no quorum.

MR. [LOIS C.] RABAUT [of Michigan]: Mr. Speaker, I suggest the absence of a quorum.

5. Carl Albert (Okla.).

6. 82 CONG. REC. 1846, 75th Cong. 2d Sess.

THE SPEAKER: The gentleman from Michigan makes the point of order that there is not a quorum present. The Chair will count. [After counting.] One hundred and fifty-six Members are present, not a quorum.

MR. RABAUT: Mr. Speaker, I will withdraw the motion.

MR. [BERTRAND H.] SNEEL [of New York]: Mr. Speaker, a point of order. The Speaker has announced that a quorum is not present. The gentleman from Michigan cannot withdraw the point of order. The Speaker has announced that there is no quorum present. Business cannot be conducted after the Speaker has announced there is no quorum present.

THE SPEAKER: The Chair will hold that a point of order having been made that there was no quorum present, and the Chair having counted and announced that there was no quorum present, a constitutional question is raised. No quorum is present, as was announced by the Chair.

MR. [HENRY B.] STEAGALL [of Alabama]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

**§ 1.10 Any action by the House on a Senate amendment requires a quorum if a Member raises that question.**

On Mar. 30, 1944,<sup>(7)</sup> Speaker pro tempore John W. McCormack, of Massachusetts, made a statement regarding the need for a quorum for consideration of a Senate amendment.

THE SPEAKER PRO TEMPORE: The Chair lays before the House, House

7. 90 CONG. REC. 3318, 78th Cong. 2d Sess.

Concurrent Resolution No. 75, with a Senate amendment, which the Clerk will report.

The Clerk read as follows:

Senate amendment: On page 2, line 3, strike out "Thursday, March 30" and insert "Saturday, April 1."

Amend the title so as to read: "Concurrent resolution providing for the adjournment of Congress from Saturday, April 1, 1944, to Wednesday, April 12, 1944."

THE SPEAKER PRO TEMPORE: Without objection, the amendment is agreed to.

MR. [CLARK E.] HOFFMAN [of Michigan]: Mr. Speaker, reserving the right to object, I make a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HOFFMAN: What is the procedure?

MR. [ROBERT] RAMSPECK [of Georgia]: Mr. Speaker, I move that the House concur in the Senate amendment.

MR. HOFFMAN: Well, Mr. Speaker, I object.

THE SPEAKER PRO TEMPORE: Is the gentleman propounding a parliamentary inquiry?

MR. HOFFMAN: Yes, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HOFFMAN: What is the procedure on this resolution?

THE SPEAKER PRO TEMPORE: It is a privileged resolution, and the procedure would be for some Member—and the gentleman from Georgia [Mr. Ramspeck] has done so—to make a motion that the House concur in the Senate amendment.

MR. HOFFMAN: And then a vote is taken on the motion?

THE SPEAKER PRO TEMPORE: That is correct.

MR. HOFFMAN: Does that require a quorum?

THE SPEAKER PRO TEMPORE: Any action by the House requires a quorum if the one who takes such step raises that question.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. RANKIN: As I understand the situation, whether there is a quorum present or not, unless this amendment is agreed to, the resolution does not become final until this amendment is disposed of. That is correct, is it not?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

MR. RANKIN: And therefore we would not be in a position to recess for the time mentioned until this amendment is disposed of one way or the other.

THE SPEAKER PRO TEMPORE: The understanding of the Chair is the same as that of the gentleman from Mississippi.

The gentleman from Georgia moves that the House concur in the Senate amendment.

The question is on the motion of the gentleman from Georgia.

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

THE SPEAKER PRO TEMPORE: The Chair will count.

MR. HOFFMAN: Mr. Speaker, I withdraw the point of no quorum for the time being.

THE SPEAKER PRO TEMPORE: Without objection, further consideration of the concurrent resolution (H. Con. Res. 75) will be withdrawn.

There was no objection.

### ***Proceedings Permitted in the Absence of a Quorum***

#### **§ 1.11 A quorum is not required on motions incidental to a call of the House.**

On Oct. 8, 1940,<sup>(8)</sup> Speaker Sam Rayburn, of Texas, made a ruling regarding the need for a quorum on a motion to dispense with further proceedings, which is a motion incidental to a call of the House.

THE SPEAKER: On this roll call 318 Members have answered to their names, a quorum.

MR. [JERE] COOPER [of Tennessee]: Mr. Speaker, I move to dispense with further proceedings under the call.

THE SPEAKER: Without objection it is so ordered.

MR. [JOHN] TABER [of New York]: Mr. Speaker, I object.

8. 86 CONG. REC. 13403, 76th Cong. 3d Sess. In an isolated instance, objections to the lack of a quorum to vote on motions incidental to a call of the House were improperly entertained. See the proceedings at 108 CONG. REC. 9940-42, 87th Cong. 2d Sess., Sept. 19, 1962. On that occasion, failure of a quorum to vote on motions to dispense with further proceedings under a call of the House resulted in automatic yea and nay votes on the motions.

MR. COOPER: I moved it, Mr. Speaker.

THE SPEAKER: The question is on the motion of the gentleman from Tennessee.

The question was taken; and, on a division (demanded by Mr. Taber), there were—ayes 99 and noes 75.

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

THE SPEAKER: A quorum is not required to dispense with further proceedings under the call.

#### **§ 1.12 A quorum is not required for prayer by the Chaplain and the Speaker does not recognize Members for such a point of order.**

On Mar. 19, 1941,<sup>(9)</sup> Speaker Sam Rayburn, of Texas, made a statement regarding recognition of Members for a point of no quorum during prayer.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RICH: Mr. Speaker, when I was seeking recognition from the Speaker before the Chaplain offered prayer, I felt that there would be a call of the House and I thought it would be a good thing for all the Members to be here for once to hear the Chaplain offer prayer. What does the Speaker think about that? Would it be proper

9. 87 CONG. REC. 2351, 2352, 77th Cong. 1st Sess.

procedure for a Member to make the point of order that a quorum is not present before the Chaplain offers prayer?

THE SPEAKER: As the Chair understands, it has been held many times that the prayer is not such business of the House that a quorum is required.

**§ 1.13 The House, pursuant to a resolution agreed to when a quorum was present, may adjourn sine die in the absence of a quorum.**

On Oct. 18, 1972,<sup>(10)</sup> the House adjourned *sine die* in the absence of a quorum following agreement by a quorum to a resolution authorizing such adjournment.<sup>(11)</sup>

CALL OF THE HOUSE

MR. [JOHN T.] MYERS [of Indiana]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER:<sup>(12)</sup> The Chair will count.

One hundred twelve Members are present, not a quorum.

MR. [THOMAS P.] O'NEILL [Jr., of Massachusetts]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

PARLIAMENTARY INQUIRIES

MR. [WILBUR D.] MILLS of Arkansas: Mr. Speaker, a parliamentary inquiry.

10. 118 CONG. REC. 37199, 37200, 92d Cong. 2d Sess.

11. See § 1.8, *supra*, for agreement to the resolution permitting adjournment *sine die*.

12. Carl Albert (Okla.).

THE SPEAKER: The gentleman will state it.

MR. MILLS of Arkansas: Mr. Speaker, will the Speaker entertain a unanimous-consent request that the call of the roll be vacated.

THE SPEAKER: The Speaker does not have that authority under the Constitution.

If there are any Members in the Chamber who have not answered and the Speaker can identify them, he will have them recorded. The Speaker does have that authority, but he does not know of any such Members. The Clerk called the roll, and the following Members failed to answer to their names:

. . .

[276 Members failed to answer.]

MR. O'NEILL: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. O'NEILL: Mr. Speaker, am I correct in assuming that when the House adjourns tonight it adjourns to meet on January 3, 1973, at 12 o'clock?

THE SPEAKER: That is correct. . . .

ADJOURNMENT SINE DIE

MR. O'NEILL: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

THE SPEAKER: In accordance with the provisions of House Concurrent Resolution 726, the Chair declares the second session of the 92d Congress adjourned sine die.

Accordingly (at 8 o'clock and 47 minutes p.m.), Wednesday, October 18, 1972, the House adjourned sine die.

*Parliamentarian's Note:* This final quorum call originally omit-

ted from the daily edition of the Record, was inserted in the Journal and in the permanent Record at the request of the Parliamentarian based upon the rationale stated in §2.22, *infra*, showing that an adjournment of the House in the absence of a quorum does not justify deletion of those proceedings from the Journal and Record.

## §2. Calls Ordered on Motions; Automatic Calls

The rules of the House authorize two calls of the House, the call on motion and the automatic call, to ascertain the presence of a quorum. Prior to the 95th Congress, the call ordered on motion<sup>(13)</sup> was in order in the absence of a quorum whether or not a pending question was being put to a vote. Under this former procedure, a Member rose and made the point of order that a quorum was not present. The Speaker, after noting the point of order, counted the House and announced whether a quorum was present. If not, any Member could move a call of the House. Under current procedure (beginning in the 95th Congress) a point of order of no

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

quorum may not be entertained unless the pending question has been put to a vote, but the Speaker may, in his discretion, recognize for a motion for a call of the House at any time.<sup>(14)</sup> Fifteen Members including the Speaker voting in the affirmative are authorized to compel the attendance of absentees.<sup>(15)</sup> But because a call must be ordered by a vote of a majority of those present, a minority of 15 favoring a call on such vote will not suffice.<sup>(1)</sup>

If a majority votes to compel attendance absentees are notified. Warrants may be issued by order of a majority of those present, and those for whom no sufficient excuse is made may be arrested by officers appointed by the Sergeant at Arms; absentees' attendance is secured and retained until they are discharged by the House. Members who appear voluntarily are immediately admitted to the Hall of the House and report their names to the Clerk to be entered upon the Journal as present. Until the 96th Congress, the appearance of a sufficient number to

14. Rule XV clause 6(e), *House Rules and Manual* §774(c) (1979).

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

1. See annotation to Rule XV clause 2(a), *House Rules and Manual* §769 (1979); and 4 Hinds' Precedents §2984

make a quorum did not automatically terminate proceedings incident to the call such as closing the doors (which was the practice until the 92d Congress), completing the call of the roll, noting absentees, and arresting and retaining absentees; these activities continue upon order of a majority of those present until the House either by unanimous consent or motion agrees to dispense with further proceedings under the call.<sup>(2)</sup> After agreeing, the House resumes its business.

When a call of the House on motion is ordered, the Speaker, subject to the provision relating to recording votes by electronic device,<sup>(3)</sup> or in lieu of a call of the roll under Rule XV clause 1, is au-

2. See 9, *infra*, for a discussion of the motion to dispense with further proceedings under the call. In the 96th Congress, clause 6(e)(2) was amended to provide that proceedings be automatically dispensed with unless the Speaker in his discretion recognizes for a motion to dispense. Until the 93d Congress, Rule XV clause 2 required that the doors be closed on any call of the House, but on Oct. 13, 1972, that clause was amended (H. Res. 1123, 92d Cong. 2d Sess., 118 CONG. REC. 36012) to require that the doors would be closed only by order of the Speaker, effective at the end of the 92d Congress. See §6, *infra*.
3. Rule XV clause 5, *House Rules and Manual* §774b (1979).

thorized by Rule XV clause 2(b)<sup>(4)</sup> to appoint one or more clerks to tell the names of Members who are present.

The other call of the House, the automatic call,<sup>(5)</sup> ensues when a quorum fails to vote on any question which requires a quorum,<sup>(6)</sup> a quorum is not present, and objection is made for that reason,<sup>(7)</sup> unless the House adjourns. Following announcement of a vote,<sup>(8)</sup>

4. *House Rules and Manual* §771b (1979)
5. Rule XV clause 4, *House Rules and Manual* §773 (1979).
6. See annotation to Rule XV clause 4, *House Rules and Manual* §773 (1979). The automatic call does not apply to questions which do not require a quorum, such as an affirmative vote on a motion to adjourn (95 CONG. REC. 10092, 81st Cong. 1st Sess., July 25, 1949), a motion incidental to a call of the House which may be agreed to by less than a quorum (4 Hinds' Precedents §§2994, 3029; 6 Cannon's Precedents §681) or a call when no question is pending (4 Hinds' Precedents §2990). A point of no quorum on a negative vote of adjournment, if sustained, precipitates an automatic call (6 Cannon's Precedents §700).
7. Following failure of a quorum to appear on a yea and nay vote, the Speaker may take cognizance of that fact and order an automatic call of the House despite absence of a point of order from the floor (6 Cannon's Precedents §§678, 679).
8. The automatic roll call applies whether the question on which the

the Speaker, hearing a point of no quorum from the floor, or on his own initiative, declares the absence of a quorum, orders the Doorkeeper to close the doors (a practice discontinued in the 92d Congress by addition of clause 2(b), Rule XV, on Oct. 13, 1972) and the Sergeant at Arms to bring in absent Members, and states that those in favor should vote "aye" and those opposed "no." Under this procedure, as distinguished from the call on motion where an order of a majority of those present is needed, the Speaker without floor action possesses the authority to issue a warrant<sup>(9)</sup> permitting the Sergeant at Arms, without separate motion, forthwith to bring in absentees, but the Speaker usually does not do so without action of the House. (See §5.10, *infra*.) The yeas and nays on the pending question are considered ordered. Unless the vote is taken by electronic device, the Clerk calls the roll and each Member as his name

is called may vote on the pending question. Members brought in by the Sergeant at Arms are noted as present, immediately discharged from arrest, and given an opportunity to vote. The Speaker is authorized to declare that a quorum is constituted if those voting on the question together with those who are present and decline to vote make a majority of the House. Such a declaration dispenses with further proceedings. The pending question is decided by the majority vote of those who appear if a quorum responds. Proceedings under the automatic call are vacated if the House adjourns any time after completion of a roll call before a quorum responds and the result is announced.<sup>(10)</sup>

The provision which authorizes automatic calls of the House is subject to Rule XV clause 5,<sup>(11)</sup> which permits the Speaker, unless he orders the calling of names in a manner authorized by the other sections of Rule XV, to order names to be called by electronic device.<sup>(12)</sup>

The automatic vote by yeas and nays is not in order in the Committee of the Whole.<sup>(13)</sup>

House is dividing is decided by a viva voce vote (6 Cannon's Precedents §697), division (6 Cannon's Precedents §691), tellers (4 Hinds' Precedents §3053), or yeas and nays (6 Cannon's Precedents §703).

9. See Rule XV clause 4, *House Rules and Manual* §§773, 774a (1979); 4 Hinds' Precedents §3043; and 6 Cannon's Precedents §702.

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

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

12. See §4, *infra*; and Ch. 30, *infra*, for discussions of electronic voting.

13. See annotation to Rule XV clause 4, *House Rules and Manual* §774a (1979); and §2.7, *infra*.

Amendments to the rules affecting procedures subsequent to the 94th Congress under calls of the House and under automatic yeas and nays votes will be discussed in greater detail in supplements to this edition as they appear.

### *Presumption as to Presence of Quorum*

**§ 2.1 In the House of Representatives a quorum is presumed always to be present unless a point of no quorum is made.**

On July 18, 1949,<sup>(14)</sup> Speaker Sam Rayburn, of Texas, made a statement regarding presumption of a quorum.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HOFFMAN of Michigan: Mr. Speaker, it is my understanding this is Consent Calendar day. In view of the recent Supreme Court decision in the *Christoffel* case,<sup>(15)</sup> which held affirmatively that unless a quorum is present the committees of the House and the House are not legal tribunals, would the House now be competent to con-

14. 95 CONG. REC. 9654, 81st Cong. 1st Sess.

15. *Christoffel v United States*, 338 U.S. 84 (1949). See §17, *infra*, for a discussion of this case.

sider bills on the Consent Calendar, it being apparent a quorum is not present?

THE SPEAKER: The gentleman knows, of course, that unless a point of no quorum is made, it is presumed that a quorum is always present.

### *Obligation to Respond*

**§ 2.2 Permission of the House for a committee to sit during the sessions of the House does not relieve Members from their obligation to respond on roll calls.**

On Aug. 5, 1937,<sup>(16)</sup> Speaker William B. Bankhead, of Alabama, made a ruling regarding Members' obligation to respond to quorum roll calls.

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: Does the gentleman from Indiana yield to permit the gentleman from New York to submit a parliamentary inquiry?

MR. [ARTHUR H.] GREENWOOD [of Indiana]: I yield.

MR. FISH: Mr. Speaker, when permission is given to a committee to sit during the sessions of the House, does that give any rights to any of the members of that committee on roll calls?

THE SPEAKER: Absolutely none.

MR. FISH: Not even on quorum roll calls?

THE SPEAKER: It does not. On all quorum roll calls all Members who de-

16. 81 CONG. REC. 8300, 75th Cong. 1st Sess.

sire to be recorded must appear and vote on the roll call.

***Ascertaining Quorum Upon Convening***

**§ 2.3 Ascertaining the presence of a quorum is the first order of business when the House convenes following a sine die adjournment.**

On Jan. 7, 1964,<sup>(17)</sup> Speaker John W. McCormack, of Massachusetts, ascertained the presence of a quorum immediately after the prayer.

This being the day fixed by Public Law 247, 88th Congress, enacted pursuant to the 20th amendment to the Constitution, for the meeting of the 2d session of the 88th Congress, the Members of the House of Representatives of the 88th Congress met in their Hall, and at 12 o'clock noon were called to order by the Speaker, the Honorable John W. McCormack, a Representative from the State of Massachusetts.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the . . . prayer: . . .

CALL OF THE HOUSE

THE SPEAKER: The Clerk will call the roll to ascertain the presence of a quorum. . . .

THE SPEAKER: On this rollcall 342 Members have answered to their names. A quorum is present.

17. 110 CONG. REC. 4, 5, 88th Cong. 2d Sess.

***Postponement of Roll Calls***

**§ 2.4 Any roll calls which might be requested [except on resolutions from the Committee on Rules] were, by unanimous consent, ordered postponed until the following Tuesday [six calendar days from the date of the request].**

On May 27, 1959,<sup>(18)</sup> roll calls were ordered postponed by unanimous consent.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that any rollcall votes, except on rules which may be requested tomorrow or Monday, be put over until Tuesday next.

THE SPEAKER PRO TEMPORE:<sup>(19)</sup> Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

***Presence of Members in Well During Roll Call***

**§ 2.5 The Speaker has ordered Members from the well of the House during a roll call.**

On Oct. 12, 1962,<sup>(20)</sup> Speaker John W. McCormack, of Massachusetts, responding to a demand

18. 105 CONG. REC. 9202, 86th Cong. 1st Sess.

19. John W. McCormack ( Mass.).

20. 108 CONG. REC. 23423, 23424, 23432-34, 87th Cong. 2d Sess.

from a Member, H. R. Gross, of Iowa, ordered the well cleared.

MR. [CLARENCE] CANNON [of Missouri]: 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.

The question was taken; and there were yeas 84, nays 120, not voting 230, as follows. . . .

MR. GROSS (interrupting the rollcall): Mr. Speaker, I demand the regular order.

THE SPEAKER: The regular order is proceeding.

MR. GROSS (interrupting the rollcall): Mr. Speaker, I demand the well be cleared.

THE SPEAKER: Members will take their places out of the well. . . .

The Clerk resumed calling the roll.<sup>(1)</sup>

1. *Parliamentarian's Note*: Members may not remain near the Clerk's desk (including the well) during a roll call vote. Rule XIV clause 7, *House Rules and Manual* §763 (1979).

Rule I clause 3 [*House Rules and Manual* §623 (1979)], authorizes the Speaker to exercise general control of the Hall of the House.

### ***Speaker's Authority to Move a Call***

#### **§ 2.6 On a day on which the Speaker pro tempore was in the Chair when a point of no quorum was made, the Speaker moved a call of the House.**

On June 3, 1960,<sup>(2)</sup> while Speaker pro tempore Francis E. Walter, of Pennsylvania, was in the Chair, Speaker Sam Rayburn, of Texas, moved a call of the House from the floor.

#### CALL OF THE HOUSE

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, I make the point of order that a quorum is not present.

MR. [CHET] HOLIFIELD [of California]: I hope the gentleman will withhold his point of order for a minute.

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

MR. [SAM] RAYBURN [of Texas]: 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: . . .

### ***Automatic Yeas and Nays in Committee of the Whole***

#### **§ 2.7 The provisions of Rule XV clause 4,<sup>(3)</sup> which permit a**

2. 106 CONG. REC. 11830, 86th Cong. 2d Sess.

3. *House Rules and Manual* 773 (1979).

**Member to object to a vote where a quorum is not present, are applicable only in the House; an “automatic roll call” is not in order in the Committee of the Whole.**

On Nov. 9, 1971,<sup>(4)</sup> during consideration of H.R. 10729, to amend the Federal Insecticide, Fungicide, and Rodenticide Act, Chairman William L. Hungate, of Missouri, ruled that an objection to a vote on the ground that a quorum was not present, under Rule XV clause 4, was not in order in the Committee of the Whole.<sup>(5)</sup>

The question was taken; and on a division (demanded by Mr. Evans of Colorado) there were—ayes 28, noes 65.

So the amendment to the substitute amendment was rejected.

MR. [FRANK E.] EVANS of Colorado: Mr. Chairman, 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 CHAIRMAN: That parliamentary procedure is not in order in Committee of the Whole.

### ***Motions for a Call of the House***

#### **§ 2.8 A motion for a call of the House does not require a quorum.**

4. 117 CONG. REC. 40054, 92d Cong. 1st Sess.
5. See also, for example, 116 CONG. REC. 42232, 42233, 91st Cong. 2d Sess., Dec. 17, 1970.

On June 5, 1946,<sup>(6)</sup> Speaker Sam Rayburn, of Texas, made a ruling regarding the need for a quorum on a motion for a call of the House under Rule XV clause 2.<sup>(7)</sup>

THE SPEAKER (after counting): Two hundred and ten Members are present, not a quorum.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I move a call of the House.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

THE SPEAKER: The question is on the motion for a call of the House.

The question was taken; and on a division (demanded by Mr. Rankin) there were—ayes 81, noes 13.

MR. SMITH of Virginia: 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: A quorum is not required in this instance.

So the motion was agreed to.

#### **§ 2.9 Prior to adoption of the rules, whenever the absence of a quorum is ascertained, a motion for a call of the House is in order, the doors remain open while the roll is**

6. 92 CONG. REC. 6352–56, 79th Cong 2d Sess.
7. See also 108 CONG. REC. 10389, 87th Cong. 2d Sess., June 13, 1962, for another illustration of this principle.

**called alphabetically and, following the establishment of a quorum after the second call, further proceedings under the call may be dispensed with by unanimous consent [or by motion].**

On Jan. 21, 1971,<sup>(8)</sup> during reading of a resolution adopting the rules, a motion for a call of the House was held to be in order.

THE SPEAKER:<sup>(9)</sup> The Chair recognizes the gentleman from Mississippi.

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, I offer a resolution (H. Res. 5) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

#### H. RES. 5

*Resolved*, That the Rules of the House of Representatives of the Ninety-first Congress, together with all applicable provisions of the Legislative Reorganization Act of 1946, as amended, and the Legislative Reorganization Act of 1970, be, and they are hereby adopted as the Rules of the House of Representatives of the Ninety-second Congress, with the following amendments as part thereof, to wit:

In Rule X, renumber clause 4 and 5 as 5 and 6, insert a new clause 3 as follows: . . .

#### CALL OF THE HOUSE

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, I think this is of

8. 117 CONG. REC. 13, 14, 92d Cong. 1st Sess.
9. Carl Albert (Okla.).

more than passing importance. The Members should hear this and, therefore, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently 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 Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: On this roll call 395 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with. . . .

#### RULES OF THE HOUSE

THE SPEAKER: The Clerk will proceed with the reading of the resolution.

The Clerk read as follows:

In Rule XI, strike out paragraph (a) of clause 27 and insert in lieu thereof the following:

“(a) The Rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committees and subcommittees.”

**§ 2.10 Parliamentarian's Note: An automatic call of the House does not result when less than a quorum votes on a motion ordering a call of the House, because under Rule XV clause 2(a)<sup>(10)</sup> [and**

10. *House Rules and Manual* §768 (1979).

**art. I, §5 of the Constitution]**<sup>(11)</sup> **less than a quorum can compel the attendance of absent Members.**

This principle may be illustrated by analogy to the following proceedings, which took place on June 13, 1962:<sup>(12)</sup>

CALL OF THE HOUSE

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

THE SPEAKER:<sup>(13)</sup> Evidently a quorum is not present.

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

THE SPEAKER: Without objection, a call of the House is ordered.

MR. GROSS: Mr. Speaker, I object.

THE SPEAKER: The question is on the motion.

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

MR. GROSS: 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 state that this motion does not require the presence of a quorum.

*Prerogatives of the Chair*

**§ 2.11 Where a motion for a call of the House is pending**

11. *House Rules and Manual* §52 (1979).

12. 108 CONG. REC. 10389, 87th Cong. 2d Sess.

13. John W. McCormack (Mass.).

**and an objection is made to ordering the call by unanimous consent, the Speaker immediately puts the question on the motion.**

On June 13, 1962,<sup>(14)</sup> Speaker John W. McCormack, of Massachusetts, put to a vote a motion for a call of the House.

CALL OF THE HOUSE

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

THE SPEAKER: Evidently a quorum is not present.

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

THE SPEAKER: Without objection, a call of the House is ordered.

MR. GROSS: Mr. Speaker, I object.

THE SPEAKER: The question is on the motion.

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

**§ 2.12 Where a point of order that a quorum was not present came too late to invoke an "automatic roll call" under Rule XV clause 4,<sup>(1)</sup> the Chair treated the objection as a point of order that a quorum was not present and**

14. 108 CONG. REC. 10389, 87th Cong. 2d Sess.

1. *House Rules and Manual* §773 (1979).

**entertained a motion for a call of the House under Rule XV clause 2(a).**<sup>(2)</sup>

On May 31, 1972,<sup>(3)</sup> Speaker pro tempore Hale Boggs, of Louisiana, following proceedings whereby a motion to reconsider a vote was laid on the table, entertained a motion for a call of the House.

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

THE SPEAKER PRO TEMPORE: The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MR. [SAMUEL L.] DEVINE [of Ohio]: 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.

MR. BOLLING: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk proceeded to call the roll.

MR. DEVINE (during the call of the roll): Mr. Speaker, a point of order. Is this not an automatic rollcall on the rule?

THE SPEAKER PRO TEMPORE: The gentleman is incorrect. It is a quorum call.

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

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HALL: Is it not true that the gentleman from Ohio objected to the vote on the ground that a quorum was not present and made a point of order that a quorum was not present, whereupon the Chair said that the rollcall was automatic?

THE SPEAKER PRO TEMPORE: The Chair had previously ruled that the resolution had been agreed to and that a motion to reconsider was laid on the table. Therefore, the Chair had no alternative except to rule on the point of order that a quorum was not present and order a quorum call, in view of the fact that the gentleman's objection to the vote came too late.

MR. DEVINE: Mr. Speaker, I was on my feet at the time the Chair made the statement that the question was on the resolution, and I raised the objection to the vote on the ground that a quorum was not present and made the point of order that a quorum was not present.

THE SPEAKER PRO TEMPORE: The Chair was advised by the Parliamentarian that the Chair had previously ruled that the resolution had been agreed to and that a motion to reconsider had been laid on the table. The Chair had no alternative but to observe the gentleman's point of order that a quorum was not present, and a quorum call is now underway. The Clerk will continue to call the roll.

**§ 2.13 The Speaker may refuse to entertain a point of no quorum if an immediately preceding roll call vote has disclosed a quorum to be present and no business has intervened.**

2. *House Rules and Manual* §768 (1979).

3. 118 CONG. REC. 19344, 92d Cong. 2d Sess.

On Apr. 14, 1937,<sup>(4)</sup> Speaker William B. Bankhead, of Alabama, overruled a point of no quorum.<sup>(5)</sup>

THE SPEAKER: Today is Calendar Wednesday. The Clerk will call the roll of committees.

AMENDMENT OF THE LONG-AND-SHORT-HAUL CLAUSE

MR. [CLARENCE F.] LEA [of California] (when the Committee on Interstate and Foreign Commerce was called): Mr. Speaker, by direction of the Committee on Interstate and Foreign Commerce, I call up the bill (H.R. 1668) to amend paragraph (1) of section 4 of the Interstate Commerce Act, as amended February 28, 1920 (U.S.C. title 49, sec. 4).

The Clerk read the title of the bill.

MR. [ALFRED L.] BULWINKLE [of North Carolina]: Mr. Speaker, I raise the question of consideration.

THE SPEAKER: The gentleman from North Carolina raises the question of consideration of the bill. The question is, Will the House consider the bill H.R. 1668.

The question was taken; and on a division (demanded by Mr. Lea) there were—ayes 152, noes 73.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I demand the yeas and nays.

4. 81 CONG. REC. 3455, 3456, 75th Cong. 1st Sess.
5. See also 95 CONG. REC. 10095–97, 81st Cong. 1st Sess., July 25, 1949; and §14, *infra*, which discuss points of no quorum when made to delay proceedings.

The yeas and nays were ordered.

THE SPEAKER: The question is, Will the House consider the bill (H.R. 1668) to amend paragraph (1) of section 4 of the Interstate Commerce Act, as amended February 28, 1920 (U.S.C., title 49, sec. 4)?

The question was taken; and there were—yeas 278, nays 97, answered “present” 1, not voting 54, as follows: . . .

The result of the vote was announced as above recorded.

THE SPEAKER: The House automatically resolves itself into the Committee of the Whole House on the State of the Union for the consideration of the bill.

MR. [SCHUYLER OTIS] BLAND [of Virginia]: Mr. Speaker, I make the point of order there is not a quorum present.

THE SPEAKER: The Chair feels compelled to overrule the point of order, as the recent vote discloses a quorum is present.

**§ 2.14 The Speaker may not declare a recess during a roll call before the result is announced, even though the House has, by unanimous consent, previously given him authority to declare a recess at any time for the remainder of the week.**

On Oct. 12, 1962,<sup>(6)</sup> Speaker John W. McCormack, of Massa-

6. 108 CONG. REC. 23433, 23434, 87th Cong. 2d Sess. The House agreed to a unanimous-consent request on Oct. 11, 1962, giving the Speaker the authority to declare recesses “at any

chusetts, refused to declare a recess while a roll call was in progress.

THE SPEAKER: Does the gentleman from Missouri yield time to any Member?

MR. [CLARENCE] CANNON [of Missouri]: No. I move the previous question.

THE SPEAKER: 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 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.

time" for the remainder of the week. 108 CONG. REC. 23207, 87th Cong. 2d Sess.

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 84, nays 120, not voting 230, as follows: . . .

After completion of the first call of the roll and during the second call, several parliamentary inquiries were entertained, including the following:<sup>(7)</sup>

(The Clerk resumed calling the roll.)

MR. [EDMOND] EDMONDSON [of Oklahoma] (interrupting the rollcall): Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. EDMONDSON: May a recess be declared in advance of the completion of the vote?

THE SPEAKER: The Chair will state that in the present situation the Chair may not declare a recess with a rollcall in process.

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.

The motion was then made and agreed to that the House adjourn.

### ***Interruption by Motions to Adjourn***

#### **§ 2.15 If a quorum fails to materialize on a yeas and nays**

7. *Id.* at p. 23434.

**vote on a motion to adjourn decided in the negative, the House may proceed to establish a quorum under a call of the House which was in progress under Rule XV clause 2,<sup>(8)</sup> when the motion to adjourn was made.**

On Oct. 14, 1969,<sup>(9)</sup> Speaker John W. McCormack, of Massachusetts, indicated the procedure to be followed after less than a quorum voted rejecting a motion to adjourn which had been entertained following failure of a quorum on a call of the House. (See § 10.2, *infra*.)

### ***Proceedings Following Calls of the House***

**§ 2.16 Although a Member may not announce how an absent colleague would have voted on a roll call, there is no rule to prevent a Member from announcing the reasons for absence of his colleagues on a quorum call.**

On Mar. 13, 1946,<sup>(10)</sup> Speaker Sam Rayburn, of Texas, made a ruling regarding the announce-

8. *House Rules and Manual* §768 (1979).
9. 115 CONG. REC. 30054-56, 91st Cong. 1st Sess.
10. 92 CONG. REC. A-1422, 79th Cong. 2d Sess.

ment of reasons for absence from quorum calls.<sup>(11)</sup>

MR. [MILTON H.] WEST [of Texas]: Mr. Speaker, this afternoon, at about 1:30 o'clock, there was a quorum call, No. 53. Many members of the Texas delegation did not answer that quorum call by reason of the fact that at that time they were attending a luncheon given in honor of that great Texan and great American, Admiral Chester W. Nimitz, commander of the fleet. He was explaining to the delegation the needs of the future fleet of the United States. For that reason the following Members did not feel they should leave that meeting in order to answer a quorum call—

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I regret to raise the point, but the gentleman is not proceeding in order. I hope he will not start a procedure which will return to plague us in the future. All of us understand that no Member of the Texas delegation would fail to answer roll call unless he were fully warranted in being absent. . . .

THE SPEAKER:<sup>(12)</sup> . . . The gentleman from Texas [Mr. West] asked

11. This ruling contradicts many earlier rulings; see 6 Cannon's Precedents §200; 77 CONG. REC. 1139, 73d Cong. 1st Sess., Apr. 3, 1933; 77 CONG. REC. 2587, 73d Cong. 1st Sess., Apr. 28, 1933; 77 CONG. REC. 3834, 73d Cong. 1st Sess., May 20, 1933; 78 CONG. REC. 4691, 4700, 73d Cong. 2d Sess., Mar. 16, 1934; 81 CONG. REC. 3489, 3490, 75th Cong. 2d Sess., Apr. 14, 1937; and 81 CONG. REC. 3563, 75th Cong. 2d Sess., Apr. 15, 1937.
12. Sam Rayburn (Tex.).

unanimous consent to proceed for 1 minute. It is the understanding of the Chair that he did not intend to announce how any Member voted. He was simply stating why some Members of the Texas delegation did not answer a quorum call about 1 o'clock.

MR. CANNON of Missouri: I reluctantly raise the point of order. . . .

It would set a precedent for resuming an objectionable custom which has long since been discontinued.

THE SPEAKER: The Chair believes that the gentleman from Texas, being authorized by the Members whose names he is about to call, would be allowed to state why they were not on the floor to answer a roll call. The Chair knows of no rule of the House that is being violated by that.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker, I ask unanimous consent that the gentleman from Texas may proceed for one additional minute.

MR. CANNON of Missouri: Mr. Speaker, I regret to object. . . .

THE SPEAKER: The gentleman from Missouri objects. The time of the gentleman from Texas has expired. . . .

MR. [OREN] HARRIS [of Arkansas]: Mr. Speaker, I ask unanimous consent that the gentleman may be permitted to extend his remarks in the Record.

MR. CANNON of Missouri: I make the point of order that a quorum is not present.

THE SPEAKER: It is very necessary that some reports from the Committee on Rules be filed this afternoon.

MR. CANNON of Missouri: Mr. Speaker, I withhold the point of order.

### § 2.17 Where a quorum fails to develop on an automatic roll

**call under Rule XV clause 4,<sup>(13)</sup> the Chair need not announce the result of the vote other than to inform the House that a quorum has not been developed since under that rule the Chair may entertain a motion to adjourn "at any time after the roll call has been completed."**

On Dec. 22, 1932,<sup>(14)</sup> Speaker John N. Garner, of Texas, made a statement regarding announcement of the vote on an automatic roll call on a pending motion to recommit.

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. . . .

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?

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

13. *House Rules and Manual* §773 (1979).

14. 76 CONG. REC. 942, 943, 72d Cong. 2d Sess.

informs the Chair, but the Chair may announce that so far the vote is—yeas 110, nays 95. There is not a quorum present.

The gentleman from Illinois moves that the House do now adjourn.

### *Failure of Quorum to Vote*

**§ 2.18 Instance where immediately after the Speaker counted a quorum, a quorum failed to vote, by a division vote, on an amendment. In response to a point of order, the Speaker ruled that he observed that a quorum remained present when the vote was taken and the Chair was not responsible if all Members did not vote.**

On Apr. 2, 1943,<sup>(15)</sup> during consideration of H.R. 2087, the War Security Act, Speaker Sam Rayburn, of Texas, held that a quorum was present.

THE SPEAKER: The Chair will count. [After counting.] Two hundred and nineteen Members are present, a quorum.

The question is on the amendment offered by the gentleman from Wisconsin.

The question was taken; and the Chair being in doubt, the House divided, and there were—ayes 62, noes 112.

MR. [HARRY] SAUTHOFF [of Wisconsin]: Mr. Speaker, I object to the

vote on the ground that a quorum is not present.

THE SPEAKER: The Chair has just counted, and a quorum was present. The Chair is not responsible if all Members in the House do not vote. The Chair must hold that a quorum is present.

So the amendment was rejected.

*Parliamentarian's Note:* The fact that a quorum does not vote on an amendment does not necessarily indicate that a quorum is not present.

### *Instructions to Sergeant at Arms*

**§ 2.19 Where a quorum fails to appear on a call of the House, a motion to instruct the Sergeant at Arms to bring in absentees is in order.**

On Oct. 14, 1969<sup>(16)</sup> Speaker John W. McCormack, of Massachusetts, responded to a parliamentary inquiry on the propriety, in the absence of a quorum, of sending the Sergeant at Arms to bring in absent Members.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, a parliamentary inquiry.

Mr. Speaker, would it be in order at that point to move that the Speaker instruct the Sergeant at Arms to bring in Members who are absent?

15. 89 CONG. REC. 2886, 78th Cong. 1st Sess.

16. 115 CONG. REC. 30054-56, 91st Cong. 1st Sess.

THE SPEAKER: The Chair will state that if the House fails to adjourn, a motion to that effect would be in order.

### ***Legislative Signal Lights and Bells***

#### **§ 2.20 The Speaker announced to the House his directive that the House legislative electric bell and light signals be altered to distinguish between recorded votes in the House and quorum calls in the House or in Committee of the Whole.**

On Jan. 21, 1970,<sup>(1)</sup> Speaker John W. McCormack, of Massachusetts, issued a directive that signal bells be used to distinguish between recorded votes and quorum calls:

THE SPEAKER: The Chair would like to make an announcement.

On January 3, 1969, the House adopted an amendment to rule XV, clause 1, that eliminated the necessity for Members to "qualify" on a yea-and-nay vote. Since that time several Members have asked the Chair if it would be possible to make a signal system distinction between a yea-and-nay vote—either a constitutional vote or a vote under clause 4, rule XV—and a call of the House.

The Chair has given careful consideration and study to the matter and

has reached the conclusion that the change would be of benefit to the Members. Accordingly, starting today, the Chair has directed that on all recorded votes the bells will be rung twice. On quorum calls, either in the House or in Committee of the Whole, the bells will be rung three times.

For the convenience of Members the Chair will insert in the Record at this point a revised schedule of the signal system:

#### HOUSE LEGISLATIVE ELECTRIC BELL AND LIGHT SIGNALS

Tellers: 1 ring and light on left.

Yeas and Nays (either when ordered by one-fifth of those present or under Rule XV, cl 4): 2 rings and lights on left.

Call of House; No quorum in Committee of the Whole: 3 rings and lights on left.

Adjournment: 4 rings and lights on left.

Recess: 5 rings and lights on left.

Civil Defense Warning: 6 rings and lights on left.

(The light on the far right—7—indicates that the House is in session.)

#### **§ 2.21 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 quorum calls.**

On Jan. 15, 1973,<sup>(2)</sup> Speaker Carl Albert, of Oklahoma, announced a revised schedule of leg-

1. 116 CONG. REC. 612, 91st Cong. 2d Sess.

2. 119 CONG. REC. 1055-57, 93d Cong. 1st Sess.

islative 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)). *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.

*Parliamentarian's Note:* The legislative call system was designed to alert Members to certain occurrences on the floor of the House. More recently, Speaker Thomas P. O'Neill, of Massachusetts, has directed that the bells and lights comprising the system be utilized as follows (125 CONG. REC. —, 96th Cong. 1st Sess., Jan. 23, 1979):

Tellers—one ring and one light on left.

Recorded vote, yeas and nays, or automatic rollcall vote taken either by electronic system or by use of tellers with ballot cards—two bells and two lights on left indicate a vote in House or in Committee of the Whole by which Members are recorded by name. Bells are repeated five minutes after the first ring.

Recorded vote, yeas and nays, or automatic rollcall electronic vote on recommitment to be immediately followed by possible five-minute vote on final passage (cl. 5, Rule XV)—two bells rung at beginning of motion to recommit, followed by five bells, indicate that Chair will order five-minute vote if recorded vote, yeas and nays or automatic vote is ordered immediately thereafter on final passage or adoption. Two bells repeated five minutes after first ring.

Recorded vote, yeas and nays, or automatic rollcall by call of the roll—two bells, followed by a brief pause, then two bells indicate such a vote taken under the provisions of Rule XV,

clause 1, by a call of the roll in the House. The bells are repeated when the Clerk reaches the "R's" in the first call of the roll.

Regular quorum call—three bells and three lights on left indicate a quorum call either in the House or in Committee of the Whole by electronic system or by clerks. The bells are repeated five minutes after the first ring. Where quorum call is by call of the roll, three bells followed by a brief pause, then three more bells, with the process repeated when the Clerk reaches the "R's" in the first call of the roll, are utilized.

Regular quorum call in Committee of the Whole, which will possibly be immediately followed by five-minute electronic recorded vote (cl. 2, Rule XXIII)—three bells rung at beginning of quorum call, followed by five bells, indicate that Chair will order five-minute vote if recorded vote is ordered on pending question. Three bells repeated five minutes after first ring.

Notice or short quorum call in Committee of the Whole—one long bell followed by three regular bells, and three lights on left, indicate that the Chair has exercised his discretion under cl. 2, Rule XXIII and will vacate proceedings when a quorum of the Committee appears. Bells are repeated every five minutes unless (a) the call is vacated by ringing of one long bell and extinguishing of three lights, or (b) the call is converted into a regular quorum call and three regular bells are rung.

Adjournment—four bells and four lights on left.

Any five-minute vote—five bells and five lights on left.

Postponed votes on (a) motions to suspend the rules (cl. 3, Rule XXVII);

(b) on "clustered" rules from Rules Committee (cl. 4(e), Rule XI); or (c) on "clustered" final votes on bills, resolutions or conference reports (cl. 5(b), Rule I)—two bells, followed by five bells, indicate start of fifteen-minute vote on first postponed question in each such series. Two bells repeated five minutes after first ring. Five bells on all subsequent five-minute votes in each series on which Speaker has reduced vote time.

Recess of the House six bells and six lights on left.

Civil Defense Warning—twelve bells, sounded at two-second intervals, with six lights illuminated.

### *Interpretation of "Vacating Proceedings" Under Rule XV Clause 4*

**§ 2.22 Where a quorum has failed to develop on an automatic roll call under Rule XV clause 4,<sup>(3)</sup> and the House has adjourned, the provision in the rule that proceedings be "vacated" has been construed to mean the voiding of the proceedings incident to such call, and not to mean deletion of the proceedings from the Record and the Journal.**

On Dec. 23, 1932,<sup>(4)</sup> and Dec. 27, 1932,<sup>(5)</sup> the interpretation of

3. *House Rules and Manual* §773 (1979).

4. 76 CONG. REC. 980, 981, 983, 984, 72d Cong. 2d Sess.

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

the word “vacate” Rule XV clause 4, and the effect of vacating proceedings for purposes of the Journal and Record were discussed.

The Journal of the proceedings of yesterday was read.

THE SPEAKER:<sup>(6)</sup> Without objection, the Journal will stand approved.

MR. [CARL E.] MAPES [of Michigan]: Mr. Speaker, reserving the right to object, I would like to ask the Speaker if the Journal shows a record of the roll call on the motion to recommit when the point of no quorum was developed immediately before the adjournment of the House yesterday. The Record does not.

THE SPEAKER: The Journal does not show the roll call on the motion to recommit.

MR. MAPES: Then, Mr. Speaker, I desire to call the Speaker's attention and the attention of the House to the Journal and the Record and to ask for a correction of both.

Mr. Speaker, in this connection, I desire to say that in looking over the Record this morning I saw that the roll call was not in the Record, and I assumed that its omission was merely an oversight. .

MR. [WILLIAM B.] BANKHEAD [of Alabama]: I did not fully understand the gentleman's request. Does the gentleman propose to ask the Speaker to have the Journal corrected?

MR. MAPES: Yes; the Journal and the Record. As I was saying, when I noticed the omission of the roll call in the Record, I assumed the omission was an oversight, but a short time ago I took

occasion to call the Parliamentarian and was assured by him that its omission was not an oversight. . . .

I am told by the Parliamentarian that the basis for the omission is contained in the last sentence of Rule XV, subsection 4, which says that when a situation is developed such as was developed yesterday that all proceedings under this section shall be vacated. I will read the entire sentence:

At any time after the roll call has been completed, the Speaker may entertain a motion to adjourn, if seconded by a majority of those present, to be ascertained by actual count by the Speaker; and if the House adjourns, all proceedings under this section shall be vacated,

What the proper construction of the last clause in that sentence is may be open to some argument, but to me it is a violent construction of it to construe it to mean that an actual roll call in the House of Representatives shall not be recorded in the Journal. . . .

MR. BANKHEAD: Mr. Speaker, I would like to be heard briefly on the proposition. As the gentleman from Michigan has well said, this might be a matter of considerable importance because of the dignity of the Journal as showing the historical proceedings of the House of Representatives.

The gentleman from Michigan has well pointed out that the Constitution does provide that—

The House shall keep a Journal of its proceedings and from time to time publish the same except such parts as may in their judgment require secrecy.

But that provision of the Constitution does not directly or by implication go to the extent of saying that the

6. John N. Garner (Tex.).

House has not the right to control the interpretation and say what entries in the Journal, shall be made. The Manual, section 71, says:

The House controls its Journal and may decide what are proceedings, to the extent of omitting things actually done or recording things not done.

The rule that the gentleman from Michigan referred to a few minutes ago is not susceptible of any ambiguous construction. It is plain, simple, direct, and is mandatory in its provisions. An automatic roll call was had, a motion to adjourn, seconded by a majority of those present by actual count by the Speaker, and up to that point the requirements of the rule were actually complied with in all details; but the rule goes further, and this is the section which governs the proper construction of the situation by the Speaker:

And if the House adjourn—

Which it did do under the preceding sections—

all proceedings under this section shall be vacated. . . .

THE SPEAKER: The Chair is ready to make a statement, if not a ruling. During the last Congress the late Speaker Longworth, in a conversation with me, paid the Parliamentarian a very high compliment as to his philosophy and accuracy in trying to maintain the integrity of the rules of the House of Representatives. The result was that when I became Speaker I continued his services, and I have found him to be very capable.

This rule we are considering may be a bad rule; and if we were considering it originally, I am not certain that I

would support it, but that it is a part of the rules of the House of Representatives there can be no question.

The rule not only says that the proceedings shall all be vacated but is followed by other matter. The rule was adopted in 1896. It applies only to votes where a quorum is required; that is, the rule would vacate a vote if a quorum failed and the House adjourned. The rule, of course, does not apply to a motion to adjourn, since it does not require a quorum to agree to that motion. Now, to make the illustration: If the motion yesterday had been to adjourn, and no quorum developed on that motion, the vote would have appeared in the Journal; but it was not a motion to adjourn, it was a motion where a quorum was required, to wit, a motion to recommit the bill to the committee with instructions to report it back forthwith.

There was no legal action on that motion yesterday, and it seems to the Chair that under the circumstances the proceedings were void by reason of this language of the rule:

If the House adjourns, all proceedings under this section shall be vacated.

The Chair does not know what this language can mean unless it means that where a quorum failed on an automatic roll call and the House adjourned the entire proceedings relating to the call shall be vacated. What can it possibly mean other than to vacate the proceedings? And that, of course, includes the roll call.

The gentleman from Alabama called attention to the definition of "vacate" found in Webster's Dictionary. The Parliamentarian calls the Chair's at-

tention to the definition appearing in Bouvier's Law Dictionary, which is:

To render null and void; to vacate an entry which has been made on a record.

That is exactly what was done in this case.

The Chair repeats again, this may be a bad rule, and its philosophy may be wrong, but it is a rule of the House, and that the Parliamentarian has complied with the rules of the House there is no doubt in the Speaker's mind.

The Speaker wants it understood that he is not wedded to this conclusion, and it is a matter for the House to determine itself what construction it will place in this particular rule. The Chair has no pride in it whatever; and if it is the wish of the House to allow it to go over until next Tuesday so we can look into it and philosophize about it, the Chair would not be opposed to such action.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SNELL: If the Speaker says that the motion will be in order on next Tuesday, I am perfectly willing to give him such time to look into the matter further. I think it is important that this question should be decided right for all time, because it is very important in so far as the proceedings of the House are concerned.

THE SPEAKER: The Chair will recognize the gentleman from New York to make the motion now, if he desires to make it.

MR. SNELL: Mr. Speaker, perhaps it would be a good idea for me to make

the motion and have it pending. Would that be proper?

MR. BANKHEAD: Will the gentleman yield?

MR. SNELL: Yes.

MR. BANKHEAD: The question arises, I respectfully suggest, whether it would be in order to entertain that motion. In the absence of a quorum, officially shown on the record, there is a constitutional inhibition against any proceedings. I have no objection myself, of course.

MR. SNELL: This is a new legislative day, and there has been no development of a quorum and no one has raised the issue.

MR. BANKHEAD: I am in entire accord with the suggestion of the gentleman, but I do have serious doubt whether we could properly consider it in the absence of a quorum.

MR. SNELL: If the Chair is willing, I will make the motion with the understanding it will not be taken up to-day but will be pending.

THE SPEAKER: Let the Chair point out what the parliamentary situation would be next Tuesday. We have one motion pending at the present time as the unfinished business, to wit, the motion to recommit. If the gentleman makes a motion to correct the Journal, that would be the first business on Tuesday, as the Chair would interpret it.

MR. SNELL: I would expect so.

THE SPEAKER: Therefore, there would be pending on next Tuesday two propositions, one following the other: First, the approval of the Journal of yesterday's proceedings, and second, the motion to recommit the bill to the committee with instructions to report it back forthwith.

Let the Chair suggest to the gentleman from New York that we can adjourn, if the House desires, at the present time, and the Chair will recognize the gentleman from New York on next Tuesday to move to correct the Journal of the proceedings of yesterday.

## ADJOURNMENT

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

The motion was agreed to; accordingly (at 12 o'clock and 42 minutes p.m.) the House adjourned to meet, in accordance with its previous order, on Tuesday, December 27, 1932, at 12 o'clock noon.

On Dec. 27, 1932,<sup>(7)</sup> the following occurred immediately after the prayer:

CORRECTION OF THE JOURNAL OF  
THURSDAY, DECEMBER 22

MR. SNELL: Mr. Speaker, I ask unanimous consent to correct the Journal of Thursday, December 22, and also the permanent Record of that same day by inserting in the same a record of the proceedings on a roll call on the motion to recommit made by the gentleman from Illinois [Mr. De Priest] in connection with the Interior Department appropriation bill.

THE SPEAKER: The gentleman from New York asks unanimous consent that the Journal and the permanent Record of last Thursday's proceedings be corrected so as to include the roll call on the motion to recommit the Interior Department appropriation bill.

7. 76 CONG. REC. 986, 987, 72d Cong. 2d Sess.

MR. SNELL: And pending that I would like to make a brief statement. I want to say that I have found an exact precedent, entirely on all fours with the situation which arose in the House last Thursday.

These proceedings took place under another distinguished Democratic Speaker, the Hon. Champ Clark, and the Hon. Claude Kitchin as majority leader, and show that we were correct in the position that we took on this side of the House last Friday. Therefore I think they ought to go in the Record at this time in order to clear up any situation of a like nature that may arise in the future.

This situation arose on February 3, 1919. The gentleman from Rhode Island, Mr. O'Shaunessy, made a motion to suspend the rules and pass a bill that had to do with the salaries of the Federal judges in Rhode Island. After the motion and some debate I will read from the Record:

THE SPEAKER: The question is on suspending the rules and passing the bill.

The question was taken.

THE SPEAKER: In the opinion of the Chair two-thirds—

MR. WALSH: Mr. Speaker, I make the point of order that there is no quorum present.

THE SPEAKER: The gentleman from Massachusetts makes the point that there is no quorum present, and evidently there is not. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll. The question is on suspending the rules and passing the bill.

The question was taken; and there were—yeas 113, nays 96, answered "present" 4, not voting 216.

Then the names of those voting "yea," those voting "nay," and those not voting appear in the Record.

MR. KITCHIN: I move that the House do now adjourn.

The motion was agreed to and the House adjourned.

Now, that is exactly on all fours with the situation in the House last week. I may say also that the Journal is the same as the Record, except that the names of the absentees are not recorded in the Journal. I think, Mr. Speaker, it is proper that this request should be granted, and I understand that my request is acquiesced in by the majority leader.

MR. RAINEY: Mr. Speaker, reserving the right to object, I think the Speaker's interpretation of the rule is absolutely correct. If the rule is not plain enough to carry out the suggestions of the Speaker, I think it ought to be made so. The rule may need some clarifying in the next Congress. I see no objection to publishing these names. I hope there will be no objection to the request of the gentleman from New York.

THE SPEAKER: Is there objection to the request of the gentleman from New York [Mr. Snell]?

There was no objection.

THE SPEAKER: The Chair asks unanimous consent of the House that the Speaker be permitted to extend his remarks concerning this question. Is there objection?

There was no objection.

THE SPEAKER: The Chair in ruling on this question on Friday last stated his views relative to the construction to be placed on the provisions of clause 4 of Rule XV. The Chair has since that time given additional thought to the question raised by the gentleman from Michigan [Mr. Mapes]. It seems to the

Chair that the language embodied in the last sentence of clause 4 of Rule XV, to wit, "If the House adjourns, all proceedings under this section shall be vacated," should not be disregarded. The present occupant of the chair endeavored to ascertain what that language could mean with respect to the rule now under consideration. The Chair believes that without the language, "And if the House adjourns, all proceedings under this section shall be vacated," the vote would have been void if a quorum failed on the vote. So that if the purpose of the language was merely to void the vote it was unnecessary. The Chair can not conceive of superfluous language being placed in any rule, and the Chair in this instance certainly does not think the above-quoted language is superfluous. Now, if the Chair is correct so far in his interpretation of the rule, the Chair will pursue the subject further. If the language is not necessary in order to void the vote where a quorum fails, then it must mean that the record of the proceedings is vacated and made of no effect, and consequently has no place in the Journal. In that connection the Chair may state that it has been the uniform practice in the past not to include in the Journal the proceedings whereby a certain action of the House has been vacated when the request to vacate occurs on the same day that the action sought to be vacated occurred. For instance, where the House passes a bill on a certain day and later on during the same day a Member requests that the proceedings whereby the bill has been engrossed, read a third time, and passed be vacated in order that an amendment may be placed in the bill, and such request is

granted and the amendment is then adopted, the bill engrossed and read a third time and passed, the Journal does not show the proceedings whereby the original action was vacated, but merely shows that the bill was considered, amended, engrossed, read a third time, and passed. In other words, the Journal shows the final action and not the incidental things that occur in consummating that action. The Chair thinks that that is an analogous case and that the same reasoning should apply in the question that has arisen.

The Chair in making this statement does not want it interpreted as meaning that he is in sympathy with the legal construction he has placed on the rule. The present occupant of the chair has always been in favor of giving the widest publicity to all the proceedings of government. The Chair wants it distinctly understood that he has ruled only on the legal aspects of the question. The Chair is not in sympathy with any rule that tends to make secret any governmental proceedings, but the Chair can not permit the merits of a particular rule to influence him in the legal construction of it. The Chair makes this statement merely to explain the reasons governing the Chair in the making of his ruling on last Friday. The House by agreeing to the request of the gentleman from New York [Mr. Snell] has indicated that its interpretation of the rule is such as to permit the publication of the proceedings in the Journal as well as the Record.

THE JOURNAL

THE SPEAKER: Without objection, the Journal of the proceedings of Thursday, December 22, 1932, will be approved.

There was no objection.

THE SPEAKER: The Clerk will read the Journal of Friday, December 23, 1932.

MR. MAPES: Mr. Speaker, before that is done may I rise to a parliamentary inquiry?

THE SPEAKER: Certainly. The gentleman will state it.

MR. MAPES: In connection with the proceedings relating to the correction of Thursday's Journal. Inasmuch as the unanimous consent of the minority leader has been agreed to, the Record of last Thursday will be corrected accordingly, but in view of the statement of the majority leader, it seems to me that the situation is left in a somewhat indefinite condition so far as the interpretation of the rule is concerned, and what the duty of the Journal clerk may be in similar cases arising in the future. I think it would be interesting to have the decision of the Speaker in respect to that. Suppose the same situation should develop to-day, for instance.

THE SPEAKER: The Chair would carry out the will of the House as expressed to-day in the proceedings.

MR. MAPES: That is, that the full proceedings would be incorporated in the Journal?

THE SPEAKER: Yes. If the same question arises again, the names will be included in the Journal and the Record.

**§ 2.23 During a quorum call under Rule XV clause 2(a),<sup>(8)</sup> the Speaker has no authority to entertain a unanimous-**

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

**consent request to vacate proceedings under the call.**

On Oct. 18, 1972,<sup>(9)</sup> during consideration of a conference report on S. 3939, the Federal-aid Highway Act, and the day on which the House adjourned *sine die*, Speaker Carl Albert, of Oklahoma, responded to a unanimous-consent request to vacate a call of the roll.

MR. [JOHN T.] MYERS [of Indiana]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The Chair will count. One hundred twelve Members are present, not a quorum.

MR. [THOMAS P.] O'NEILL Jr. [of Massachusetts]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

MR. [WILBUR D.] MILLS of Arkansas: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MILLS of Arkansas: Mr. Speaker, will the Speaker entertain a unanimous-consent request that the call of the roll be vacated.

THE SPEAKER: The Speaker does not have that authority under the Constitution.

If there are any Members in the Chamber who have not answered and the Speaker can identify them, he will have them recorded. The Speaker does have that authority, but he does not know of any such Members.

9. 118 CONG. REC. 37199, 92d Cong. 2d Sess.

***Automatic Call After Vacating Passage of Bill***

**§ 2.24 The House, having passed a bill by voice vote, vacated the proceedings by unanimous consent; the question on passage was again put and a quorum not being present, a roll call was automatic under Rule XV clause 4.<sup>(10)</sup>**

On Oct. 5, 1962,<sup>(11)</sup> during consideration of S. 1447, to amend the Teachers' Salary Act for the District of Columbia, an automatic roll call was held.

THE SPEAKER:<sup>(12)</sup> The question is on the committee amendment.

The committee amendment was agreed to.

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

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, I would like to inquire whether or not there are further conference reports or unanimous-consent requests to be considered this evening.

MR. [JOHN L.] McMILLAN [of South Carolina]: I have one more bill I desire to call up from the Committee on the District of Columbia.

- 10. *House Rules and Manual* §773 (1979).
- 11. 108 CONG. REC. 22649, 22650, 87th Cong. 2d Sess.
- 12. Sam Rayburn (Tex.).

MR. [JAMES G.] FULTON [of Pennsylvania]: 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 bill has already passed.

MR. FULTON: Mr. Speaker, I was on my feet.

THE SPEAKER: The Chair will state that if a Member is on his feet, that is insufficient. The gentleman did not address the Chair.

MR. FULTON: I was saying "Mr. Speaker," and was not heard. I was on my feet.

THE SPEAKER: If the gentleman asks unanimous consent to vacate the action, the Chair will entertain a request. But the passage of the bill had been completed.

MR. FULTON: Mr. Speaker, I was on my feet addressing the Speaker, but I was not recognized.

THE SPEAKER: The Chair does not know what is in the gentleman's mind when the gentleman is on his feet.

MR. FULTON: I was saying "Mr. Speaker," right straight through. I am sure it is the custom of the House to be recognized when a point of order is being made.

THE SPEAKER: Without objection, the action whereby the bill was passed will be vacated.

There was no objection.

THE SPEAKER: The question is on the passage of the bill.

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

MR. FULTON: Mr. Speaker—

THE SPEAKER: For what purpose does the gentleman from Pennsylvania rise?

MR. FULTON: 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.

Does the gentleman insist upon his point of order?

MR. FULTON: Yes, Mr. Speaker.

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

### *Senate Precedents*

#### **§ 2.25 The Presiding Officer of the Senate, as a Member of that body, may suggest the absence of a quorum.**

On July 16, 1965,<sup>(13)</sup> the authority of the Presiding Officer was discussed.

MR. [SPESSARD L.] HOLLAND [of Florida]: Mr. President, will the Senator yield?

MR. [WAYNE L.] MORSE [of Oregon]: I yield.

MR. HOLLAND: Is it not a fact, although not frequently practiced, that the Presiding Officer of the Senate, in the event of an emergency or for any reason satisfactory to himself, can suggest the absence of a quorum?

MR. MORSE: Yes; that is another procedure that may be followed. I am not critical because it was not followed. I am only pointing out, for precedential

13. 111 CONG. REC. 17103, 17104, 89th Cong. 1st Sess.

reference, that either procedure would have prevented the situation that developed.

MR. HOLLAND: Mr. President, will the Senator yield further?

MR. MORSE: I yield to the Senator from Florida.

MR. HOLLAND: I am not making my comments in criticism of anyone. I was in the Senate a long time before I knew that a Senator when acting as the Presiding Officer of the Senate could suggest the absence of a quorum. I wanted to bring that point into the debate so that it will be clearly apparent for all Senators who have the onerous duty of presiding at embarrassing times to themselves. That is a well settled rule, as I understand, and if the Presiding Officer and the Senator from Oregon will yield, I should like to address a parliamentary inquiry to have that point incorporated in the Record.

THE PRESIDING OFFICER:<sup>(14)</sup> The Senator from Florida is correct.

MR. HOLLAND: Will the Chair restate that ruling?

THE PRESIDING OFFICER: The Presiding Officer, as a Member of the Senate, may suggest the absence of a quorum at an appropriate time.

MR. HOLLAND: I thank the Chair.

**§ 2.26 When the Senate convenes following an adjournment taken in the absence of a quorum, the first order of business is the establishment of a quorum and the Presiding Officer directs the roll to be called.**

14. Daniel K. Inouye (Hawaii).

On Sept. 23, 1968,<sup>(15)</sup> a quorum was established.

CALL OF THE ROLL

THE PRESIDENT PRO TEMPORE,<sup>(1)</sup> The Senate having adjourned on Friday, September 20, 1968, in the absence of a quorum, the clerk will call the roll to ascertain the presence of a quorum.

The bill clerk called the roll, and the following Senators answered to their names. . . .

THE PRESIDING OFFICER:<sup>(2)</sup> A quorum is not present.

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

THE PRESIDING OFFICER: The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names: . . .

THE PRESIDING OFFICER: A quorum is present.

**§ 2.27 The Senate having recessed in the absence of a quorum, the Vice President directed a quorum call when the Senate reconvened.**

On July 28, 1962,<sup>(3)</sup> Vice President Lyndon B. Johnson, of Texas,

15. 114 CONG. REC. 27814, 27815, 90th Cong. 2d Sess.

1. Carl Hayden (Ariz.).

2. Howard W. Cannon (Nev.).

3. 108 CONG. REC. 14952, 87th Cong. 2d Sess.

ordered a quorum call after the Senate reconvened following a recess.

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Vice President.

. . .

#### CALL OF THE ROLL

THE VICE PRESIDENT: The Senate having taken a recess last night in the absence of a quorum, no business can be transacted until a quorum is present.

The clerk will therefore call the roll for the purpose of developing a quorum.

The legislative clerk called the roll; and the following Senators answered to their names: . . .

### § 2.28 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>(4)</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

4. 83 CONG. REC. 2903, 2904, 75th Cong. 3d Sess.

the purpose of securing a quorum, for the Senate begins now just where it left off last Friday.

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.

### § 3. The Chair's Count; Names Included on Calls

Following the historic decision of Speaker Thomas B. Reed, of Maine, in 1890,<sup>(5)</sup> the House adopted Rule XV clause 3,<sup>(6)</sup> which provides that on the demand of any Member or at the suggestion of the Speaker, those Members present in the Hall of the House who do not vote may nevertheless be counted in determining the presence of a quorum; moreover, under Rule XV clause 4,<sup>(7)</sup> the Speaker, in determining the presence of a quorum, is au-

5. Speaker Reed directed the Clerk to enter on the Journal as part of a ye and nay vote the names of Members who were present but did not vote, thereby establishing a quorum of record. 4 Hinds' Precedents §2895.

6. *House Rules and Manual* §772 (1979); see 4 Hinds' Precedents §2905 for a discussion of adoption of this clause.

7. *House Rules and Manual* §773 (1979). See also §3.9, *infra*.

thorized to include Members who do not vote. In practice, the Speaker counts all Members he can see, including those leaving the Chamber<sup>(8)</sup> and those behind the railing.<sup>(9)</sup>

### ***Inclusion on the Roll***

#### **§ 3.1 Parliamentarian's Note: Where a Representative-elect dies before the House convenes, his name is included on the roll call by states to establish a quorum [and on subsequent calls] until the House is informed of his death.**

On Jan. 10, 1967,<sup>(10)</sup> the name of Representative-elect John E. Fogarty, of Rhode Island, who had died in his office shortly before the House was to convene on Jan. 10, was included on the call of the states to establish a quorum since his certificate of election was on file with those of the other Members-elect. Following this roll call, the Clerk announced the death to the House and Representative-elect Fogarty's name was removed from subsequent calls.

THE CLERK: Representatives-elect to the 90th Congress, pursuant to the

8. § 3.5, *infra*.

9. § 3.6, *infra*.

10. 113 CONG. REC. 11, 12, 90th Cong. 1st Sess.

20th amendment of the Constitution and to Public Law 89-704 of the 89th Congress, this is the day fixed for the meeting of the 90th Congress.

As the law directs, the Clerk of the House has prepared the official roll of the Representatives-elect.

Credentials covering the 435 seats in the 90th Congress have been received and are now on file with the Clerk of the 89th Congress.

The names of those persons whose credentials show they were regularly elected in accordance with the laws of the several States and of the United States will be called; and as the roll is called, following the alphabetical order of the States, beginning with the State of Alabama, Representatives-elect will answer to their names to determine whether or not a quorum is present.

The reading clerk will call the roll.

The Clerk called the roll by States and the following Representatives-elect answered to their names: . . .

[*Parliamentarian's Note:* The name of Fogarty was called when the Clerk reached the state of Rhode Island in the call.]

THE CLERK: The rollcall discloses that 434 Representatives-elect have answered to their names.

A quorum is present. . . .

#### VACANCY IN THE SECOND DISTRICT OF RHODE ISLAND

THE CLERK: The Clerk also wishes to announce there is a vacancy in the Second District of Rhode Island occasioned by the recent death of the Honorable John E. Fogarty.

#### **§ 3.2 During a call of the roll by states to determine the**

**presence of a quorum at the opening of a Congress, the Clerk announced receipt of the Proclamation of Alaskan Statehood and directed that names of Members-elect from Alaska be called.**

On Jan. 7, 1959,<sup>(11)</sup> at the commencement of the 86th Congress, the Member from Alaska was included in the roll call by states after the proclamation of statehood was announced.

#### CALL OF THE ROLL

THE CLERK: Representatives-elect of the 86th Congress, this is the day fixed by law, pursuant to the Constitution of the United States, for the meeting of the 86th Congress and, as the law directs, the Clerk of the House has prepared the official roll of the Representatives-elect. Certificates of election covering the 436 seats in the 86th Congress have been received and are now on file with the Clerk of the 85th Congress. The names of those persons whose credentials show they were regularly elected in accordance with the laws of the several States and of the United States will be called.

As the roll is called, following the alphabetical order of the States, beginning with the State of Alabama, Representatives-elect will answer to their names to determine whether a quorum is present.

The reading clerk will call the roll by States.

11. 105 CONG. REC. 11, 86th Cong. 1st Sess.

The reading clerk called the roll by States, and the following Representatives-elect answered to their names:

. . .

THE CLERK: A certified copy of the Presidential proclamation indicating that the Territory of Alaska has qualified as a State pursuant to provisions of law has been received.

The clerk will proceed.

#### ALASKA

Rivers, Ralph J. (at large) . . .

**§ 3.3 Parliamentarian's Note: Members-elect, elected to fill vacancies occurring in the first session, are not included on the roll call to ascertain the presence of a quorum when the second session convenes; their names are included on the roll only after their certificates of election have been laid before the House and the oath has been administered to them.**

On Jan. 10, 1966,<sup>(12)</sup> the Clerk omitted the names of Members-elect on the first call of the House.

#### CALL OF THE HOUSE

THE SPEAKER PRO TEMPORE:<sup>(13)</sup> The Clerk will call the roll to ascertain the presence of a quorum.

The Clerk called the roll, omitting the names of Members-elect

12. 112 CONG. REC. 5, 6, 89th Cong. 2d Sess.

13. Carl Albert (Okla.).

Clarence J. Brown, Jr., of Ohio, and Thomas M. Rees, of California. Following presentation of their certificates of election, the Member select took the oath.

SWEARING IN OF MEMBERS

Mr. Clarence J. Brown, Jr., and Mr. Rees appeared at the bar of the House and took the oath of office.

*Who Is Counted*

**§ 3.4 In determining the presence of a quorum, the Chair counts Members present but not voting.**

On Aug. 13, 1940,<sup>(14)</sup> Speaker William B. Bankhead, of Alabama, counted Members who were present but had not voted on a division.

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, I move the previous question on the resolution [H. Res. 406, providing for consideration of H.R. 8157, a bill to establish a national land policy and provide homesteads free of debt for actual farm families].

The previous question was ordered.

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

The question was taken; and there were on a division (demanded by Mr. Colmer)—ayes 47, noes 123.

MR. [KNUTE] HILL [of Washington]: Mr. Speaker, I object to the vote on the ground there is not a quorum present.

14. 86 CONG. REC. 10257, 10258, 76th Cong. 3d Sess.

THE SPEAKER: The Chair will count. [After counting.] Two hundred and thirty-five Members are present—a quorum.

MR. [HUGH] PETERSON of Georgia: Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were refused.

So the resolution was rejected.

**§ 3.5 In counting for a quorum in Committee of the Whole, the Chair counts all Members visible in the Chamber, even though they may be in the process of leaving the Chamber.**

On Apr. 25, 1963,<sup>(15)</sup> during consideration in the Committee of the Whole of H.R. 4997, a bill to extend the Feed Grains Act, the Chair, James C. Wright, Jr., of Texas, counted all Members who were visible.

MR. [ROBERT T.] STAFFORD [of Vermont]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. [PAUL C.] JONES of Missouri: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. JONES of Missouri: Will the Chair state whether the Chair is counting those Republicans who went back in the cloakroom?

15. 109 CONG. REC. 7116, 88th Cong. 1st Sess.

THE CHAIRMAN: The Chair will respond to the inquiry, which is not a parliamentary inquiry, that he is counting Members as they leave the Chamber.

The Chair counts 102 Members present, a quorum.

**§ 3.6 In determining the presence of a quorum, the Chair counts all Members visible, including those behind the railing.**

On July 10, 1958,<sup>(16)</sup> Members behind the railing were counted for purposes of determining the presence of a quorum

THE SPEAKER PRO TEMPORE:<sup>(17)</sup> The question is on suspending the rules and passing the bill.

The question was taken; and the Speaker pro tempore announced that in his opinion two-thirds had voted in the affirmative.

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

THE SPEAKER PRO TEMPORE: The Chair will count. [After counting.] One hundred and ninety-nine Members are present, not a quorum.

MR. [NOAH M.] MASON [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. MASON: Under the rules of the House, is it proper to count Members who are behind the railing?

16. 104 CONG. REC. 13382, 85th Cong. 2d Sess.

17. John W. McCormack (Mass.).

THE SPEAKER PRO TEMPORE: The Chair has made the count and the Chair's count will not be disputed.

MR. MASON: Mr. Speaker, I am not questioning the count. I am just asking whether it is proper and in order to count those behind the railing.

THE SPEAKER PRO TEMPORE: In response to the gentleman's inquiry, the Chair may and the present occupant of the chair will always, when he is in the chair, count any Member who is visible and in the Chamber.

**§ 3.7 When a quorum does not appear, the Speaker may order the Clerk to call his name and cast a vote to make a quorum.**

On occasion, after waiting for a quorum to appear, the Speaker has cast his vote to make a quorum.

For example, on Oct. 20, 1966,<sup>(18)</sup> during an automatic roll call while Conference Report No. 2327 on H.R. 13103, the Foreign Investors Tax Act of 1966, was being considered, the Speaker, John W. McCormack, of Massachusetts, voted to make a quorum.<sup>(19)</sup>

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

19. See also, for example, 89 CONG. REC. 9478, 78th Cong. 1st Sess., Nov. 13, 1943 (roll call); 89 CONG. REC. 769, 78th Cong. 1st Sess., Feb. 10, 1943 (count of the House); and 88 CONG. REC. 9116, 9117, 77th Cong. 2d

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 question was taken; and there were—yeas 171, nays 46, not voting [216], as follows: . . .

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.

**§ 3.8 The Speaker ordered the tally clerk to record as present a Member whom he observed on the floor although that Member had not responded to his name during a call of the House.**

On the legislative day of Oct. 8, 1968,<sup>(20)</sup> Speaker John W. McCormack, of Massachusetts, ordered

Sess., Nov. 24, 1942 (motion to recommit).

20. 114 CONG. REC. 30102, 30103, 30209, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

the name of a Member, Ogden R. Reid, of New York, to be recorded as present.

CALL OF THE HOUSE

MR. [FLETCHER] THOMPSON of Georgia: 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.

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

THE SPEAKER: The Clerk will call the name of the gentleman from New York [Mr. Reid].

THE CLERK: Mr. Reid of New York.

THE SPEAKER: The Chair observes the gentleman from New York [Mr. Reid] present, and directs that he be recorded as present.

On this roll call 218 Members have answered to their names, a quorum.

**§ 3.9 Under Rule XV clause 4<sup>(1)</sup> the Speaker has the authority to note the names of Members present but not voting to establish a quorum and decide the pending question.**

As an exercise of this authority, the Speaker, after observing the presence of two Members who had not been recorded on an automatic

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

roll call being conducted under Rule XV clause 4, directed the Clerk to call their names, and, when one Member did not respond, directed the Clerk to record him "present" in order to establish a quorum and pass a joint resolution.

On Dec. 31, 1970,<sup>(2)</sup> Speaker John W. McCormack, of Massachusetts, observing Members on the floor who did not respond to the roll call, ordered the Clerk to call their names.

THE SPEAKER: The question is on the passage of the joint resolution.

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

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

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 SPEAKER: The Chair observes that the gentleman from Wisconsin (Mr. Kastenmeier) is present in the Chamber, and directs the Clerk to call his name.

Does the gentleman desire to vote? Otherwise, the Clerk will record the gentleman as "present."

2. 116 CONG. REC. 44302, 91st Cong. 2d Sess. Under consideration was H.J. Res. 1421, making further continuing appropriations for fiscal 1971.

MR. [ROBERT W.] KASTENMEIER: Mr. Speaker, I vote "nay."

THE SPEAKER: The gentleman from Wisconsin votes "nay."

The Chair observes the gentleman from Michigan (Mr. Conyers) is present in the Chamber, and directs the Clerk to call his name.

Does the gentleman desire to vote? Otherwise, the Clerk will record the gentleman as "present."

MR. YATES: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The Chair will state that the Chair is about to announce the vote.

One hundred and eighty Members voting in the affirmative, 37 Members in the negative, and one "present," and the Chair being present, making a quorum, the joint resolution is passed.

### *Who Is Not Counted*

#### **§ 3.10 In counting for a quorum the Chair may not count Members in the cloakrooms out of sight.**

On Feb. 15, 1950,<sup>(3)</sup> Speaker Sam Rayburn, of Texas, responded to an inquiry with respect to counting Members in the cloakrooms.<sup>(4)</sup>

3. 96 CONG. REC. 1810, 1811, 81st Cong. 2d Sess.

4. See also 96 CONG. REC. 3065, 81st Cong. 2d Sess., Mar. 8, 1950. And see 4 Hinds' Precedents §2970, a 1907 precedent in which the Chairman of the Committee of the Whole counted "the head of every Member looking out of the cloakrooms that is

MR. [ANTHONY] CAVALCANTE [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. CAVALCANTE: Under the rules of the House, are the cloakrooms a part of the Hall of the House?

THE SPEAKER: The Chair cannot count any Members that he cannot see.

The Chair will count. [After counting.] Evidently there is no quorum present.

**§ 3.11 After announcing that there was one short of a quorum, the Speaker refused to count a Member who entered the Chamber after the announcement.**

On Dec. 16, 1943,<sup>(5)</sup> Speaker Sam Rayburn, of Texas, refused to count a Member who entered the Chamber subsequent to announcement of the result of a roll call.

THE SPEAKER: . . . The question is on the motion offered by the gentleman from New Mexico that the House recede and concur in the Senate amendment.

visible," and 8 Cannon's Precedents §3120, a 1921 precedent in which the Speaker pro tempore, after ruling that the Hall of the House included cloakrooms and lobbies adjacent to the Chamber, counted 11 Members who had left the Chamber after the order for a yea and nay vote on a motion to recommit.

5. 89 CONG. REC. 10776, 78th Cong. 1st Sess.

The question was taken; and the Chair being in doubt, the House divided, and there were—ayes 131, noes 63.

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were refused.

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

THE SPEAKER: The Chair will count.

MR. CANNON of Missouri: On the announcement of the vote, it appeared that only 194 had voted—22 less than a quorum.

THE SPEAKER: The gentleman from Missouri must understand that some Members in the House may not have voted. The Chair thinks he must count. [After counting.] Two hundred and fifteen Members are present, lacking one of being a quorum.

MR. [EARL R.] LEWIS [of Ohio]: Mr. Speaker, I came in while the Chair was announcing the result of the count.

THE SPEAKER: The Chair had announced that a quorum was not present. Gentlemen coming in after the announcement was made cannot be counted.

**§ 3.12 A Member may not be recorded on a roll call after the result of the Vote has been announced, even though he could have qualified prior to the announcement.**

On Mar. 29, 1962,<sup>(6)</sup> Speaker John W. McCormack, of Massa-

6. 108 CONG. REC. 5438, 87th Cong. 2d Sess.

chusetts, refused to permit a Member's vote to be recorded after announcement of the result.

PERSONAL ANNOUNCEMENT

MR. [CARROLL D.] KEARNS [of Pennsylvania]: Mr. Speaker, I was standing behind the rail eulogizing our great Speaker after Drew Pearson's article about him. I was here and qualify and vote "no" on the last vote [Roll No. 52].<sup>(7)</sup>

THE SPEAKER: The Chair regrets that the gentleman cannot be recorded after the vote has been announced. The gentleman can state for the Record that he would have voted "no."

**§ 3.13 A Member failing to respond on a quorum call may not have himself recorded as present on that call if the House has already agreed to a motion to dispense with further proceedings under the call.**

On Apr. 3, 1935,<sup>(8)</sup> the Speaker pro tempore, John E. Rankin, of Mississippi, made a ruling regarding a Member who arrived after the House had agreed to a motion to dispense with further proceedings under the call.

THE SPEAKER PRO TEMPORE: Three hundred and forty-four Members have answered to their names, a quorum.

7. See 108 CONG. REC. 5432, 5433, 87th Cong. 2d Sess., for this roll call.

8. 79 CONG. REC. 4925, 74th Cong. 1st Sess.

MR. [EDWARD T.] TAYLOR of Colorado: Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The doors were opened.

MR. [JOHN J.] MCSWAIN [of South Carolina]: Mr. Speaker, I was present and did not hear my name called. I desire to have my name called and to answer "present."

THE SPEAKER PRO TEMPORE: The request of the gentleman comes too late, but the Record will show that he is here. The gentleman from Texas is recognized for 1 hour.

***Quorum Established on Teller Vote***

**§ 3.14 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,<sup>(9)</sup> during consideration in Committee of the Whole 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:<sup>(10)</sup> The Chair will count. [After counting.] Fifty-eight Members are present, not a quorum.

9. 91 CONG. REC. 1576, 1577, 79th Cong. 1st Sess.

10. John J. Sparkman (Ala.).

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.

*Parliamentarian's Note:* A quorum of the Committee of the Whole is not required to adopt a motion to rise but here was required on rejecting the motion, in order that the Committee could proceed with business.

### ***Verification of Chair's Count by Tellers Not Permitted***

**§ 3.15** In recent practice, the Chair has refused to recognize a demand for tellers to verify his count of a quorum.

On May 20, 1949,<sup>(11)</sup> during consideration of H.R. 4591, providing

11. 95 CONG. REC. 6556, 81st Cong. 1st Sess.

for pay, allowances, and physical disability retirement for members of the armed forces, the Chair<sup>(12)</sup> refused to appoint 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.

MR. VINSON: 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 fourteen Members are present, a quorum.

### ***Corrections of Quorum Calls***

**§ 3.16** Where a quorum is established by a call of the roll, the omission of the name of a Member who was present and responded when he was called, can be corrected by unanimous consent of the House but not by an insertion in the Record.

12. Oren Harris (Ark.).

On June 28, 1966,<sup>(13)</sup> a Member, Lawrence H. Fountain, of North Carolina, extended his remarks to correct the Journal and Record.

(Mr. Fountain (at the request of Mr. Patten) was granted permission to extend his remarks at this point in the Record and to include extraneous matter.)

MR. FOUNTAIN: Mr. Speaker, the Record of yesterday's rollcall No. 153 has me recorded as being absent. I was present and so answered to my name. I ask unanimous consent that the Journal be so corrected.

I ask unanimous consent that the Congressional Record of June 27, 1966, be corrected, in that, on rollcall No. 153 I am recorded as absent. I was present and so answered to my name.

On June 29, 1966,<sup>(14)</sup> Mr. Fountain asked unanimous consent to correct the Journal and Record.

MR. FOUNTAIN: Mr. Speaker, on rollcall No. 153, a quorum call, on June 27, 1966, I am recorded as being absent. I was present in the Chamber and answered to my name. I ask unanimous consent that the Journal and permanent Record be corrected accordingly.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from North Carolina?

13. CONG. REC. (daily ed.), 89th Cong. 2d Sess. [The proceedings appear in the daily edition only, not in the permanent edition.]
14. CONG. REC. (daily ed.), 89th Cong. 2d Sess. [The proceedings appear in the daily edition only, not in the permanent edition.]

There was no objection.

*Parliamentarian's Note:* Insertion of remarks in the Record, by unanimous consent, reciting an error in a quorum call, does not constitute consent of the House to effect a change of the Record or Journal.

### § 3.17 The correction of a roll call, by unanimous consent, is "business" of the House.

On Oct. 8, 1968,<sup>(15)</sup> Speaker pro tempore Carl Albert, of Oklahoma, determined that a correction of a roll call by unanimous consent constitutes "business" of the House.<sup>(1)</sup>

[MR. YATES: Mr. Speaker, on rollcall No. 379, which took place early this morning, a quorum call, I am recorded as absent. I was present and answered to my name. I ask unanimous consent that the permanent Record be corrected accordingly.]

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Illinois?

There was no objection.]

15. 114 CONG. REC. 30224, 90th Cong. 2d Sess.
1. *Parliamentarian's Note:* The request to correct the roll call (the bracketed excerpt) by a Member [Sidney R. Yates (Ill.)] appeared in the daily edition of the Record [CONG. REC. (daily ed.), 90th Cong. 2d Sess.] but does not appear in the permanent edition which carried the roll call as corrected.

## CALL OF THE HOUSE

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: The gentleman from Ohio makes the point of order that a quorum is not present.

MR. [BROCK] ADAMS [of Washington]: A point of order, Mr. Speaker. There has been no intervening business since the rollcall on the resolution which indicated a quorum.

THE SPEAKER PRO TEMPORE: The Chair will state that the gentleman is in error, since we have had a correction of a rollcall.

The gentleman from Ohio makes the point of order that a quorum is not present. Evidently a quorum is not present.

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

### ***Chair's Responsibility to Count all Members***

**§ 3.18 Instance where the Speaker recounted the House where Members were missed on the first count. After the Speaker announced the absence of a quorum, he counted the House again, on the statement of a Member that more Members had entered the Chamber during the first count, thus establishing a quorum.**

On May 23, 1939,<sup>(2)</sup> Speaker William B. Bankhead, of Alabama, recounted the House after being advised that a quorum was present.

MR. [CHARLES R.] CLASON [of Massachusetts]: Mr. Speaker, I make the point of order there is not a quorum present.

THE SPEAKER: The gentleman from Massachusetts makes the point of order that there is no quorum present. The Chair will count. [After counting.] Two hundred and thirteen Members are present, not a quorum.

Mr. Clason and Mr. Woodrum of Virginia rose.

MR. CLASON: Mr. Speaker, I withdraw the point of order in view of the large number that are present.

THE SPEAKER: Under the circumstances, the Chair is not authorized to recognize the gentleman inasmuch as the Chair had already announced no quorum present. A constitutional question is raised.

MR. [CLIFTON A.] WOODRUM of Virginia: Mr. Speaker, five or six more came in over here.

THE SPEAKER: Were these gentlemen here present when the Chair was counting?

Were the gentlemen in the rear of the hall who are holding up their hands not present when the Chair counted a moment ago?

The Chair will count the present membership again. [After counting.] Two hundred and twenty-seven Members are present, a quorum.

2. 84 CONG. REC. 6004, 76th Cong. 1st Sess.

*Senate Precedent*

**§ 3.19 To decide whether one-fifth of the Senators have seconded a demand for the yeas and nays, the Chair may assume that a quorum is present using as a basis for his determination the number who answered to their names on the last roll call.**

On May 8, 1936,<sup>(3)</sup> during consideration of H.R. 12527, the Navy appropriation bill, the Presiding Officer, Kenneth D. McKellar, of Tennessee, ruled on a request for the yeas and nays.

THE PRESIDING OFFICER: The Senator from North Dakota asks for the yeas and nays on the adoption of the amendment.

The yeas and nays were not ordered.

THE PRESIDING OFFICER: The question is upon agreeing to the amendment.

MR. [ELMER A.] BENSON [of Minnesota] obtained the floor.

MR. [DAVID I.] WALSH [of Massachusetts]: Mr. President, what was the ruling on the request for the yeas and nays?

MR. [LYNN J.] FRAZIER [of North Dakota]: That is what I wish to know.

THE PRESIDING OFFICER: The ruling was that the yeas and nays were not ordered, as only five Members held up their hands.

MR. FRAZIER: That is more than one-fifth of those present.

3. 80 CONG. REC. 6901, 6902, 74th Cong. 2d Sess.

MR. WALSH: I suggest that the request be resubmitted, and I am sure it will be granted.

MR. FRAZIER: I appeal from the ruling of the Chair, because five Members held up their hands, and I believe that is more than one-fifth of the number present.

THE PRESIDING OFFICER: Of course, the Chair assumes that a quorum is present.

MR. [TOM T.] CONNALLY [of Texas]: Mr. President, a point of order.

THE PRESIDING OFFICER: The Senator will state it.

MR. CONNALLY: I submit that five is not one-fifth of those present, because presumptively there is a quorum present.

THE PRESIDING OFFICER: The Senator is correct about that.

MR. CONNALLY: Therefore, since 5 is not 20 percent of 49, the call of the yeas and nays is not in order.

MR. [CHARLES L.] McNARY [of Oregon]: Mr. President, no presumption whatsoever is indulged in a case of this kind.

THE PRESIDING OFFICER: The present occupant of the chair is advised by the parliamentarian that it is.

MR. McNARY: I disagree with the parliamentarian. That is not correct practice and it has never been followed. The number necessary to order the yeas and nays is one-fifth of those present, and it is the duty of the Chair to count the number present.

THE PRESIDING OFFICER: The Chair will state that the custom has been to go back to the last roll call. On the last roll call 69 Senators were present, and 5 is not one-fifth of 69; so the ruling of the Chair will stand.

MR. CONNALLY: On the point of order that there must be a demand by one-fifth of those present in order to secure a yea and nay vote, I desire to set down in the Record my own view, without speaking for anyone other than myself.

I state as a matter of fundamental parliamentary law, whether there is any rule on the question or not, that the presumption always exists that there is a quorum present in the Senate unless a point of no quorum is made and the Senate by having the roll call determines that there is not a quorum present. Therefore, when a demand is made for the yeas and nays, unless one fifth of the presumptive quorum present hold up their hands, the Chair is under no compulsion to order the roll called for a yea and nay vote.

THE PRESIDING OFFICER: The Chair has so held.

*Parliamentarian's Note:* In the House, the Speaker counts the House anew after counting those standing to demand the yeas and nays.

#### § 4. Calls by Electronic Device; Time Allowed for Attendance

Under authority granted by section 121 of the Legislative Reorganization Act of 1970,<sup>(4)</sup> permitting use of electronic equipment to record names of Members voting

4. Pub. L. No. 91-510, 84 Stat. 1140.

or present, the House on Oct. 13, 1972,<sup>(5)</sup> approved a privileged resolution from the Committee on Rules (H. Res. 1123) which amended Rules I, VIII, XV, and XXIII. The resolution provided for a 15-minute minimum procedure for a recording of quorum calls in the House and Committee of the Whole by electronic device at the discretion of the Chair; a "backup" electronic procedure for recorded teller votes; and nonelectronic quorum calls to be conducted by clerk tellers in lieu of calling the roll.

#### Cross Reference

Voting, Ch. 30, *infra*.

#### Collateral Reference

Committee on House Administration, The Electronic Voting System for the United States House of Representatives, 92d Cong. 1st Sess. (1972).

#### *In General*

**§ 4.1 The Speaker may direct that a call of the House be conducted by an alphabetical call of the roll by the Clerk, notwithstanding the requirement of Rule XV clause 2(b)<sup>(6)</sup> that quorum calls be**

5. See 118 CONG. REC. 36005-12, 92d Cong. 2d Sess., for the consideration and vote.

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

**conducted by clerk-tellers where the Chair is unable to utilize the electronic device.**

On Mar. 7, 1973,<sup>(7)</sup> Speaker Carl Albert, of Oklahoma, directed that a call of the House be conducted.

THE SPEAKER: The Chair would like to make an announcement.

The Chair has been advised that the electronic voting system is at the present time not operable.

Until further notice, therefore, all votes and quorum calls will be taken by the standby procedures which are provided in the rules. . . .

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

THE SPEAKER: Evidently a quorum is not present.

MR. [THOMAS P.] O'NEILL [Jr., of Massachusetts]: 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: . . .

THE SPEAKER: On this rollcall 379 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

*Parliamentarian's Note:* Rule XV clause 1,<sup>(8)</sup> authorizes the Chair to direct the alphabetical

call of the roll on "every roll call" unless the Chair, in his discretion under clause 5 utilizes the electronic device, but clause 5,<sup>(9)</sup> distinguishes between "roll calls" and "quorum calls," and clause 2(b) permits "calls of the House" to be had by clerks where the electronic device is not utilized.

**§ 4.2 Pursuant to Rule XV clauses 4 and 5,<sup>(10)</sup> the Speaker may, in his discretion, direct the Clerk to call the roll (in lieu of taking the vote by electronic device) where a quorum fails to vote on any question and objection is made for that reason.**

On May 16, 1973,<sup>(1)</sup> during consideration of H.R. 5777, the Hobby Protection Act, Speaker Carl Albert, of Oklahoma directed the Clerk to call the roll.

THE SPEAKER: The question is on the passage of the bill.

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

MR. [JOHN W.] WYDLER [of New York]: 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.

9. *Id.* at § 774b.

10. See *House Rules and Manual* §§ 773, 774b (1979).

1. 119 CONG. REC. 15860, 15861, 93d Cong. 1st Sess.

7. 119 CONG. REC. 6699, 93d Cong. 1st Sess.

8. See *House Rules and Manual* § 765 (1979).

THE SPEAKER: Evidently a quorum is not present.

The electronic voting device apparently is not operating properly.

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

**§ 4.3 On a call of the House conducted by electronic device pursuant to Rule XV clause 5,<sup>(2)</sup> Members are permitted a minimum of 15 minutes to respond [and at the expiration of such time it is within the discretion of the Chair to allow additional time for Members to record their presence before announcing the result].**

On June 6, 1973,<sup>(3)</sup> during discussion of impeachment powers of the House, Speaker Carl Albert, of Oklahoma, clarified the time limit for calling the roll by electronic device.

MR. [EARL F.] LANDGREBE [of Indiana]: Mr. Speaker, this is a very important matter being discussed. I do not believe there is a quorum in the House. I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE:<sup>(4)</sup> The Chair will count.

Sixty Members being present in the Chamber, a quorum is not present.

2. See *House Rules and Manual* §774b (1979).
3. 119 CONG. REC. 18402, 18403, 93d Cong. 1st Sess.
4. Romano L. Mazzoli (Ky.).

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

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond: . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, may we have the regular order?

THE SPEAKER: The regular order is the establishment of a quorum and the rule provides a minimum of 15 minutes for Members to respond. Clause 5 of rule XV states that Members have "not less than 15 minutes to have their presence recorded."

**§ 4.4 Where a motion to adjourn intervenes during a call of the House being conducted by electronic device following the expiration of 15 minutes but prior to the announcement of the result of the call, the quorum call remains in progress upon rejection of the motion to adjourn.**

On June 6, 1973,<sup>(5)</sup> during discussion of the power of impeachment in the House, Speaker Carl Albert, of Oklahoma, ordered continuation of a quorum call following defeat of a motion to adjourn.

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

5. 119 CONG. REC. 18402, 18403, 93d Cong. 1st Sess.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond: . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, may we have the regular order?

THE SPEAKER: The regular order is the establishment of a quorum and the rule provides a minimum of 15 minutes for Members to respond. Clause 5 of rule XV states that Members have "not less than 15 minutes to have their presence recorded."

MR. [JOE D.] WAGGONER [Jr., of Louisiana]: Mr. Speaker, I move that the House do now adjourn.

MS. [BELLA] ABZUG [of New York]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 9, nays 143, present 1, not voting 279, as follows: . . .

So the motion to adjourn was rejected.

The result of the vote was amended as above recorded.

THE SPEAKER: The order of business is the establishment of a quorum. The House is still in the process of trying to establish a quorum, the motion to adjourn having been rejected. Are there further Members in the Chamber who desire to record their presence?

*Parliamentarian's Note:* Because the Speaker had not announced the result of the call of the House (Roll No. 191) at the time Mr. Waggoner offered the motion to adjourn, the Speaker announced that the call of the

House was still open and in progress upon rejection of the adjournment motion, and that Members could record their presence although they had not been able to return to the floor during the 15-minute period. Mr. John J. Duncan, of Tennessee, contended the next day that the Speaker had no authority to entertain the motion to adjourn during the call of the House and prior to his announcement of the result of that call (citing 5 Hinds' Precedents §6053, to the effect that a motion to adjourn may not interrupt a call of the yeas and nays during the actual call of the roll). If this contention were valid, it would give to the Speaker unlimited discretion to keep a quorum call open indefinitely by refusing to announce the result (where a quorum had not been obtained) and thereby indefinitely refusing to entertain a motion to adjourn. See §8.19, *infra*, where a motion to adjourn was held in order after the conclusion of the second call of the roll and prior to announcement by the Chair of the result of the call.

## § 5. Securing Attendance; Arrests

The attendance of absent Members may be secured under Rule

XV clause 4,<sup>(6)</sup> which provides for an “automatic” vote by yeas and nays and for the arrest of absent Members by the Sergeant at Arms. Under this rule the Sergeant at Arms forthwith proceeds to bring in absent Members, whenever a quorum fails to vote, a quorum is not present, and objection is made for that cause. Each Member arrested is brought by the Sergeant at Arms before the House, discharged from arrest, and given an opportunity to vote; his vote is recorded.

Presence of Members may also be secured under Rule XV clause 2(a),<sup>(7)</sup> which, in the absence of a quorum, authorizes 15 Members by majority vote<sup>(8)</sup> to approve a motion to compel the attendance of absent Members and a majority of those present may then order

6. *House Rules and Manual* § 773 (1979).

7. *House Rules and Manual* § 768 (1979). Beginning with the 95th Congress, this clause must be read in conjunction with the new clause 6(e)(2) of this rule, which permits the Speaker to recognize for a motion for a call of the House at any time.

8. See annotation to Rule XV clause 2(a), *House Rules and Manual* §§ 768, 769 (1979); and 4 *Hinds' Precedents* § 2984, which provide that because the call of the House must be ordered by majority vote, a minority of 15 will not suffice.

officers appointed by the Sergeant at Arms to send for and arrest absentees for whom no excuse is made. Members whose attendance has been secured in this manner are detained until discharged on conditions determined by the House.

The Speaker<sup>(9)</sup> or Speaker pro tempore,<sup>(10)</sup> under authority of the order of the House, signs warrants for arrest of absent Members.

### *In General*

**§ 5.1 During a filibuster by roll calls in the House, the Speaker declined to recognize a Member for a motion that the Sergeant at Arms take whatever action necessary to keep a quorum present in the Chamber for the remainder of the day.**

On Aug. 1, 1946,<sup>(11)</sup> Speaker Sam Rayburn, of Texas, declined to recognize a Member for a motion during the reading of a resolution relating to contempt proceedings against George Marshall.

MR. [WILLIAM C.] COLE of Missouri: Mr. Speaker, a parliamentary inquiry.

9. See Rule I clause 4, *House Rules and Manual* §§ 624, 626 (1979).

10. See § 5.12, *infra*.

11. 92 CONG. REC. 10639, 79th Cong. 2d Sess.

THE SPEAKER: The gentleman will state it.

MR. COLE of Missouri: Mr. Speaker, is it in order to make a motion that the Sergeant at Arms take whatever action is necessary to keep a quorum present in the House Chamber for the remainder of today, any House rules to the contrary notwithstanding? If it is, I would like to make that motion.

THE SPEAKER: The Chair would rather not recognize the gentleman for such motion at this time.

MR. COLE of Missouri: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. COLE of Missouri: Mr. Speaker, when would that motion be in order?

THE SPEAKER: Well, the Chair would like to be the judge of that. Not now. The Clerk will continue reading.

*Parliamentarian's Note:* Under Rule XV clause 2(a), the House may determine conditions upon which arrested absentees and others may be discharged, but only while the call of the House is in process.

**§ 5.2 Where a quorum call is ordered, the doors may be closed and the Sergeant at Arms called upon to notify absent Members.**

On June 5, 1946,<sup>(12)</sup> Speaker Sam Rayburn, of Texas, re-

12. 92 CONG. REC. 6353, 6354, 79th Cong. 2d Sess. Under the modern practice (beginning with the 93d Congress), doors are closed only on order of the Speaker.

sponded to a parliamentary inquiry as to procedure during a call of the House.

MR. [Howard W.] SMITH of Virginia: Mr. Speaker, I move a call of the House.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

THE SPEAKER: The question is on the motion for a call of the House. The question was taken; and on a division (demanded by Mr. Rankin) there were—ayes 81, noes 13.

MR. SMITH of Virginia: 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: A quorum is not required in this instance.

So the motion was agreed to. . . .

The House has ordered a call of the House. A roll call is in order, and the Clerk will call the roll.

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MICHENER: Is this the situation, that a quorum was not present when last reported; that the doors are locked and the Sergeant at Arms is out notifying absent Members?

THE SPEAKER: That is correct. The Clerk will call the roll.

**§ 5.3 Where the House in the absence of a quorum and pursuant to motion had ordered "that those who are**

**not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed,"** the Chair interpreted the motion as requiring the Sergeant at Arms to notify absentees but not as bestowing on him the duty or authority of arresting absentees and bringing them into the Chamber under custody. The Chair stated that the motion had been adopted by, and expressed the will of, the House, and, no timely point of order having been raised against the motion due to lack of a quorum, was binding on the Speaker and other Members.

On Oct. 9, 1968,<sup>(13)</sup> Speaker John W. McCormack, of Massachusetts, responded to a series of parliamentary inquiries relating to a motion to locate absent Members.

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

13. 114 CONG. REC. 30212-14, 90th Cong. 2d Sess. Legislative day of Oct. 8, 1968.

MR. [BROCK] ADAMS [of Washington]: Mr. Speaker, as a part of the motion of a call of the House, I further move under rule II,<sup>(14)</sup> under which a call of the House is in order, that a motion be made for the majority here that those who are not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed.

THE SPEAKER: The question is on the motion offered by the gentleman from Washington [Mr. Adams].

The motion was agreed to. . . .

MR. [ELFORD A.] CEDERBERG [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman from Michigan will state his parliamentary inquiry.

MR. CEDERBERG: Mr. Speaker, yesterday my wife underwent major surgery and she is in the hospital at the present time. I have been going back and forth to the hospital to see her. I have missed several quorum calls during this period of time.

Do I have to get unanimous consent from this body to return back to the hospital when I would probably be going back within the next hour or two?

THE SPEAKER: The Chair will state to the gentleman from Michigan that if the gentleman will consult with the Speaker, certainly, we are all sorry to

14. *Parliamentarian's Note*: The provisions referred to appear in Rule XV clause 2(a), *House Rules and Manual* § 768 (1979).

hear about the condition of the gentleman's dear wife and the Speaker will recognize that first things come first and that one belongs with his loved ones.

MR. CEDERBERG: I thank the Speaker.

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

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

MR. RIVERS: Mr. Speaker, we have taken the unusual step of sending for absent Members. Even though a quorum is present, my parliamentary inquiry is this: In construing the motion pursuant to the rules of the House, will the absent Members be merely notified or will they be sent for by a marshal or will they be placed under arrest or how will they be returned?

THE SPEAKER: The Chair will state to the gentleman from South Carolina that they will be notified by the Sergeant at Arms.

MR. RIVERS: Will they come in on their own or will someone in authority bring them in?

THE SPEAKER: The Chair has announced that they will be notified by the Sergeant at Arms. Certainly, there is no wording contained in the motion to bring about the attempted custody of any Member.

MR. [JAMES G.] FULTON of Pennsylvania: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman from Pennsylvania will state his parliamentary inquiry.

MR. FULTON of Pennsylvania: Mr. Speaker, in our Pennsylvania delega-

tion we have one Member, Mr. John Saylor, who has leave of absence from this Chamber for 2 days and who is at the present time on board a naval ship.

Does this motion apply to a person with such a leave of absence?

THE SPEAKER: The gentleman is making a serious inquiry about Members away on important duty.

The Chair will state that the motion calls for the notification and the sending for Members. The Chair construes that as meaning to notify the Members to return. The Chair has already in response to another parliamentary inquiry propounded by the gentleman from South Carolina clearly stated that it does not call for bringing them back in custody.

MR. FULTON of Pennsylvania: One further parliamentary inquiry on the enforcement of the motion: Is it not within the full discretion of the Chair as to what methods and means shall be used to notify or to arrest or to bring in Members and that that full discretion still lies within the Chair? So, unless there is an order by the Chair as to the method, the motion simply represents a notification to the Members to return because insofar as I know the Chair has made no ruling as to the arrest or as to bringing the Members back in custody.

THE SPEAKER: The gentleman is the only one who has used the word "arrest." The Chair used the word "custody." The Chair does not construe that that is a part of the motion, and the Chair has construed that motion to mean that it is the sense of the majority of the House that the Sergeant at Arms do come up with the Members that are not present and to do every-

thing he can within the limitation of the motion to assure their presence.

***Procedures Available When a Quorum Fails to Appear on a Call of the House or on Automatic Vote by Yeas and Nays***

**§ 5.4 If a quorum fails to develop on an automatic vote by yeas and nays under Rule XV clause 4<sup>(15)</sup> the House may decide to adjourn, or, in the absence of such motion, the Speaker may sign warrants for the Sergeant at Arms to bring in absentees.**

On Oct. 18, 1966,<sup>(16)</sup> Speaker John W. McCormack, of Massachusetts, stated the procedures available when a quorum does not appear.

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?

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

16. 111 CONG. REC. 27513, 89th Cong. 2d Sess.

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.

**§ 5.5 Where a quorum fails to develop following a motion for a call of the House, the House has only two alternatives: a motion to adjourn or a motion to instruct the Sergeant at Arms to secure the attendance of absentees.**

On Oct. 14, 1969,<sup>(17)</sup> Speaker John W. McCormack, of Massachusetts, answered inquiries regarding procedural alternatives available when a quorum fails to appear. Those proceedings are reported elsewhere in this chapter.<sup>(18)</sup>

**§ 5.6 If a quorum fails to materialize on a call of the House under Rule XV clause 2(a),<sup>(19)</sup> a motion to arrest absentees and bring them into the Chamber is in order.**

17. 115 CONG. REC. 30054, 30055, 91st Cong. 1st Sess.

18. See § 10.12, *infra*.

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

On the legislative day of Oct. 8, 1968,<sup>(20)</sup> Speaker John W. McCormack, of Massachusetts, answered an inquiry regarding a possible motion to arrest absentees.

MR. [ROMAN C.] PUCINSKI [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. PUCINSKI: Mr. Speaker, we have had, in the last 12 hours, 23 quorum calls. My parliamentary inquiry is this: In the event that a quorum does not respond on one of these quorum calls, is it then in order to make a motion to arrest the absent Members and bring them down here?

THE SPEAKER: Such a motion would be in order if a quorum is not present.

**§ 5.7 The Speaker indicated that if a motion to adjourn made during a quorum call failed and a quorum failed to appear, a motion to instruct the Sergeant at Arms to bring in absentees would be in order.**

On Oct. 14, 1969,<sup>(1)</sup> when less than a quorum had appeared, Speaker John W. McCormack, of Massachusetts, answered inquiries regarding the proper time to instruct the Sergeant at Arms to bring in absentees.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I would prefer not to

20. 114 CONG. REC. 30101, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

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

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.

MR. YATES: Mr. Speaker, a parliamentary inquiry.

Mr. Speaker, would it be in order at that point to move that the Speaker instruct the Sergeant at Arms to bring in Members who are absent?

THE SPEAKER: The Chair will state that if the House fails to adjourn, a motion to that effect would be in order.

**§ 5.8 If a quorum fails to answer on a call of the House under Rule XV clause 2(a),<sup>(2)</sup>**

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

**(1) the Sergeant at Arms may be directed by the Speaker to locate absentees and inform them that a quorum call is in progress or (2) a majority of those present [a minimum of 15 is required under the rule] and voting in the affirmative may order the Sergeant at Arms to compel the attendance of absentees.**

On the legislative day of Oct. 8, 1968,<sup>(3)</sup> Speaker John W. McCormack, of Massachusetts, stated procedures necessary to direct the Sergeant at Arms to locate absentees and compel attendance.

MR. [BROCK] ADAMS [of Washington]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman from Washington will state his parliamentary inquiry.

MR. ADAMS: Mr. Speaker, in the event a quorum is not present is it the situation under rule XV of the House that the first alternative that applies is that the Speaker of the House may sit during such period of time as the Sergeant at Arms shall search the premises in the nearby area on the request of the Speaker in order to provide a quorum? Is that the first situation that applies in the event a quorum is not present?

THE SPEAKER: The statement as generally made by the gentleman is correct.

3. 114 CONG. REC. 30210, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

MR. ADAMS: Now, Mr. Speaker, the second alternative is this: In the event that a quorum is not present after the efforts of the Speaker to obtain Members from the nearby areas and through whatever means he wishes to pursue while he is sitting in the chair and the call is proceeding that the next alternative then is a motion supported by 15 Members of the House to have a warrant issued for attendance in the House and after that warrant is issued and this motion is passed and the doors are locked and Members are brought to the floor, then under the instructions of the Speaker they may be detained on the floor throughout the quorum and remain present for the transaction of business? Is that the second alternative, Mr. Speaker?

THE SPEAKER: The Chair does not wish to take this matter into consideration in the nature of an alternative, but the Chair would state that such procedures are carried out requiring the presence of Members. Is that what the gentleman has in mind?

MR. ADAMS: Would it be in order at that time for a motion of that type to be made?

THE SPEAKER: That would depend upon the action of the House.

MR. ADAMS: I am asking, Mr. Speaker, if such a motion by 15 Members would be in order at that time.

THE SPEAKER: The Chair has difficulty in following the gentleman when he says "a motion by 15 Members."

MR. ADAMS: I refer The Speaker to part 2 of rule XV which reads as follows:

In the absence of a quorum, fifteen Members, including The Speaker, if there is one—

THE SPEAKER: There is one now.

MR. ADAMS: I appreciate that fact, Mr. Speaker, but in the event that you wished—

shall be authorized to compel the attendance of absent Members, and in all calls of the House the doors shall be closed, the names of the Members shall be called by the Clerk, and the absentees noted; and those for whom no sufficient excuse is made may, by order of a majority of those present, be sent for and arrested, wherever they may be found, by officers to be appointed by the Sergeant-at-Arms for that purpose, and their attendance secured and retained; and the House shall determine upon what condition they shall be discharged.

Mr. Speaker, that is my inquiry in the event that this should continue and a quorum should not be present, if that is important.

THE SPEAKER: The Chair will state that such action could only be taken by a majority of the Members present and voting.

The Chair will state further in reply to the inquiry of the gentleman from Washington that the gentleman has made reference to 15 Members, and that situation does not apply at this time.

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

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. ADAMS: In other words, Mr. Speaker, a motion then by a Member present to carry out this procedure would be sufficient if a quorum were not present, under the circumstances as they exist in the House?

THE SPEAKER: The Chair will state that it would take a majority of the Members if there were only 15 present.

MR. ADAMS: If a motion is made in the body as it sits now, that motion could be made by any individual Member, and if a majority of those present in the Chamber were to vote in favor of that motion, then the procedure would start at that point?

That is my parliamentary inquiry.

THE SPEAKER: The Chair will state that has already been stated by the Chair, it requires a majority of the Members present if such a motion were to be made. It would require a majority of the Members present, and voting thereon.

*Parliamentarian's Note:* The Speaker misstated the requirement for 15 Members' ordering the attendance of absentees in the situation where only 15 Members were on the floor. The precedents indicate that there must be at least 15 affirmative votes to order the attendance of absentees. See 4 Hinds' Precedents §§ 2983, 2984.

**§ 5.9 Under Rule XV clause 2(a),<sup>(4)</sup> a motion that the Sergeant at Arms procure the attendance of absentees is in order and unless directed by such a motion, the Sergeant at Arms has no authority to compel attendance.**

On the legislative day of Oct. 8, 1968,<sup>(5)</sup> Speaker John W. McCor-

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

5. 114 CONG. REC. 30212, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

mack, of Massachusetts, stated procedures for procuring attendance of absent Members.

THE SPEAKER: On this rollcall, 220 Members have answered to their names, a quorum. If there is no objection, further proceedings under the call will be dispensed with.

MR. [BROCK] ADAMS [of Washington]: Mr. Speaker, reserving the right to object, under the reservation of the right to object, I want to inquire whether, if objection is made to dispensing with the call, under rule XV, paragraph 2, the automatic effect of that is that the Members shall be called by the Clerk and the absentees noted, and those for whom no sufficient excuse is made may, by the order of the majority present, be sent for and arrested wherever they may be found?

I am inquiring as part of my reservation, whether or not a quorum may be present, if proceedings under the call are not dispensed with, that thereafter the Speaker has the power for those who are absent from the body tonight, to have them first contacted to be brought here and, if they do not appear, to have the Sergeant at Arms go and obtain them, without any further proceeding?

THE SPEAKER: . . . It would require a motion or resolution to be concurred in by a majority of the House.

*Parliamentarian's Note:* See 4 Hinds' Precedents §§2983, 2984. To compel the attendance of absentees under this rule, there must be 15 affirmative votes, and those voting to compel attendance must be in the majority. (Thus, a

15-14 vote, or a 15-0 vote, would be sufficient.)

**§ 5.10 Although the Speaker possesses authority to issue a warrant of arrest for absent Members under an automatic roll call under Rule XV clause 4, he usually does not do so without action of the House during other proceedings incident to calls of the House under Rule XV clause 2(a).**

On July 29, 1946,<sup>(6)</sup> in response to a parliamentary inquiry, following the failure of a quorum to vote on a yea and nay vote ordered under Rule XV clause 4, Speaker Sam Rayburn, of Texas, made a ruling regarding issuance of arrest warrants.

MR. [JOHN E.] RANKIN [of Mississippi]: Let us get this business straightened out. If this motion were voted down it would be the duty of the Speaker to issue writs of arrests for absent Members and have them brought to the floor of the House until every Member of the House was brought back or until further proceedings were dispensed with.

THE SPEAKER: The Chair could issue a warrant because this is an automatic roll call. Usually the Chair does not do that without action of the House specifying that it be done.<sup>(7)</sup>

6. 92 CONG. REC. 10410, 79th Cong. 2d Sess.

7. *Parliamentarian's Note:* Rule I clause 4 [see *House Rules and Man-*

**§ 5.11 A motion for the arrest of absentees is in the form of an order to the Sergeant at Arms.**

On May 14, 1930,<sup>(8)</sup> a Member, Percy E. Quin, of Mississippi, offered the following motion:

MR. QUIN: Mr. Speaker, I move that the Speaker instruct the Sergeant at Arms to bring in the absent Members.

THE SPEAKER PRO TEMPORE:<sup>(9)</sup> The gentleman from Mississippi offers a motion, which the Clerk will report:

The Clerk read as follows:

Mr. Quin presents the following motion:

*Ordered,* That the Sergeant at Arms take into custody and bring to

*ual* §624 (1979)] provides that the Speaker "shall sign all . . . warrants. . . ." See 1 Hinds' Precedents §287 which holds that the Speaker has authority to issue a warrant of arrest only by order of the House. However, the order in that case involved the arrest of the Clerk of the House as distinguished from arrest of Members during an automatic call of the House. Under Rule XV clause 4 [see *House Rules and Manual* §773 (1979)] the House has adopted a standing rule ordering the Sergeant at Arms to bring in absent Members during the yea and nay vote. (But to actually make an arrest under this rule the Sergeant at Arms must have in his possession a warrant signed by the Speaker.)

8. 72 CONG. REC. 8962, 71st Cong. 2d Sess.  
9. John Q. Tilson (Conn.).

the bar of the House such Members as are absent without leave.

**§ 5.12 The Speaker pro tempore, pursuant to a motion adopted by the House that the Sergeant at Arms take absent Members into custody, signs warrants for the arrest of absent Members.**

On May 14, 1930,<sup>(10)</sup> the Speaker pro tempore, John Q. Tilson, of Connecticut, announced that he had signed warrants for the arrest of absent Members.

The Clerk read as follows:

Mr. [PERCY E.] QUIN [of Mississippi] presents the following motion:

*Ordered,* That the Sergeant at Arms take into custody . . . such Members as are absent without leave.

THE SPEAKER PRO TEMPORE: The question is on the motion of the gentleman from Mississippi.

The question was taken; and on a division (demanded by Mr. Stafford) there were 78 yeas and 55 noes.

MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Mr. Speaker, I demand the yeas and nays.

THE SPEAKER PRO TEMPORE: The gentleman from Wisconsin demands the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 122, nays 74, answered "present" 4, not voting 227, as follows . . .

10. 72 CONG. REC. 8962, 71st Cong. 2d Sess.

THE SPEAKER PRO TEMPORE: The Chair announces the fact that he has signed the warrants to arrest the absent Members.

***Procedure Available Following Refusal to Dispense With Further Proceedings***

**§ 5.13 Where a motion to dispense with further proceedings under a call for a quorum is rejected, the Members present remain in the Chamber until the Sergeant at Arms brings in enough Members to make a quorum or make the full membership.**

On July 29, 1946,<sup>(11)</sup> a motion to dispense with further proceedings under the call was rejected.

Mr. Rankin and Mr. Marcantonio moved 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: . . .

THE SPEAKER:<sup>(12)</sup> On this roll call 240 Members have answered to their names, a quorum.

If there is no objection, further proceedings under the call will be dispensed with.

MR. [FRANK E.] HOOK [of Michigan]: Mr. Speaker, I object.

MR. [WILLIAM C.] COLE of Missouri: Mr. Speaker, I object.

11. 92 CONG. REC. 10409, 79th Cong. 2d Sess.

12. Sam Rayburn (Tex.).

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I move that further proceedings under the call be dispensed with. . . .

MR. COLE of Missouri: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. COLE of Missouri: Should this motion be voted down and should further proceedings under the call be not dispensed with will the Chair please state the procedure to be followed then?

THE SPEAKER: We stay here until the Sergeant at Arms brings in enough Members to make a quorum or to make the full membership.

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MICHENER: Would it not be the fact that if this motion were voted down the House would find itself in a room that is supposed to be locked and the Sergeant-at-Arms would be presumed to be out notifying absentees?

THE SPEAKER: The gentleman is correct.

*Parliamentarian's Note:* The Sergeant at Arms would not have the authority to arrest Members unless ordered by a majority of those voting; but he has inherent authority to notify absentees that they are needed to make a quorum.

***Procedure Available Following Refusal to Adjourn***

**§ 5.14 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>(13)</sup> would require the Sergeant at Arms to arrest absent Members without further order of the House.**

On Apr. 15, 1970,<sup>(14)</sup> the Speaker pro tempore, Charles M. Price, of Illinois, explained the procedure for arresting absent Members.

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.

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

14. 116 CONG. REC. 11941, 91st Cong. 2d Sess.

*Parliamentarian's Note:* See §5.10, *Supra*, where the Speaker indicated that under an automatic vote by yeas and nays, the Chair must still sign warrants.

### ***Senate Precedents***

The following precedents are carried as examples of Senate procedures in securing a quorum.

**§ 5.15 The Senate directed its Sergeant at Arms to request attendance of absent Senators and, failing to obtain a quorum by this method, directed him to compel attendance of absentees.**

On Nov. 14, 1942,<sup>(15)</sup> the Senate Sergeant at Arms was directed to compel the attendance of absent Senators.

THE VICE PRESIDENT:<sup>(16)</sup> The Clerk will call the roll.

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

THE PRESIDING OFFICER:<sup>(17)</sup> Twenty-seven Senators having answered to their names, there is not a quorum present. The clerk will call the names of the absent Senators.

The Chief Clerk called the names of the absent Senators.

Mr. Thomas of Oklahoma, Mr. Lee, Mr. Langer, and Mr. Kilgore entered

15. 88 CONG. REC. 8838, 8839, 77th Cong. 2d Sess.

16. Henry A. Wallace (Iowa).

17. Joseph Rosier (W. Va.).

the Chamber, and answered to their names.

THE PRESIDING OFFICER: Thirty-one Senators having answered to their names, there is not a quorum present.

MR. [ALBEN W.] BARKLEY [of Kentucky]: I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

After some delay, Mr. George, Mr. Gerry, Mr. Willis, Mr. Bridges, Mr. Murdock, Mr. Danaher, Mr. Gurney, Mr. Maloney, Mr. Schwartz, Mr. Ball, Mr. Taft, Mr. Lucas, and Mr. O'Mahoney entered the Chamber and answered to their names.

MR. BARKLEY: Mr. President, under the previous motion made by me to direct the Sergeant at Arms to request the attendance of absent Senators, 44 Senators have appeared, 5 short of a quorum. I now move that the Sergeant at Arms be directed to compel the attendance of absent Senators.

The motion was agreed to.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

**§ 5.16 The Senate Sergeant at Arms is authorized to report to that body when he has carried out its orders to compel attendance of absent Senators.**

On Nov. 14, 1942,<sup>(18)</sup> the Sergeant at Arms reported to the

<sup>18</sup>. 88 CONG. REC. 8838, 8839, 77th Cong. 2d Sess.

**Senate after carrying out orders to compel attendance.**

MR. [ALBEN W.] BARKLEY [of Kentucky]: Mr. President, under the previous motion made by me to direct the Sergeant at Arms to request the attendance of absent Senators, 44 Senators have appeared, 5 short of a quorum. I now move that the Sergeant at Arms be directed to compel the attendance of absent Senators.

The motion was agreed to.

THE PRESIDING OFFICER [Joseph Rosier, of West Virginia]: The Sergeant at Arms will execute the order of the Senate. . . .

After some delay.

MR. BARKLEY: Mr. President, I ask that the Sergeant at Arms make a report to the Senate upon the effort he has made to compel the attendance of Senators.

THE PRESIDING OFFICER [Theodore F. Green, of Rhode Island]: The Sergeant at Arms will make his report.

THE SERGEANT AT ARMS (Chesley W. Jurney): Senator Aiken is out of Washington.

MR. [TOM T.] CONNALLY [of Texas]: A parliamentary inquiry.

THE PRESIDING OFFICER: The Senator will state it.

MR. CONNALLY: Under what rule is this kind of proceeding authorized? I do not remember such a thing ever happening.

THE PRESIDING OFFICER: Does the Senator from Texas make objection?

MR. CONNALLY: I do.

THE PRESIDING OFFICER: The objection is overruled. The Sergeant at Arms will proceed.

MR. CONNALLY: That is a very efficient answer to a parliamentary in-

quiry. I am trying to ascertain the authority for the proceeding.

THE PRESIDING OFFICER: It is authorized under rule V, paragraph 3. The Sergeant at Arms will proceed.

MR. CONNALLY: I understand there is ample precedent for ordering Senators brought into the Chamber, but it does not necessarily follow the Sergeant at Arms can be brought in and testify and make a speech. No one else can make a speech at this time, and why should the Sergeant at Arms be permitted to do so?

THE PRESIDING OFFICER: Under the rule, debate is out of order, and the Sergeant at Arms will proceed with his report.

THE SERGEANT AT ARMS: Senator Aiken is out of town.

Senator Austin is out of town. . . .

Senator Doxey is in Washington, but cannot be located either at his office or his residence. . . .

Senator Maybank is in Washington, but cannot be located either at his office or his residence. . . .

MR. BARKLEY: Mr. President, there seems to have taken place an exodus from the Senate equal to the exodus of the Children of Israel from Egypt; but there is a sufficient number of Senators in town to make a quorum. I therefore move that the Vice President be authorized and directed to issue warrants of arrest for absent Senators, and that the Sergeant at Arms be instructed to execute such warrants of arrest upon absent Senators.

MR. CONNALLY: Mr. President, will the Senator yield for a question?

MR. BARKLEY: I yield.

MR. CONNALLY: I wish to ask if the execution of the warrants would re-

quire the Sergeant at Arms to go to the home States of Senators.

THE PRESIDING OFFICER: The motion is not debatable.

MR. CONNALLY: I am propounding a parliamentary inquiry, and the Senator yielded. He is making a motion.

MR. BARKLEY: Of course, when the Sergeant at Arms produces a sufficient number to make a quorum, which is five—and there are more than that many Senators in Washington, as reported by the Sergeant at Arms—it is not expected that warrants of arrest will be sent to the home States of those who are absent.

THE PRESIDING OFFICER: If the motion is so phrased as to exclude them, the warrants will not be sent to the home States; otherwise they would have to be.

MR. BARKLEY: The motion I made would include all absent Senators, but the practical application of it would be limited to those who are in the city.

THE PRESIDING OFFICER: The motion is limited to them?

MR. BARKLEY: I am willing to limit the motion to those who are reported to be in the city of Washington, in the District of Columbia, for the day.

THE PRESIDING OFFICER: The question is on agreeing to the motion of the Senator from Kentucky.

The motion was agreed to.

THE PRESIDING OFFICER: The order of the Senate will be executed.

At 2 o'clock and 8 minutes p.m., Mr. Herring entered the Chamber and answered to his name.

At 2 o'clock and 10 minutes p.m. Mr. Bunker entered the Chamber and answered to his name.

MR. CONNALLY: Mr. President—

THE PRESIDING OFFICER [Joseph C. O'Mahoney, of Wyoming]: The Senator from Texas.

MR. CONNALLY: I rise to a question of privilege of the Senate.

THE PRESIDING OFFICER: The Chair is advised that a quorum of the Senate has not yet responded to the call of the roll. In that state of affairs, no debate is in order.

MR. CONNALLY: Mr. President, a further parliamentary inquiry. What the Chair said may be true, but I understand some things are being done, or are about to be done, in the name of the Senate, which the Senate has never authorized, and which pertain to the high privileges of the Senate. I understand that the Sergeant at Arms, under the direction of the majority leader, or someone here, is assuming the authority to deputize, or appoint as a deputy, one of the Senate custodians, with instructions to break down Senators' doors, enter their offices, and drag them out. The Senate has not ordered any such action as that, and I want to say to the Senate, or whoever authorized it, that if such person broke into my office, he would not be able to break into the office of anyone else for at least 24 hours. I simply want the Senate and the country to know the kind of tactics which are being forced upon Senators in this Chamber. It is a perfect outrage. It is in line with the unconstitutional, the unwarranted, and the absolutely outrageous action of a group in the Senate.

At 2 o'clock and 45 minutes p.m., Mr. Aiken entered the Chamber and answered to his name.

At 3 o'clock and 19 minutes p.m., Mr. Maybank entered the Chamber and answered to his name.

At 3 o'clock and 40 minutes p.m., Mr. McKellar entered the Chamber and answered to his name.

THE PRESIDING OFFICER [Berkeley L. Bunker, of Nevada]: Forty-nine Senators having answered to their names, a quorum is present.

*Parliamentarian's Note:* In other instances, the report of the Sergeant at Arms has been submitted to the Presiding Officer in writing and read to the Senate. See Senate Procedure (S. Doc. 97-2), Riddick, p. 180.

### **§ 5.17 The Senate Sergeant at Arms was directed to request the attendance of Senators when a quorum failed to appear on a quorum call.**

On Apr. 26, 1958,<sup>(19)</sup> the Senate directed the Sergeant at Arms to request the attendance of absent Senators.<sup>(1)</sup>

THE PRESIDING OFFICER:<sup>(2)</sup> Is there further morning business?

MR. [LYNDON B.] JOHNSON [of Texas]: Mr. President, I suggest the absence of a quorum.

THE PRESIDING OFFICER: The clerk will call the roll.

**19.** 104 CONG. REC. 7394, 7395, 85th Cong. 2d Sess.

**1.** See also, for example, 110 CONG. REC. 10579, 88th Cong. 2d Sess., May 11, 1964; 11, CONG. REC. 4754, 4755, 88th Cong. 2d Sess., Mar. 9, 1964; and 108 CONG. REC. 14952, 14953, 87th Cong. 2d Sess., July 28, 1962.

**2.** Herman E. Talmadge (Ga.).

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

THE PRESIDING OFFICER: A quorum is not present.

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

The motion was agreed to.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

**§ 5.18 A quorum call in the Senate failed to produce a quorum until the Sergeant at Arms was directed to request attendance of absent Members.**

On Apr. 22, 1965,<sup>(3)</sup> the following proceedings took place:

MR. [ALLEN J.] ELLENDER [of Louisiana]: Mr. President, I suggest the absence of a quorum.

THE PRESIDING OFFICER:<sup>(4)</sup> The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names: . . .

THE PRESIDING OFFICER: A quorum is not present.

MR. [PHILIP A.] HART [of Michigan]: Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

THE PRESIDING OFFICER:<sup>(5)</sup> The question is on agreeing to the motion of the Senator from Michigan.

3. 111 CONG. REC. 8299, 89th Cong. 1st Sess.

4. Fred Harris (Okla.).

5. Walter F. Mondale (Minn.).

The motion was agreed to.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

The Presiding Officer subsequently declared a quorum to be present.

**§ 5.19 The Presiding Officer described the procedure for requesting or compelling the attendance of absent Senators.**

On May 18, 1950,<sup>(6)</sup> the Presiding Officer, Matthew M. Neely, of West Virginia, explained the procedure for obtaining attendance of absent Senators.

MR. [BRIEN] MCMAHON [of Connecticut]: I suggest the absence of a quorum.

THE PRESIDING OFFICER: The clerk will call the roll. . . .

A quorum is not present.

MR. [HUBERT H.] HUMPHREY [of Minnesota]: I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

THE PRESIDING OFFICER: The provision of the rule is that a majority of Senators present may direct the Sergeant at Arms to request, and when necessary, to compel the attendance of absent Senators. Does the Senator from Minnesota make that motion?

MR. HUMPHREY: I make that motion, Mr. President.

The motion was agreed to.

6. 96 CONG. REC. 7204, 81st Cong. 2d Sess.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

**§ 5.20 In the absence of a quorum, a motion that the Sergeant at Arms arrest the absentees and bring them before the bar of the Senate is in order.**

On the calendar day of July 28, 1962,<sup>(7)</sup> the Senate Sergeant at Arms was directed to request the attendance of absent Senators.<sup>(8)</sup>

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Vice President.

. . .

CALL OF THE HOUSE

THE VICE PRESIDENT:<sup>(9)</sup> The Senate having taken a recess last night in the absence of a quorum, no business can be transacted until a quorum is present.

The clerk will therefore call the roll for the purpose of developing a quorum.

7. 108 CONG. REC. 14952, 14953, 87th Cong. 2d Sess., July 30, 1962. [Because no Record was printed for July 28, proceedings for that day appear on July 30.]

8. *Parliamentarian's Note*: The Senate remained in session for over 10 hours but conducted no business because a quorum could not be maintained on the floor. The first of the two quorum calls held on this date began at 10:00 a.m. and ended at 2:52 p.m. The second call began at 2:58 and ended at 8:10 p.m.

9. Lyndon B. Johnson (Tex.).

The legislative clerk called the roll; and the following Senators answered to their names: . . .

THE VICE PRESIDENT: A quorum is not present.

MR. [HUBERT H.] HUMPHREY [of Minnesota]: Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

THE VICE PRESIDENT: The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to.

THE VICE PRESIDENT: The Sergeant at Arms is instructed to execute the order of the Senate. . . .

MR. HUMPHREY: Mr. President, a parliamentary inquiry: Is a quorum present?

THE VICE PRESIDENT: No.

MR. HUMPHREY: Mr. President, is the only procedure left to the acting majority leader to invoke the rule of arrest?

THE VICE PRESIDENT: That would be a matter for the judgment of the leadership. Such a motion would be in order.

**§ 5.21 The motion to compel attendance of absent Senators is not debatable.**

On May 11, 1964,<sup>(10)</sup> a motion to request attendance and two motions to compel attendance were made before a quorum appeared.

MR. [Wayne L.] MORSE [of Oregon]: Mr. President, I move that the Ser-

10. 110 CONG. REC. 10579, 88th Cong. 2d Sess.

geant at Arms be directed to compel the attendance of absent Senators.

THE PRESIDING OFFICER:<sup>(11)</sup> The question is on agreeing to the motion of the Senator from Oregon.

MR. [GEORGE A.] SMATHERS [of Florida]: Mr. President, a parliamentary inquiry.

THE PRESIDING OFFICER: The Senator will state it.

MR. SMATHERS: Is the motion debatable?

THE PRESIDING OFFICER: No debate is in order.

## § 6. Closing or Locking the Doors

The rules of the House formerly provided for closing the doors to the Chamber to prohibit Members from leaving until a quorum was reached. The current provision, Rule XV clause 2(b), as amended in 1972,<sup>(12)</sup> states that on a call of the House, "the doors shall not be closed except when so ordered by the Speaker." It is within the Chair's discretion whether the doors are to be closed.

An unusual illustration of the application of the rules relating to calls of the House occurred on Oct. 8, 1968. On that day, the House was scheduled to debate

House Resolution 1315, to provide for consideration of Senate Joint Resolution 175, a measure suspending for the 1968 campaign the equal-time requirements of section 315 of the Communications Act of 1934, for nominees for the offices of President and Vice President.<sup>(13)</sup> The first roll call (No. 375) took place immediately after the prayer.<sup>(14)</sup> After completion of this roll call, a full reading of the Journal was demanded."<sup>(15)</sup> Following three and one-half hours of roll call votes and quorum calls which interrupted reading of the Journal, Speaker John W. McCormack, of Massachusetts, after it was indicated that the Chair had authority to order the Doorkeeper to close or lock the doors,<sup>(16)</sup> issued such an order during the progress of quorum calls.<sup>(17)</sup>

The reading of the Journal was interrupted by 33 calls of the

11. William Proxmire (Wis.).

12. H. Res. 1123, 92d Cong. 2d Sess., Oct. 13, 1972, 118 CONG. REC. 36012.

13. 114 CONG. REC. 30217, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

14. 114 CONG. REC. 30089, 30090, 90th Cong. 2d Sess., Oct. 8, 1968.

15. 114 CONG. REC. 30090, 90th Cong. 2d Sess., Oct. 8, 1968.

16. See § 6.2, *infra*. See also § 6.1, *infra*, in which Speaker Sam Rayburn (Tex.), while stating that the Speaker has authority to order the doors closed, said he would not order doors locked unless so directed by the House.

17. See § 6.3, *infra*.

House until about 5:00 a.m. on the calendar day of Oct. 9, 1968, when a majority of Members present ordered the doors to the Chamber locked and ordered "those who are not present to be sent for and returned here on the condition that they shall not be allowed to leave the Chamber until the pending business shall have been completed."<sup>(18)</sup> The authority for this motion and the condition that Members be confined to the Chamber rested on Rule XV clause 2(a),<sup>(1)</sup> which empowers 15 Members, including the Speaker:

. . . [T]o compel the attendance of absent Members; and those for whom no sufficient excuse is made may, by order of a majority of those present, be sent for and arrested . . . and their attendance secured and retained; and the House shall determine upon what condition they shall be discharged.

Although neither the motion nor the rule appear on the surface to apply to Members who were present during passage of the motion to secure attendance, Speaker McCormack ruled that no Member could leave the Chamber until after reading and approval of the Journal.<sup>(2)</sup> After several parliamentary inquiries<sup>(3)</sup> and ap-

18. § 6.5, *infra*.

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

2. § 6.6, *infra*.

3. §§ 6.6–6.8, *infra*.

proval of the Journal, the Speaker ordered the doors opened.<sup>(4)</sup>

### *In General*

**§ 6.1 The Speaker stated that the Chair has authority to order the doors closed during a call of the House, but indicated that without further direction from the House he would not assume authority to lock the doors and keep Members from retiring from the Chamber.**

On Aug. 1, 1946,<sup>(5)</sup> Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry regarding the Chair's authority to order doors closed.

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, under the rules of the House, when the House finds itself without a quorum the Presiding Officer must direct the Sergeant at Arms to notify absentees, the Doorkeeper to close the doors, and the Clerk to call the roll. These two officials are elected by the House of Representatives, and among their other duties they are to

4. § 6.11, *infra*. The legislative day of Oct. 8, 1968, which commenced at noon on Oct. 8 (114 CONG. REC. 30089, 90th Cong. 2d Sess.) and adjourned at 8:17 p.m. on the Calendar Day of Oct. 9, 1968 (*Id.* at p. 30304), lasted over 32 hours.

5. 92 CONG. REC. 10639, 10640, 79th Cong. 2d Sess.

assist the Speaker in enforcing the rules of the House.

In the present case, for instance, the Speaker determined that a quorum was not present and directed the Sergeant at Arms to notify the absentees. He directed the Doorkeeper to close the doors, the Clerk called the roll, and a quorum was found present. . . .

Pursuing my inquiry, Mr. Speaker, is not the Speaker clothed with adequate power and can he not direct that the rules be complied with and that all of the doors be actually locked during the roll call, and that all of the doors to the Chamber remain locked until the House votes to dispense with further proceedings under the call? . . .

THE SPEAKER: It is an interesting question, and it has been passed on many times. The Chair certainly has the authority to order the doors closed without further authority from the House. The Chair would not hold that without authority or direction of the House he should assume the authority of locking the doors and keeping the Members from retiring from the Chamber. There is a way that the Chair can be clothed with proper authority.

The Chair will count to determine whether there is a quorum present. [After counting.] Two hundred Members are present, not a quorum.

**§ 6.2 Following over three hours of delay caused by quorum calls during the reading of the Journal, the Chair, in response to a parliamentary inquiry, stated that the rules of the House provided for locking the**

**doors to the Chamber to prohibit Members from leaving until a quorum is procured.**

On Oct. 8, 1968,<sup>(6)</sup> the Speaker pro tempore, Wilbur D. Mills, of Arkansas, stated that the rules permit locking doors during a call of the House.

MR. [RAY J.] MADDEN [of Indiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman from Indiana will state it.

MR. MADDEN: Mr. Speaker, owing to the fact that the chairman of the Rules Committee has asked me to take up House Resolution 1315, which provides an open rule and 1 hour of general debate for consideration of Senate Joint Resolution 175, to suspend for the 1968 campaign the equal-time requirements of section 315 of the Communications Act of 1934 for nominees for the offices of President and Vice President, my inquiry is this: I know, owing to the fact that we came in at 12 o'clock and it is now 3:30, the minority side has carried on a system of quorum calls which have taken 3½ hours of the time of Members. . . .

Mr. Speaker, I will state my parliamentary inquiry. Mr. Speaker, a number of State legislatures over the Nation have a rule—and I do not know whether this body has a similar rule—that where an organized agreement, we might say, on the part of the minority side—

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, regular order.

6. 114 CONG. REC. 30092, 30093, 90th Cong. 2d Sess.

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

MR. MADDEN: Mr. Speaker, since a group has decided to impede the progress of legislation, and a number of State legislatures have a rule to the effect I have indicated, I am inquiring as to whether a similar rule exists in the House of Representatives, that the guards can lock the doors and prevent Members from leaving during the progress of or after a quorum call has taken place? . . .

THE SPEAKER PRO TEMPORE: Yes. The Chair advises the gentleman there is such a rule. And it may become necessary to enforce that rule. . . .

MR. MADDEN: Mr. Speaker, how long will it be before the time should come to enforce that rule?

THE SPEAKER PRO TEMPORE: It depends upon the patience of the Chair.

The Clerk will continue the reading of the Journal.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

*Parliamentarian's Note:* While Rule XV clause 2,<sup>(7)</sup> stated that on a call of the House "the doors shall be closed," it was within the Chair's discretion whether the doors were merely closed [as was the custom] or actually locked.

### § 6.3 The Speaker ordered the doors to the Chamber closed and locked during a call of the House under Rule XV

7. See *House Rules and Manual* §768 (1967).

**clause 2,<sup>(8)</sup> and instructed the Doorkeeper to enforce the rule and let no Members leave the Hall.**

On Oct. 8, 1968,<sup>(9)</sup> Speaker John W. McCormack, of Massachusetts, ordered the doors locked.

MR. [DONALD] RUMSFELD [of Illinois]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE:<sup>(10)</sup> The Chair will count.

One hundred sixty-seven Members are present, not a quorum.

MR. [JOHN H.] DENT [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: A parliamentary inquiry cannot be asked at this time.

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

A call of the House was ordered.

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

MR. DENT: Mr. Speaker, a point of order, which relates to the call of the roll.

THE SPEAKER: The House will be in order. The Clerk will proceed with the call of the roll.

MR. DENT: Mr. Speaker, the point of order relates to the proper calling of the roll.

8. See *House Rules and Manual* §768 (1967).

9. 114 CONG. REC. 30093, 90th Cong. 2d Sess.

10. Wilbur D. Mills (Ark.).

THE SPEAKER: The gentleman will state his point of order.

MR. DENT: The point of order is the doors were ordered closed, and the doors to the outside of the Chamber are open in the cloakrooms.

THE SPEAKER: The Chair has given instructions to close all doors and allow no Members out.

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

THE SPEAKER: On this rollcall 277 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

*Parliamentarian's Note:* The Chair personally instructed the Doorkeepers to lock all exits from the House Chamber and to prohibit Members from leaving during the call of the House. Doors leading from the Chamber to the Speaker's lobby, as well as those opening from the cloakrooms to the north corridor in the House wing were locked.

The Speaker ordered the doors locked during roll calls numbered 382 and 383. When this remedy did not prove effective because Members continued to leave the Chamber immediately after the calls were dispensed with, he did not continue to enforce the rule. See §§ 6.10, 6.11, *infra*, which relate to opening the doors.

#### **§ 6.4 Because the Chair had no inherent authority to order**

**the doors to the Chamber locked except during a call of the House, he could not lock the doors to prevent Members from leaving after a motion to dispense with further proceedings under a call was agreed to.**

On Oct. 8, 1968,<sup>(11)</sup> Speaker John W. McCormack, of Massachusetts, made a ruling with respect to reopening doors after dispensation of further proceedings under the call.<sup>(12)</sup>

MR. [CRAIG] HOSMER [of California]: Mr. Speaker, a point of order having been made of no quorum, a quorum having been called, and a quorum having been found present, and the further proceedings under the call having been dispensed with, does that mean that the doors of the House are now unlocked?

THE SPEAKER: The gentleman is correct.

The Clerk will continue to read the Journal of the proceedings of yesterday.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

11. 114 CONG. REC. 30093, 90th Cong. 2d Sess.

12. See § 6.5, *infra*, in which the doors remained locked until disposition of the "pending business," the reading and approval of the Journal. In that instance, as distinguished from this one, the doors were locked and kept locked by order of the House pursuant to motion rather than by order of the Speaker.

MR. [RAY J.] MADDEN [of Indiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. MADDEN: Mr. Speaker, observing the commotion over on the minority side, I inquire would it be in order to again order that the doors be closed?

THE SPEAKER: At this point the answer is, No.

The Clerk will read.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

**§ 6.5 The Speaker, in the absence of a quorum and pursuant to a motion from the floor, ordered the doors to the Chamber locked to prevent Members from leaving until completion of the pending business—reading and approval of the Journal.**

On the legislative day of Oct. 8, 1968,<sup>(13)</sup> the House ordered the doors locked.

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

MR. [BROCK] ADAMS [of Washington]: Mr. Speaker, as a part of the motion of a call of the House, I further move under rule II,<sup>(14)</sup> under which a call of

13. 114 CONG. REC. 30212, 30213, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

14. *Parliamentarian's Note*: A call of the House by motion is in order under Rule XV clause 2 [see *House Rules and Manual* § 768 (1979)].

the House is in order, that a motion be made for the majority here that those who are not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed.

THE SPEAKER:<sup>(15)</sup> The question is on the motion offered by the gentleman from Washington [Mr. Adams].

The motion was agreed to.

The Clerk proceeded to call the roll.

MR. [LESTER L.] WOLFF [of New York]: Mr. Speaker, a point of order.

THE SPEAKER: The Chair will state to the gentleman from New York that there is a quorum call underway and it cannot be interfered with.

MR. WOLFF: Mr. Speaker, I make a point of order on the quorum call.

THE SPEAKER: The gentleman makes a point of order?

MR. WOLFF: Yes, Mr. Speaker. The doors are not locked.

THE SPEAKER: The Sergeant at Arms will lock the doors, and 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 222 Members have answered to their names, a quorum.

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

THE SPEAKER: The question is on the motion offered by the gentleman from Oklahoma.

The motion was agreed to.

15. John W. McCormack (Mass.).

MR. [JAMES C.] CLEVELAND [of New Hampshire]: Mr. Speaker.

THE SPEAKER: Does the gentleman from New Hampshire desire to make a parliamentary inquiry?

MR. CLEVELAND: No, Mr. Speaker, I make a point of order. I object to the vote on the ground that a quorum is not present.

THE SPEAKER: A quorum has just been established.

MR. [WILLIAM E.] BROCK [3d, of Tennessee]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. BROCK: Am I to understand, if further proceedings under the call have been dispensed with, according to the last motion, it is correct that the doors of the House are now open?

THE SPEAKER: The Chair is awfully glad the gentleman made that parliamentary inquiry, because the Chair intended to read for the benefit of the Members the motion made by the gentleman from Washington [Mr. Adams]:

Mr. Speaker, as a part of the motion of a call of the House, I further move under rule II, under which a call of the House is in order, that a motion be made for the majority here that those who are not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed.

The motion was adopted; and in accordance with that motion no Member can leave the Chamber until the pending business before the House has been disposed of; and the pending business

is the reading and approval of the Journal of the preceding session.

*Parliamentarian's Note:* Where a motion which might have been subject to a point of order (if a point of order had been raised in a timely fashion) is, in the absence of a point of order, agreed to, it represents the will of the House and governs its procedure until the House orders otherwise. See §6.7, *infra*, for detailed discussion.

The motion was adopted after 33 quorum calls had delayed pending business, the reading and approval of the Journal.

### *Effects of Closing or Locking the Doors*

**§ 6.6 Where the House in the absence of a quorum and pursuant to motion had ordered that "those who are not present be sent for wherever found and returned here on the condition that they shall not be allowed to leave the Chamber until the pending business shall have been completed" and then ordered a call of the House, the Speaker interpreted the motion as requiring the retention in the Chamber of all Members responding on the call—not merely the retention of those Members who**

**were absent when the order was entered into.**

On the legislative day of Oct. 8, 1968,<sup>(16)</sup> Speaker John W. McCormack, of Massachusetts, to achieve a quorum most expediently interpreted a motion as not to allow Members to leave the Chamber.

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

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. GERALD R. FORD: Let me repeat the language of the motion of the gentleman from Washington:

That a motion be made for the majority here that those who are not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed.

Mr. Speaker, I respectfully argue that in the language used by the gentleman from Washington in the motion that he made, he says very specifically and very categorically that those who are not here are the ones who must be kept in the Chamber.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Speaker, I demand the regular order.

THE SPEAKER: The regular order is that the gentleman is making a parliamentary inquiry.

MR. GERALD R. FORD: And I am indicating, Mr. Speaker, in my parliamen-

tary inquiry, that the doors to the Chamber shall not be closed to those Members who were here at the time of the call for the quorum.

THE SPEAKER: The Chair, in response to the parliamentary inquiry of the distinguished minority leader, feels, in construing the motion, that a part of the construction is the happenings of the last 10 or 12 or more hours and the intent and purpose of the gentleman from Washington in making the motion.

It seems to the Chair, in response to the parliamentary inquiry—and the Chair makes such a response—that the motion offered by the gentleman from Washington [Mr. Adams] meant that any Member who answered the last quorum call cannot leave the Chamber until the pending business has been disposed of; and the doors will be kept closed.

The Chair might observe in relation to any future points of order that a quorum is not present that apparently a quorum is present because the last one disclosed 222 Members and the Chair is justified in assuming that the 222 Members are still here. The doors will remain locked until the present business is disposed of.

*Parliamentarian's Note:* Where the doors to the Chamber were, by order of the House, locked until disposition of pending business, and a quorum had been established, the Chair stated that further points of no quorum would be considered dilatory until the business was completed and the doors opened.

**§ 6.7 Where the House had ordered the doors to the Cham-**

16. 114 CONG. REC. 30213, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

**ber locked pending the disposition of pending business, it was not in order by way of a point of personal privilege or by raising a question of the privilege of the House to collaterally attack such order, since it had been adopted by the House at a previous time without challenge.**

On the legislative day of Oct. 8, 1968,<sup>17</sup> Speaker John W. McCormack, of Massachusetts, refused to recognize a Member to collaterally raise an issue relating to restraint of Members under the guise of a question of privilege.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

MR. [ROBERT J.] DOLE [of Kansas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The Chair will not entertain any more parliamentary inquiries at this particular time.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that the further reading of the Journal be dispensed with.

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

MR. [ROBERT] TAFT [Jr., of Ohio]: Mr. Speaker, I object.

THE SPEAKER: Objection is heard.

The Clerk will continue with the reading of the Journal of the proceedings of yesterday.

17. 114 CONG. REC. 30214-16, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

The Clerk proceeded to read the Journal of the proceedings of yesterday.

MR. TAFT: Mr. Speaker—

THE SPEAKER: For what purpose does the gentleman from Ohio rise?

MR. TAFT: Mr. Speaker, I have a privileged motion.

MR. [SIDNEY R.] YATES [of Illinois]: A point of order, Mr. Speaker. That is not in order until the reading of the Journal has been completed.

THE SPEAKER: Will the gentleman from Ohio state his privileged motion?

MR. TAFT: Mr. Speaker, my motion is on a point of personal privilege.

THE SPEAKER: Will the gentleman from Ohio state whether it is a point of personal privilege or a privileged motion?

MR. TAFT: It is a privileged motion, and a motion of personal privilege.

Under rule IX<sup>(18)</sup> questions of personal privilege are privileged motions, ahead of the reading of the Journal.

THE SPEAKER: The Chair will advise the gentleman that a question of personal privilege should be made later after the Journal has been disposed of.

If the gentleman has a matter of privilege of the House, that is an entirely different situation.

MR. TAFT: I believe, Mr. Speaker, this involves not only personal privilege as an individual, but also as a Member of the House and also the privileges of all Members of the House.

THE SPEAKER: The Chair does not recognize the gentleman at this time on a matter of personal privilege.

But the Chair will, after the pending matter, the reading of the Journal has

18. See *House Rules and Manual* §661 (1979).

been disposed of, recognize the gentleman if the gentleman seeks recognition.

MR. TAFT: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. TAFT: Mr. Speaker, is it not true in rule IX relating to questions of privilege it is stated that such questions shall have precedence over all other questions except motions to adjourn?

THE SPEAKER: Will the gentleman state the question of privilege.

MR. TAFT: Mr. Speaker, my motion is that I and all other Members in the Chamber who were here at the time of the last quorum call and answered "present" be permitted to leave the Chamber at their desire.

Mr. Speaker, this is a matter of privilege of the Members of the House because there is no right under the rules of the House or under the statutes, or the Constitution of the United States to interfere with the liberty of a Member to leave the House under these circumstances.

THE SPEAKER: The Chair will state in response to the parliamentary inquiry that the action of the House has deprived—has caused the doors to be closed and has deprived temporarily the privilege that the gentleman refers to. That has been done by the action of the House.

MR. TAFT: Mr. Speaker, I was recognized to make a privileged motion and it was not a matter of a parliamentary inquiry. I have made that motion and I ask that the Chair rule on the motion.

THE SPEAKER: What is the motion?

MR. TAFT: I request that I be given time to discuss the motion as a matter of privilege.

THE SPEAKER: The gentleman will state his motion.

MR. TAFT: Mr. Speaker, my motion is that I and all other Members present on the floor who answered "present" at the time of the last quorum call shall be permitted to leave the House freely at their own desire.

The basis of my motion is under the rules of the House and the Constitution and statutes of the United States there is no basis for restricting the freedom of Members who were here at the time there is a quorum call, regardless of the action of the House.

THE SPEAKER: The Chair does not recognize the gentleman for the purpose of making such a motion because the Chair has already clearly indicated the House has already taken action and it is within the power of the House to take the action that it did. Therefore, the Chair does not recognize the gentleman to make such a motion.

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, it was my understanding that the gentleman from Ohio had been recognized for the purpose of offering the motion.

THE SPEAKER: The gentleman from Michigan is well aware of the fact that the question of recognition rests with the Chair. The gentleman did not make a motion which was in order by reason of the action heretofore taken by the House.

The Clerk will continue to read the Journal.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

## APPEAL FROM RULING OF CHAIR

MR. TAFT: Mr. Speaker, I appeal the ruling of the Chair.

MR. ALBERT: Mr. Speaker, I move that the appeal be laid on the table.

THE SPEAKER: The gentleman from Oklahoma moves that the appeal be laid on the table.

The question was taken.

MR. TAFT: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 136, nays 102, answered “present” 1, not voting 192, as follows:

· · ·

So the motion to lay on the table was agreed to.

*Parliamentarian's Note:* While the Speaker declined to entertain the motion as a question of privilege based upon Mr. Taft's contention that under the Constitution and rules the freedom of Members who were present should not be restricted, the specific argument was not made that the order had been agreed to by less than a quorum or that it was directed only to the attendance of absentees and not to those present in the Chamber. This precedent does not, then, stand for the proposition that an improper order of the House or the manner of execution of an order of the House can never be collaterally attacked as a matter of the privilege of the House—it merely suggests that the proper contention was not

made when the question of privilege was raised. Under the precedent in 5 Hinds' Precedents §5665, the motion to reconsider the vote whereby the order of the House had been agreed to would have been in order, although the execution of that order had begun. In that case, the order was to arrest absent Members.

**§ 6.8 Where the doors were closed during a call of the House under Rule XV clause 2,<sup>(19)</sup> all Members were restrained from leaving the Chamber [unless special permission was granted by the Speaker or the House] notwithstanding the fact that official business of the House, such as their attendance at a meeting of a committee of conference, might normally have required their presence elsewhere.**

On Oct. 8, 1968,<sup>(20)</sup> the Speaker pro tempore, Wilbur D. Mills, of Arkansas, made a ruling with respect to restraining Members during a call of the House.

MR. [CLARK] MACGREGOR [of Minnesota]: Mr. Speaker, a parliamentary inquiry.

19. See *House Rules and Manual* §768 (1967).

20. 114 CONG. REC. 30092, 30093, 90th Cong. 2d Sess.

THE SPEAKER PRO TEMPORE: The gentleman from Minnesota will state it.

MR. MACGREGOR: Mr. Speaker, should the time come when the Chair is constrained to invoke the rule referred to by the gentleman from Indiana [Mr. Madden], would that mean those Members who are conferees and who are here from the committee of conference would be prevented from returning to that conference committee for the conference on the Senate side, so as to discharge our responsibilities with respect to the gun control legislation?

THE SPEAKER PRO TEMPORE: Yes. If the doors should be closed, they will remain closed until a quorum is present.

MR. MACGREGOR: And the Members would then be prevented from proceeding with the gun control conference.

THE SPEAKER PRO TEMPORE: The Clerk will proceed with the further reading of the Journal of the proceedings of yesterday.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

**§ 6.9 Where the doors to the Chamber were locked by order of the House to prevent Members from leaving until the pending business was completed, employees of the House could still enter and exit from the Chamber in the performance of their duties.**

On the legislative day of Oct. 8, 1968,<sup>(21)</sup> the Speaker, John W. McCormack, of Massachusetts, interpreted a motion to lock the doors to the Chamber as restraining only Members, not House employees.

THE SPEAKER: The Clerk will continue with the reading of the Journal of the proceedings of yesterday.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

MR. [FRANK] HORTON [of New York]: Mr. Speaker, I offer a preferential motion.

THE SPEAKER: The gentleman will state his preferential motion.

MR. HORTON: Mr. Speaker, this preferential motion is on Rule IX.<sup>(1)</sup> I understand the doors are closed to the House Chamber, and this affects the employees of the House and therefore the employees in the cloakrooms and the employees of the House are locked in with the rest of the Members.

Therefore, Mr. Speaker, I move that the doors be opened insofar as the employees of the House are concerned.

THE SPEAKER: The Chair will state to the gentleman that the employees have the right to leave, and to come back. Only the Members are affected by the motion.

### *Reopening Doors*

**§ 6.10 Where the doors to the Chamber were closed and**

21. 114 CONG. REC. 30216, 30217, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

1. See *House Rules and Manual* §661 (1979).

**locked during a call of the House pursuant to Rule XV clause 2,<sup>(2)</sup> and the order of the Speaker, they were reopened without further instructions from the Chair when further proceedings under the call were dispensed with.**

On Oct. 8, 1968,<sup>(3)</sup> Speaker John W. McCormack, of Massachusetts, made a ruling with respect to reopening doors after dispensing with further proceedings under the call.

MR. [CRAIG] HOSMER [of California]: Mr. Speaker, a point of order having been made of no quorum, a quorum having been called, and a quorum having been found present, and the further proceedings under the call having been dispensed with, does that mean that the doors of the House are now unlocked?

THE SPEAKER: The gentleman is correct.

**§ 6.11 Doors to the House Chamber which had been locked by order of the House pending disposition of certain business, were reopened, pursuant to instructions from the Speaker, as soon as that business was completed.**

2. See *House Rules and Manual* § 768 (1967).

3. 114 CONG. REC. 30093, 90th Cong. 2d Sess.

On the legislative day of Oct. 8, 1968,<sup>(4)</sup> the doors to the Chamber were reopened after completion of the business pending at the time the motion was made, the reading and approval of the Journal.

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, I ask the parliamentary inquiry. Are the doors to the Chamber now locked?

THE SPEAKER:<sup>(5)</sup> In response to the inquiry, the Chair will state that the pertinent part of the motion made by the gentleman from Washington [Mr. Adams], which relates to the inquiry made by the gentleman from Michigan, is:

That they shall not be allowed to leave the chamber until such time as the pending business—

The pending business—

before this chamber on this legislative day shall have been completed.

As the Chair stated previously in response to a parliamentary inquiry, the pending business was the reading and approval of the Journal of the House. And the Chair, in response to the parliamentary inquiry, reiterates that reply, that the business before the House at that time which was pending was the Journal of the preceding session.

Accordingly, the doors will be opened.

MR. GERALD R. FORD: I thank the distinguished Speaker.

4. 114 CONG. REC. 30217, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

5. John W. McCormack (Mass.).

*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.<sup>(6)</sup>

Prior to revisions of the rule beginning in the 93d Congress, Rule XXIII clause 2<sup>(7)</sup> 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,<sup>(8)</sup> to record names of Members by electronic device, unless, in his discretion, he ordered a call of the Committee

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).

to be taken under the procedure set forth in Rule XV clause 2(b),<sup>(9)</sup> 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.<sup>(10)</sup> 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.<sup>(11)</sup> On Jan. 4, 1977, clause 2

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

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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.”

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<sup>(12)</sup> 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.<sup>(13)</sup>

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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.<sup>(14)</sup>**

On Oct. 12, 1966,<sup>(15)</sup> 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:<sup>(16)</sup> 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 sub-

mitted 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,<sup>(17)</sup> 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.

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:<sup>(18)</sup> 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,<sup>(19)</sup> which permit a

18. John Q. Tilson (Conn.).

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

**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,<sup>(20)</sup> during consideration of H.R. 7446, to establish the American Revolution Bicentennial Administration, Chairman Henry B. Gonzales, of Texas, clarified the procedures applicable in the Committee of the Whole.<sup>(1)</sup>

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

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,<sup>(2)</sup> 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:<sup>(3)</sup> 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.

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,<sup>(4)</sup> during consideration in the Committee of the Whole of H.R. 9313, a bill to amend the Agricultural Act of 1949.<sup>(5)</sup>

**§ 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.**

4. 96 CONG. REC. 12960, 12961, 81st Cong. 2d Sess.

5. See § 16.2, *infra*.

On Jan. 15, 1973,<sup>(6)</sup> 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)).

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,<sup>(7)</sup> 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.

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

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

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,<sup>(8)</sup> 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:<sup>(9)</sup> 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.

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

9. John J. Sparkman (Ala.).

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,<sup>(10)</sup> during consideration of H.R. 4591, providing for pay, allowances, and physical disability retirement for members of the armed forces, the Chair<sup>(11)</sup> 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.

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,<sup>(12)</sup> 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,<sup>(13)</sup> 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.

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,<sup>(14)</sup> the Chairman, W. Sterling Cole, of New York, stated that a motion that the Committee rise does not require a quorum.<sup>(15)</sup>

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

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

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**

**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.<sup>(16)</sup>**

**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,<sup>(17)</sup> during consideration of H.R. 13712, the fair labor standards amendments of 1966, the Committee of the Whole resumed business after a teller vote.<sup>(1)</sup>

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

THE CHAIRMAN:<sup>(2)</sup> 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 Com-

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.).

mittee 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.<sup>(3)</sup>**

On May 3, 1933,<sup>(4)</sup> 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

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,<sup>(5)</sup> 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,<sup>(6)</sup> the House, after receiving a report from The Chairman of the Committee of the Whole, resolved itself back into the Committee.<sup>(7)</sup>

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:<sup>(8)</sup> 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.<sup>(9)</sup>**

On Apr. 21, 1969,<sup>(10)</sup> Speaker John W. McCormack, of Massachusetts, conducted no business

8. John H. Dent (Pa.).

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

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

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:<sup>(11)</sup> 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.

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,<sup>(12)</sup> immediately directs the Committee to resume its sitting and does not entertain points of no quorum.**

On Aug. 2, 1967,<sup>(13)</sup> the Speaker pro tempore<sup>(14)</sup> refused to entertain a point of no quorum<sup>(1)</sup> under the following circumstances:

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.

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

THE CHAIRMAN:<sup>(2)</sup> 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-**

2. Daniel D. Rostenkowski (Ill.).

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

On Mar. 23, 1970,<sup>(3)</sup> 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:<sup>(4)</sup> 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 with-

out 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,<sup>(5)</sup> 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:<sup>(6)</sup> 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?

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

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,<sup>(7)</sup> 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

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.<sup>(8)</sup> Article I, section 5 of the Constitution<sup>(9)</sup> 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<sup>(10)</sup> does not mention adjournment. The rule which authorizes automatic votes by the yeas and nays,<sup>(11)</sup> 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).

has been seconded by a majority of those present, to be ascertained by actual count of the Speaker.<sup>(12)</sup> If the House adjourns, all proceedings under Rule XV clause 4,<sup>(13)</sup> are vacated; this provision has been interpreted to mean voiding the vote taken by the yeas and nays, but not deleting the record of proceedings from the Record and Journal.<sup>(14)</sup>

Although a quorum is not required on a motion to adjourn,<sup>(15)</sup> it is required on a resolution providing for adjournment *sine die*<sup>(16)</sup> (but not on a motion to adjourn which implements such a resolution).<sup>(17)</sup>

An affirmative vote to adjourn by less than a quorum does not invoke an automatic roll call,<sup>(18)</sup> but the lack of a quorum on a negative vote on adjournment invokes a call.<sup>(19)</sup>

The motion to adjourn is highly privileged. In the absence of a quorum, no motion is in order but a motion for a call of the House or a motion to adjourn.<sup>(20)</sup> Because

12. *Id.* See also §8.1, *infra*.

13. *House Rules and Manual* §773 (1979).

14. §2.22, *supra*.

15. §§8.7, 8.8, *infra*.

16. §8.9, *infra*.

17. §8.10, *infra*.

18. §8.11, *infra*.

19. §8.13, *infra*.

20. §8.14, *infra*.

the motion to adjourn takes precedence over a motion for a call of the House, the vote on adjournment is taken before the call of the House even when the motion for the call was offered but not finally agreed to prior to the motion to adjourn.<sup>(21)</sup> The motion to adjourn may even be offered when the House is dividing on a motion for a call of the House<sup>(22)</sup> and takes precedence over a motion to dispense with further proceedings under the call.<sup>(1)</sup>

### *Need for Second*

**§ 8.1 A motion to adjourn, after an automatic roll call has disclosed the absence of a quorum, must be seconded by a majority of those present to be ascertained by actual count of the Chair by a division vote prior to a vote on the motion to adjourn itself.**

On Oct. 10, 1940,<sup>(2)</sup> during consideration of a veto message on H.R. 7179, a bill to provide for the naturalization of Louis D. Friedman, Speaker William B.

21. §§8.14, 8.15, *infra*.

22. 8 Cannon's Precedents §2644.

1. 8 Cannon's Precedents §2643.

2. 86 CONG. REC. 13534, 13535, 76th Cong. 3d Sess.

Bankhead, of Alabama, entertained a motion to adjourn.<sup>(3)</sup>

THE SPEAKER: . . . The question is on the motion of the gentleman from New York [Mr. Dickstein] that the bill and the message together with the accompanying papers be referred to the Committee on Immigration and Naturalization.

The question was taken; and on a division (demanded by Mr. Dickstein) there were—ayes 17, noes 62.

MR. [PEHR G.] HOLMES [of Massachusetts]: Mr. Speaker, I object to the vote on the ground a quorum is not present.

MR. [SAMUEL] DICKSTEIN: Mr. Speaker, I was on my feet. I object to the vote on the ground a quorum is not present.

THE SPEAKER: The gentleman from New York [Mr. Dickstein] objects to the vote on the ground there is not a quorum present. The gentleman from Massachusetts [Mr. Holmes] objects to the vote on the same ground. 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 108, nays 105, not voting 216, as follows: . . .

3. Seconding by a majority is required by Rule XV clause 4, *House Rules and Manual* §773 (1979); there is no specific seconding requirement for calls of the House on motions which are authorized by Rule XV clause 2(a), *House Rules and Manual* §768 (1979), but such motions must be adopted by a majority, at least 15 voting in the affirmative.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker—

THE SPEAKER: The gentleman from Massachusetts.

MR. MCCORMACK: Mr. Speaker, may I inquire the result of the roll call just taken?

THE SPEAKER: On this roll call 213 Members have answered—108 yeas and 105 nays. This is 3 short of a quorum.

#### ADJOURNMENT

MR. MCCORMACK: Mr. Speaker, in view of the situation that exists, which is obvious to all of us, and of necessity, I move that the House do now adjourn.

MR. [JOHN C.] SCHAFFER of Wisconsin: Mr. Speaker, I demand a second to the motion.

THE SPEAKER: Under the rule the demand for a second is in order. The question is on ordering a second.

The question was taken; and there were—ayes 144, noes 3.

So a second was ordered.

MR. DICKSTEIN: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. DICKSTEIN: The vote on the motion to refer the bill to the committee being yeas 108, nays 105, what will happen to the motion if the House adjourns?

THE SPEAKER: The motion will be the continuing business before the House when it convenes on Monday.

The question is on the motion to adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 35 minutes p.m.) the House, pursuant to its previous order, adjourned until Monday, October 14, 1940, at 12 o'clock noon.

***Effect of Adjournment on Pending Business***

**§ 8.2 Where a quorum fails to respond on an automatic roll call on a pending resolution and the House adjourns, the unfinished business when the House again convenes is the vote on the resolution; and the Speaker puts the question de novo.**

On Oct. 19, 1966,<sup>(4)</sup> Speaker John W. McCormack, of Massachusetts, after the opening prayer, approval of the Journal, and reading of messages from the President and Senate, proceeded immediately to the vote on a resolution which was pending the previous day when the House adjourned because a quorum had failed to respond on an automatic vote by the yeas and nays.

ANNOUNCEMENT BY THE SPEAKER—  
DISPOSING OF PENDING BUSINESS

THE SPEAKER: The Chair will receive unanimous-consent requests, after the disposition of pending business.

The unfinished business is the vote on agreeing to the resolution (H. Res. 1062) certifying the report of the Committee on Un-American Activities as to the failures of Jeremiah Stamler to give testimony before a duly authorized subcommittee of said committee.

The Clerk read the title of the resolution.

4. 112 CONG. REC. 27640, 27641, 89th Cong. 2d Sess.

CALL OF THE HOUSE

MR. [DON] EDWARDS of California: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The gentleman from California makes the point of order that a straight quorum is not present, or does the gentleman make the point of order on the resolution?

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

THE SPEAKER: Evidently a quorum is not present.

MR. [WILBUR D.] MILLS [of Arkansas]: 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: . . .

THE SPEAKER: On this rollcall 280 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PROCEEDINGS AGAINST JEREMIAH  
STAMLER

THE SPEAKER: The unfinished business is the vote on agreeing to the resolution (H. Res. 1062) certifying the report of the Committee on Un-American Activities as to the failures of Jeremiah Stamler to give testimony before a duly authorized subcommittee of said committee.

The Clerk read the title of the resolution.

The Speaker: The question is on the resolution.

The question was taken; and on a division (demanded by Mr. Williams) there were—ayes 92, noes 34.

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: 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 219, nays 69, not voting 144, as follows: . . .

So the resolution was agreed to.

### ***Calls of the House After Voting on Adjournment***

#### **§ 8.3 A quorum not being present, a motion by the Majority Leader to adjourn was defeated and a call of the House was ordered; the Speaker directed his name to be called to make a quorum.**

On Nov. 13, 1943,<sup>(5)</sup> a call of the House was ordered after defeat of the motion to adjourn offered by the Majority Leader, John W. McCormack, of Massachusetts.<sup>(6)</sup>

MR. [PETE] JARMAN [of Alabama]: Mr. Speaker, I think we ought to have a quorum present, and I make the point of order that there is no quorum present.

THE SPEAKER PRO TEMPORE: The gentleman from Alabama makes the

point of order that there is no quorum present. The Chair will count.

MR. JARMAN (interrupting the count): Mr. Speaker, I withdraw the point of order.

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Speaker, I renew the point of order and make the point that there is no quorum present.

THE SPEAKER:<sup>(7)</sup> The gentleman from Wisconsin makes the point of order. The Chair will count. [After counting.] Sixty-eight Members present, not a quorum.

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

THE SPEAKER: The question is on the motion of the gentleman from Massachusetts that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. Mundt) there were—ayes 25, noes 41.

So the motion was rejected.

MR. MCCORMACK: Mr. Speaker, I move a call of the House.

The motion was agreed to.

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

THE SPEAKER: The Clerk will call my name.

The Clerk called the name of Mr. Rayburn and he answered "present."

THE SPEAKER: On this call 217 members have answered to their names. A quorum is present.

By unanimous consent, further proceedings under the call were dispensed with.

#### **§ 8.4 A yea and nay negative vote on a motion to adjourn**

7. Sam Rayburn (Tex.).

5. 89 CONG. REC. 9478, 78th Cong 1st Sess.

6. See also 105 CONG. REC. 3432, 86th Cong. 1st Sess., Mar. 5, 1959.

**having disclosed the presence of a quorum, the Majority Leader withdrew his pending motion for a call of the House.**

On June 4, 1963,<sup>(8)</sup> the Majority Leader, Carl Albert, of Oklahoma, withdrew his pending motion to adjourn.

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

THE SPEAKER:<sup>(9)</sup> Evidently a quorum is not present.

MR. ALBERT: Mr. Speaker, I move a call of the House.

MR. [JAMES] ROOSEVELT [of California]: Mr. Speaker—

THE SPEAKER: For what purpose does the gentleman from California rise?

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

THE SPEAKER: The question is on the motion to adjourn.

The question was taken, and on a division (demanded by Mr. Williams) there were—ayes 98, noes 105.

MR. WILLIAMS: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 53, nays 277, not voting 103, as follows: .

MR. ALBERT: I withdraw my motion for a call of the House, Mr. Speaker.

THE SPEAKER: The motion is withdrawn.

**8.** 109 CONG. REC. 10155, 10156, 88th Cong. 1st Sess.

**9.** John W. McCormack (Mass.).

**§ 8.5 A point of no quorum having been made and a motion to adjourn having been defeated on a division vote, a call of the House was moved and agreed to.**

On Mar. 5, 1959,<sup>(10)</sup> a call of the House was moved and agreed to.<sup>(11)</sup>

THE SPEAKER PRO TEMPORE:<sup>(12)</sup> Under previous order of the House, the gentleman from Massachusetts [Mr. O'Neill] is recognized for 30 minutes.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, a point of order. The gentleman from Massachusetts has indicated to me that he desires to speak on the subject of an election contest. That being a matter upon which the entire membership of the House should be informed, I make the point of order that a quorum is not present.<sup>(13)</sup>

**10.** 105 CONG. REC. 3432, 86th Cong. 1st Sess.

**11.** See also, for example, 89 CONG. REC. 9478, 78th Cong. 1st Sess., Nov. 13, 1943.

**12.** Thomas J. Lane (Mass.).

**13.** See supplements to this edition for discussion of more recent provisions effective in the 93d Congress on Apr. 9, 1974, to the effect that after the presence of a quorum has been once ascertained on any day, a point of order of no quorum may not be entertained during the period of the day when the Speaker recognizes Members to address the House under special orders, with no measure or matter then under consider-

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, will the gentleman withhold that for a moment?

MR. WILLIAMS: I withhold the point of order.

MR. HAYS: Mr. Speaker, I would like to say to the gentleman if this is going to be the practice there will be no more special orders by the gentleman or any of his friends.

MR. WILLIAMS: Mr. Speaker, I renew the point of order.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, if the gentleman insists on his point of order I shall feel obliged to move to adjourn the House. Does the gentleman insist on his point of order?

MR. WILLIAMS: Mr. Speaker, I do not think this speech should be made without the membership of the House being present and I insist on the point of order.

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

The question was taken; and on a division (demanded by Mr. Albert) there were ayes 6, noes 47.

So the motion was rejected.

#### CALL OF THE HOUSE

MR. ALBERT: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

### ***Effect on Questions of Privilege***

#### **§ 8.6 Where a Member objects to a negative vote on a mo-**

ation for disposition by the House. See also Rule XV clause 6(c)(3) [*House Rules and Manual* §774c (1979)].

**tion 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>(14)</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 raised to that vote on the ground that a quorum was not present.

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.

Mr. Justice Douglas has been on the Bench for a great many years, and he can wait for one more night. I have not had my dinner.

THE SPEAKER PRO TEMPORE: The Chair will count.

MR. HAYS: Mr. Speaker, I am willing to withhold my motion if the gentleman wants to ask permission to insert his remarks, but obviously all these speeches were written by the

14. 116 CONG. REC. 11940, 11941, 91st Cong. 2d Sess.

same author, and I do not think we ought to have to sit here and listen to them.

MR. [WILLIAM L.] SCOTT [of Virginia]: Mr. Speaker, if the gentleman will yield, my remarks will not take more than 10 minutes.

MR. HAYS: I have been hearing that for a long time now.

MR. [LOUIS C.] WYMAN [of New Hampshire]: Mr. Speaker, I rise to a point of special privilege.

THE SPEAKER PRO TEMPORE: There is a motion pending.

MR. HAYS: Mr. Speaker, I insist on the point of order.

THE SPEAKER PRO TEMPORE: The gentleman from Ohio insists on the point of order.

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 81, nays 75, not voting 274, as follows: . . .

So the motion was agreed to.

### *Matters Requiring a Quorum*

#### **§ 8.7 Motions to adjourn do not require a quorum for adoption.**

On Dec. 30, 1970,<sup>(1)</sup> Speaker pro tempore Wilbur D. Mills, of Arkansas, made a ruling regarding a quorum on a motion to adjourn.<sup>(2)</sup>

1. 116 CONG. REC. 44190, 91st Cong. 2d Sess.
2. See also, for example, 109 CONG. REC. 24634, 88th Cong. 1st Sess.,

MR. [W.C.] DANIEL of Virginia: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER PRO TEMPORE: The question is on the motion to adjourn.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker—

THE SPEAKER PRO TEMPORE: The Chair would request that the gentleman from Missouri permit the Chair to put the question.

The question was taken; and the Speaker pro tempore announced that the ayes had it. . . .

MR. [JOHN E.] HUNT [of New Jersey]: 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 announced that the ayes had it.

MR. HUNT: Mr. Speaker, I was seeking recognition and I was on my feet.

THE SPEAKER PRO TEMPORE: The Chair will advise the gentleman from New Jersey that a quorum is not required in order to adjourn the House.

The House stands adjourned until 12 o'clock tomorrow.

#### **§ 8.8 A quorum is not required to vote for adjournment and an objection to an affirmative vote on that ground is not entertained.**

On May 6, 1950,<sup>(3)</sup> Speaker pro tempore John W. McCormack, of

Dec. 14, 1963; 109 CONG. REC. 10674, 10675, 88th Cong. 1st Sess., June 11, 1963; and 87 CONG. REC. 4320, 77th Cong. 1st Sess., May 21, 1941.

3. 96 CONG. REC. 6568, 81st Cong. 2d Sess.

Massachusetts, refused to entertain an objection to a vote on a motion to adjourn.<sup>(4)</sup>

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I renew my motion that the House do now adjourn.

THE SPEAKER PRO TEMPORE: The question is on the motion.

The question was taken; and on a division (demanded by Mr. Rankin) there were—ayes 51, noes 44.

MR. [MIKE] MANSFIELD [of Montana]: Mr. Speaker, I object to the vote on the ground a quorum is not present.

MR. RANKIN: Mr. Speaker, a point of order. A quorum is not necessary on a motion to adjourn.

THE SPEAKER PRO TEMPORE: The Chair cannot entertain that.

MR. [JERE] COOPER [of Tennessee]: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 98, nays 170, not voting 162.

**§ 8.9 A quorum is required on the vote agreeing to a resolution providing for the adjournment of the Congress sine die.**

On July 16, 1932,<sup>(5)</sup> the Chair made a ruling regarding the need for a quorum for an adjournment *sine die*.

THE SPEAKER PRO TEMPORE:<sup>(6)</sup> Will the House permit the Chair to make a

4. See also 95 CONG. REC. 10092, 81st Cong. 1st Sess., July 25, 1949.
5. 75 CONG. REC. 15753, 72d Cong. 1st Sess.
6. John McDuffie (Ala.).

statement? It requires a majority of this House to agree to a resolution providing for adjournment *sine die*, and we do not know yet when the Senate will send over that resolution. The Chair respectfully suggests to the gentleman, especially those who have made reservations to return to their homes tonight, that it might be well to remain until the concurrent resolution providing for adjournment is adopted. The Chair desires to make that statement, because our ranks are gradually being thinned, and we might find ourselves without a quorum.

**§ 8.10 Pursuant to a concurrent resolution passed when a quorum was present, the House adjourned sine die in the absence of a quorum.**

On Oct. 18, 1972,<sup>(7)</sup> House Concurrent Resolution 726 was passed.

MR. [THOMAS P.] O'NEILL [Jr., of Massachusetts]: Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 726) and ask for its immediate consideration.

The Clerk read as follows:

H. CON. RES. 726

*Resolved by the House of Representatives (the Senate concurring)* That the two Houses of Congress shall adjourn on Wednesday, October 18, 1972, and that when they adjourn on said day, they stand adjourned *sine die*.

THE SPEAKER:<sup>(8)</sup> The question is on the concurrent resolution.

7. 118 CONG. REC. 37061, 92d Cong. 2d Sess.
8. Carl Albert (Okla.).

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

MR. [JAMES G.] O'HARA [of Michigan]: 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 Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 239, nays 21, not voting 171, as follows: . . .

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Later that day,<sup>(9)</sup> the House adjourned *sine die*.

#### CALL OF THE HOUSE

MR. [JOHN T.] MYERS [of Indiana]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The Chair will count.

One hundred twelve Members are present, not a quorum.

MR. O'NEILL: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

#### PARLIAMENTARY INQUIRIES

MR. [WILBUR D.] MILLS of Arkansas: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

9. 118 CONG. REC. 37200, 92d Cong. 2d Sess.

MR. MILLS of Arkansas: Mr. Speaker, will the Speaker entertain a unanimous-consent request that the call of the roll be vacated.

THE SPEAKER: The Speaker does not have that authority under the Constitution.

If there are any Members in the Chamber who have not answered and the Speaker can identify them, he will have them recorded. The Speaker does have that authority, but he does not know of any such Members.

MR. O'NEILL: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. O'NEILL: Mr. Speaker, am I correct in assuming that when the House adjourns tonight it adjourns to meet on January 3, 1973, at 12 o'clock?

THE SPEAKER: That is correct.

#### ADJOURNMENT SINE DIE

MR. O'NEILL: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

THE SPEAKER: In accordance with the provisions of House Concurrent Resolution 726, the Chair declares the second session of the 92d Congress adjourned *sine die*.

Accordingly (at 8 o'clock and 47 minutes p.m.), Wednesday, October 18, 1972, the House adjourned *sine die*.

### ***Automatic Vote by Yeas and Nays***

#### **§ 8.11 Parliamentarian's Note: A quorum is not required to adjourn the House; and an affirmative vote to adjourn**

**by less than a quorum does not invoke an automatic roll call under Rule XV clause 4.<sup>(10)</sup>**

On Dec. 14, 1963,<sup>(11)</sup> an automatic call of the House was not invoked following an affirmative vote to adjourn.<sup>(12)</sup>

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. Johansen) there were—ayes 77, noes 17.

MR. [AUGUST E.] JOHANSEN [of Michigan]: 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:<sup>(13)</sup> The Chair will advise the gentleman that on a motion to adjourn, when the majority of Members present vote in favor of the motion, a quorum is not required.

The motion to adjourn was agreed to; accordingly (at 12 o'clock and 20 minutes p.m.) the House adjourned until Monday, December 16, 1963, at 12 o'clock noon.

### **§ 8.12 Parliamentarian's Note: It is not in order to demand**

10. See *House Rules and Manual* §773 (1979).
11. 109 CONG. REC. 24634, 88th Cong. 1st Sess.
12. See also, for example, 116 CONG. REC. 44190, 91st Cong. 2d Sess., Dec. 30, 1970; and 109 CONG. REC. 10674, 10675, 88th Cong. 1st Sess., June 11, 1963.
13. John W. McCormack (Mass.).

**an “automatic” roll call under Rule XV clause 4,<sup>(14)</sup> on a motion to adjourn, since the motion to adjourn from day to day may be agreed to by less than a quorum.**

On Dec. 30, 1970,<sup>(15)</sup> Speaker pro tempore Wilbur D. Mills, of Arkansas, refused to entertain an objection to a vote on the ground that a quorum was not present.

### ***Consequence of Point of No Quorum After Vote***

**§ 8.13 Although a quorum is not required to adjourn the House, a point of no quorum on a negative vote on adjournment, if sustained, precipitates a call of the House under Rule XV clause 4.<sup>(16)</sup>**

On Sept. 22, 1965,<sup>(17)</sup> Speaker John W. McCormack, of Massachusetts, ordered a call of the House.<sup>(18)</sup>

14. See *House Rules and Manual* §773 (1979).
15. 116 CONG. REC. 44190, 91st Cong. 2d Sess. For the proceedings of the House on this date, see §8.7, *supra*.
16. See *House Rules and Manual* §773 (note) (1979).
17. 111 CONG. REC. 24716, 24717, 89th Cong. 1st Sess.
18. See also, for example, 117 CONG. REC. 38536, 38537, 92d Cong. 1st Sess., Nov. 1, 1971; 114 CONG. REC. 16225, 16226, 90th Cong. 2d Sess.,

MR. [LESLIE C.] ARENDS [of Illinois]: Mr. Speaker, I make the motion that the House do now adjourn.

THE SPEAKER: The question is on the motion of the gentleman from Illinois.

The question was taken; and the Speaker announced that in his opinion the "noes" had it.

MR. ARENDS: Mr. Speaker, I demand tellers.

Tellers were ordered; and the Speaker appointed as tellers Mr. Albert and Mr. Arends.

The House divided, and the tellers reported that there were—ayes 58, noes 104.

MR. [DURWARD G.] HALL [of Missouri]: 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 (after counting): 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 90, nays 204, not voting 138, as follows: . . .

So the motion was rejected.

### ***Precedence of Motion to Adjourn Over Motion for Call of House***

#### **§ 8.14 A motion to adjourn cannot ordinarily be offered**

June 6, 1968; 109 CONG. REC. 24217, 24218, 88th Cong. 1st Sess., Dec. 11, 1963; and 97 CONG. REC. 6621, 82d Cong. 1st Sess., June 15, 1951.

**while another Member having the floor for debate refuses to yield for that purpose, but if a point of order of no quorum is made and sustained during such debate, a motion to adjourn is in order and takes precedence over a motion for a call of the House.**

On Apr. 24, 1956,<sup>(19)</sup> Mr. Carl Vinson, of Georgia, had the floor for debate when a point of order of no quorum was made. Speaker Sam Rayburn, of Texas, ruled that a motion to adjourn could not deprive Mr. Vinson of the floor before the point of order was sustained, but after announcing the lack of a quorum, entertained a motion to adjourn as preferential over a motion for a call of the House:

MR. [JOHN BELL] WILLIAMS of Mississippi: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state his point of order.

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

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I object to the point of order.

MR. VINSON: Will the gentleman not withhold that? I have only about 5 minutes.

MR. WILLIAMS of Mississippi: Mr. Speaker, I withdraw the point of order.

19. 102 CONG. REC. 6891, 84th Cong. 2d Sess.

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, the gentleman is making a very sound statement here and I make the point of order that a quorum is not present.

MR. YATES: Mr. Speaker, may I be heard on the point of order?

THE SPEAKER: The point of order that a quorum is not present is not debatable.

MR. YATES: Since the last point of order on a quorum there has been no further transaction of business, and it is obvious that the points of order being made are dilatory.

THE SPEAKER: There were various unanimous-consent requests granted since the last call of the House. The Chair has been up against this question of whether there was a filibuster or whether there was not a great many times. This occupant of the Chair is very liberal with Members who want a quorum present or to have business transacted in the regular way. The Chair is not going to hold that this point of order is dilatory.

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

THE SPEAKER: If the gentleman from Georgia retains the floor, that motion is not in order.

MR. VINSON: I retain it, Mr. Speaker. I am just moving around to get a little exercise.

THE SPEAKER: Does the gentleman from Mississippi insist upon his point of no quorum?

MR. COLMER: Mr. Speaker, I insist upon the point of no quorum.

THE SPEAKER: The Chair will count. Evidently there is no quorum present.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I move a call of the House.

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

THE SPEAKER: The motion to adjourn is a privileged motion. The question is on the motion.

The motion was rejected.

THE SPEAKER: The question is on the motion offered by the gentleman from Massachusetts.

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 298 Members have answered to their names, a quorum is present.

By unanimous consent, further proceedings under the call were dispensed with.

THE SPEAKER: The gentleman from Georgia will proceed.

**§ 8.15 The motion to adjourn takes precedence over a motion for a call of the House; and where a motion to adjourn is defeated, and the motion for a call of the House is then withdrawn, business may continue if there has been no finding or announcement of the absence of a quorum.**

On June 12, 1963,<sup>(1)</sup> the Speaker pro tempore ruled that a motion to adjourn takes precedence over a motion for a call of the House.

MR. [FRANK J.] BECKER [of New York]: Mr. Speaker, I make the point of order a quorum is not present.

1. 109 CONG. REC. 10739, 10740, 88th Cong. 1st Sess.

MR. [DONALD C.] BRUCE [of Indiana]: Mr. Speaker, I move a call of the House.

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

THE SPEAKER PRO TEMPORE:<sup>(2)</sup> The question is on the motion that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. Bruce) there were—ayes 23, noes 34.

So the motion was rejected.

MR. [M. G.] SNYDER [of Kentucky]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: Does the gentleman yield for the purpose of making a parliamentary inquiry?

MR. [JOHN M.] ASHBROOK [of Ohio]: Certainly.

MR. SNYDER: The point of order has been made that there was no quorum present and the gentleman from Indiana moved a call of the House. Since the motion to adjourn was defeated, is not his motion in order?

MR. BRUCE: I withdraw the motion.

THE SPEAKER PRO TEMPORE: Let the Chair state that the motion to adjourn was made in the meantime, and no point of order has been made since.

### ***Continuing Call After Quorum Fails to Appear on Motion to Adjourn***

**§ 8.16 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**

2. W. Homer Thornberry (Tex.).

**House would proceed to establish a quorum under the call of the House under Rule XV clause 2(a),<sup>(3)</sup> which was in progress when the motion to adjourn was made.**

On Oct. 14, 1969,<sup>(4)</sup> following a motion to adjourn offered during a call of the House on a motion on which less than a quorum appeared, after the roll call was completed, but before announcement of absence of a quorum, Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry regarding the procedure following a negative vote to adjourn. (See § 10.2, *infra*.)

### ***Pending Point of No Quorum***

**§ 8.17 A motion to adjourn is in order pending a point of order that a quorum is not present.**

For example, on Dec. 7, 1963,<sup>(5)</sup> the House adjourned while a point of order that a quorum was not present was pending.<sup>(6)</sup>

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

4. 115 CONG. REC. 30055, 91st Cong. 1st Sess.

5. 109 CONG. REC. 23752, 88th Cong. 1st Sess.

6. See also, for example, 106 CONG. REC. 16535, 86th Cong. 2d Sess., Aug. 16, 1960, and 95 CONG. REC. 12191, 81st Cong. 1st Sess., Aug. 24, 1949.

MR. [WILLIAM K.] VAN PELT [of Wisconsin]: Mr. Speaker, I make the point of order that a quorum is not present.

## ADJOURNMENT

MR. [JOHN E.] MOSS [Jr., of California]: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 2 minutes p.m.) the House adjourned until Monday, December 9, 1963, at 12 o'clock noon.

*When in Order*

**§ 8.18 The House adjourned pending the vote on agreeing to a conference report, the vote on adoption having been objected to on the ground that a quorum was not present.**

On Dec. 14, 1971,<sup>(7)</sup> during consideration of the conference report on H.R. 11731, the Department of Defense appropriation measure, the House adjourned.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

THE SPEAKER:<sup>(8)</sup> The question is on the conference report.

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

MR. [CHARLES M.] TEAGUE of California: Mr. Speaker, I object to the vote

7. 117 CONG. REC. 46888 46894, 92d Cong. 1st Sess.

8. Carl Albert (Okla.).

on the ground that a quorum is not present, and make the point of order that a quorum is not present.

## ADJOURNMENT

MR. [HALE] BOGGS [of Louisiana]:

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

The motion was agreed to; accordingly (at 8 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, December 15, 1971, at 11 o'clock a.m.

**§ 8.19 A motion to adjourn is in order at any time after the conclusion of the second call of the roll if a quorum has not been established; announcement by the Chair that a quorum has failed to respond is not necessary before entertaining the motion to adjourn.**

On Oct. 14, 1969,<sup>(9)</sup> during a call of the House while American military involvement in Vietnam was under debate, Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries about the quorum requirement for, and the timeliness of, a motion to adjourn.

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

THE SPEAKER: The gentleman will state it.

9. 115 CONG. REC. 30055, 91st Cong. 1st Sess.

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.

MR. [JAMES H.] QUILLEN [of Tennessee]: Mr. Speaker—

THE SPEAKER: For what purpose does the gentleman from Tennessee rise?

MR. QUILLEN: Mr. Speaker, due to the lack of a quorum, I move that the House do now adjourn.

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

MR. [HALE] BOGGS [of Louisiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman from Louisiana will state his parliamentary inquiry.

MR. BOGGS: Mr. Speaker, does it require a quorum to adjourn?

THE SPEAKER: The Chair will state to the gentleman from Louisiana that it does not require a quorum. . . .

MR. [CARL] ALBERT [of Oklahoma]:

Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman from Oklahoma will state his parliamentary inquiry.

MR. ALBERT: Is it in order to move that the House adjourn on the ground that a quorum is not present until the Chair has announced the nonexistence of a quorum?

THE SPEAKER: The Chair will state that a motion to adjourn is in order any time after the conclusion of the second call if a quorum has not been established.

*Parliamentarian's Note:* See parliamentarian's note, §4.4, supra, for similar precedent relating to quorum call by electronic device.

**§ 8.20 One motion to adjourn having been offered and rejected at the expiration of 15 minutes during a call of the House by electronic device, another motion to adjourn is in order and takes precedence over a motion directing the Sergeant at Arms to arrest absentees.**

On June 6, 1973,<sup>(10)</sup> during a discussion of impeachment powers, Speaker Carl Albert, of Oklahoma, ruled on the precedence of a motion to adjourn over a motion for a call of the House.

MR. [EARL F.] LANDGREBE [of Indiana]: Mr. Speaker, this is a very im-

10. 119 CONG. REC. 4416, 4417, 93d Cong. 1st Sess.

portant matter being discussed. I do not believe there is a quorum in the House. I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE:<sup>(11)</sup> The Chair will count.

Sixty Members being present in the Chamber, a quorum is not present.

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

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond: . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, may we have the regular order?

THE SPEAKER: The regular order is the establishment of a quorum and the rule provides a minimum of 15 minutes for Members to respond. Clause 5 of rule XV<sup>(12)</sup> states that Members have "not less than 15 minutes to have their presence recorded."

MR. [JOE D. ] WAGGONER [Jr., of Louisiana]: Mr. Speaker, I move that the House do now adjourn.

MS. [BELLA S.] ABZUG [of New York]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 9, nays 143, present 1, not voting 279, as follows:  
. . .

So the motion to adjourn was rejected.

The result of the vote was amended as above recorded.

11. Romano L. Mazzoli (Ky.).

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

THE SPEAKER: The order of business is the establishment of a quorum. The House is still in the process of trying to establish a quorum, the motion to adjourn having been rejected. Are there further Members in the Chamber who desire to record their presence?

MOTION OFFERED BY MR. STRATTON

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Speaker, I move that the Sergeant at Arms be instructed to bring in the absent Members.

PARLIAMENTARY INQUIRY

MR. [PAUL N.] MCCLOSKEY [Jr., of California]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. MCCLOSKEY: Mr. Speaker, I rise in order that I may be recognized for a motion to adjourn.

MOTION OFFERED BY MR. MCCLOSKEY

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

THE SPEAKER: The question is on the motion offered by the gentleman from California (Mr. McCloskey).

MR. STRATTON: Mr. Speaker, I have a motion pending.

THE SPEAKER: The Chair will state that the motion to adjourn offered by the gentleman from California (Mr. McCloskey) takes precedence over the motion offered by the gentleman from New York (Mr. Stratton).

ADJOURNMENT

The motion was agreed to; accordingly (at 9 o'clock and 38 minutes p.m.), the House adjourned until Thursday, June 7, 1973, at 12 o'clock noon.

*Parliamentarian's Note:* Because the Speaker had not announced the result of the call of the House at the time the motion to adjourn was offered, he announced that the call of the House was still open and in progress upon rejection of the adjournment motion, and that Members could record their presence although they had not been able to return to the floor during the 15-minute period. It was contended that the Speaker had no authority to entertain the motion to adjourn during the call of the House and prior to his announcement of the result of that call. But if this contention were valid, it would give the Speaker unlimited discretion to keep a quorum call open indefinitely by refusing to announce the result (where a quorum had not been obtained) and thereby indefinitely refusing to entertain a motion to adjourn.

**§ 8.21 The House adjourned in the absence of a quorum.**

On Sept. 23, 1968,<sup>(13)</sup> the House adjourned in the absence of a quorum.<sup>(14)</sup>

13. 114 CONG. REC. 27813, 90th Cong. 2d Sess.
14. See also, for example, 116 CONG. REC. 11941, 91st Cong. 2d Sess., Apr. 15, 1970; 115 CONG. REC. 30137, 91st Cong. 1st Sess., Oct. 15, 1969; 114 CONG. REC. 30816, 30817,

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER:<sup>(15)</sup> 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.

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

THE SPEAKER: On this rollcall 188 Members have answered to their names, not a quorum.

ADJOURNMENT

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

The motion was agreed to; accordingly (at 1 o'clock and 22 minutes p.m.), the House adjourned until tomorrow, Tuesday, September 24, 1968, at 12 o'clock noon.

**§ 8.22 A motion to adjourn is not entertained after a call of the House has been ordered.**

On June 4, 1963,<sup>(16)</sup> Speaker John W. McCormack, of Massachusetts, refused to entertain a motion to adjourn.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, since 45 or 50

90th Cong. 2d Sess., Oct. 11, 1968; 110 CONG. REC. 22023, 88th Cong. 2d Sess., Sept. 14, 1964; and 88 CONG. REC. 9096, 77th Cong. 2d Sess., Nov. 23, 1942.

15. John W. McCormack (Mass.).
16. 109 CONG. REC. 10152, 10153, 88th Cong. 1st Sess.

Members have left the floor, I make the point of order a quorum is not present.

THE SPEAKER: Evidently a quorum now is not present.

MR. [CARL] ALBERT [of Oklahoma]: 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. WILLIAMS: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The Chair will state that a call of the House has been ordered.

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 roll call 332 Members have answered to their names, a quorum.

By unanimous consent further proceedings under the call were dispensed with.

*Parliamentarian's Note:* But see 8 Cannon's Precedents §2644 where a motion to adjourn has been entertained when the House was dividing on a motion for a call of the House but before a call was finally ordered.

**§ 8.23 In response to a parliamentary inquiry, the Chair advised that a motion to adjourn was not in order, where a call of the House had been ordered.**

On June 3, 1950,<sup>(1)</sup> Speaker pro tempore Carl Albert, of Okla-

1. 106 CONG. REC. 11828, 11829, 86th Cong. 2d Sess.

homa, refused to entertain a motion to adjourn.

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: Obviously a quorum is not present.

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HOFFMAN of Michigan: Is a motion to adjourn in order?

THE SPEAKER PRO TEMPORE: Not now. The Chair will advise that a call of the House has been ordered.

MR. HOFFMAN of Michigan: Can a member of the minority—

The regular order was demanded.

THE SPEAKER PRO TEMPORE: The regular order is demanded. The Clerk will call the roll.

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

*Parliamentarian's Note:* The House refused to adjourn pending special orders obtained to give Members an opportunity to sign a discharge petition. The 219th name was affixed to the petition at approximately 4:00 p.m., and the House adjourned shortly thereafter.

**§ 8.24 When a Member holding the floor under a special**

**order is interrupted by a call of the House, he is again entitled to the floor when a motion to dispense with further proceedings under the call has been agreed to; the Chair refuses to entertain a motion to adjourn unless the Member having the floor yields for that purpose.**

On June 4, 1963,<sup>(2)</sup> during time allotted for special orders, Speaker John W. McCormack, of Massachusetts, refused to entertain a motion to adjourn where another Member had the floor during a special order.

During the progress of a special order, Mr. Clark MacGregor, of Minnesota, had been recognized for and was proceeding in debate when the following transpired:

MR. [ROBERT A.] EVERETT [of Tennessee]: 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.

THE SPEAKER: On this rollcall [No. 65] 332 Members have answered to their names, a quorum.

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

2. 109 CONG. REC. 10154, 88th Cong. 1st Sess.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, I object.

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

The question was taken; and on a division (demanded by Mr. Williams) there were—ayes 210, noes 0.

So the motion was agreed to.

MR. [JAMES] ROOSEVELT [of California]: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: Does the gentleman from Minnesota yield for that purpose?

MR. MACGREGOR: Mr. Speaker, I respectfully decline to yield to the gentleman from California for that purpose.

### *Motion to Recess*

**§ 8.25 A motion for a recess not being a privileged matter in the House, it is not in order, even in the absence of a quorum.**

On May 14, 1930,<sup>(3)</sup> the Speaker pro tempore, John Q. Tilson, of Connecticut, ruled on a motion to recess, as follows:

THE SPEAKER PRO TEMPORE: On this roll call 198 Members have answered to their names, not a quorum.

MR. [JAMES C.] KETCHAM [of Michigan]: A parliamentary inquiry, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. KETCHAM: Would it be in order to offer a motion to recess until 10

3. 72 CONG. REC. 8961, 71st Cong. 2d Sess.

o'clock tomorrow or, if that be not in order, until 10 o'clock on next Calendar Wednesday?

THE SPEAKER PRO TEMPORE: No motion is in order except a motion to adjourn, a quorum not being present.

### ***Declaration of Recess***

**§ 8.26 The Speaker may not declare a recess and interrupt a roll call under Rule XV clause 4,<sup>(4)</sup> even though the House has by unanimous consent previously given him authority to declare a recess at any time for the remainder of the session.**

On Oct. 11, 1962,<sup>(5)</sup> the House had granted permission to declare a recess as follows:

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that for the balance of this week it may be in order for the Speaker to declare a recess at any time, subject to the call of the Chair.

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

There was no objection.

On Oct. 12,<sup>(6)</sup> during a roll call on H.R. 12900, the public works appropriations bill for 1963, Speaker John W. McCormack, of

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

5. 108 CONG. REC. 23207, 87th Cong. 2d Sess.

6. *Id.* at p. 23434.

Massachusetts, made a ruling regarding the time for declaring a recess.

MR. [EDMOND] EDMONDSON [of Oklahoma] (interrupting the rollcall): Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. EDMONDSON: May a recess be declared in advance of the completion of the vote?

THE SPEAKER: The Chair will state that the present situation the Chair may not declare a recess with a rollcall in process.

*Parliamentarian's Note:* This precedent does not address the question whether the Chair could declare a recess when the roll call was completed if a quorum had not voted. There is no precedent directly on that question. See, however, 4 Hinds' Precedents §2965, 5 Hinds' Precedents §§6665, 6666 and 6 Cannon's Precedents §664.

### ***Motion for Call of the House Pending After Rejection of Motion to Adjourn***

**§ 8.27 A pending motion for a call of the House, preempted by a motion to adjourn, remains pending if the motion to adjourn is rejected.**

On June 4, 1963,<sup>(7)</sup> Speaker John W. McCormack of Massachu-

7. 109 CONG. REC. 10152, 88th Cong. 1st Sess.

setts, by unanimous consent ordered a call of the House immediately after a vote on adjournment.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE:<sup>(8)</sup> The gentleman will state it.

MR. WILLIAMS: Mr. Speaker, if they are going to clutter up the Record with this stuff, I think the rest of the Members ought to be present to hear it. I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: The Chair will count. [After counting.] Thirty-eight Members are present, not a quorum.

#### CALL OF THE HOUSE

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

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

THE SPEAKER: The question is on the motion of the gentleman from Mississippi.

The motion was rejected.

THE SPEAKER: Without objection, a call of the House is ordered.

There was no objection.

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

THE SPEAKER: Three hundred and forty Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

8. G. Elliott Hagan (Ga.).

### *Senate Precedents*

**§ 8.28 When the Senate adopts an order for a recess at the conclusion of its day's business to a day or hour certain, a motion may be made in the absence of a quorum to take a recess pursuant to such order; but a motion to take a recess or take a recess to an hour certain is not in order in the absence of a quorum, nor is it in order to entertain a motion to recess or to recess to an hour certain after the absence of a quorum has been determined unless such previous order has been adopted.**

On July 27, 1962,<sup>(9)</sup> the Senate agreed to recess at the conclusion of its business for that day and, later, did recess (in the absence of a quorum) as follows:

MR. [MICHAEL J.] MANSFIELD [of Montana]: Mr. President, I ask unanimous consent that when the Senate concludes its business tonight, it recess to meet at 10 o'clock tomorrow morning.

THE VICE PRESIDENT:<sup>(10)</sup> Is there objection? The Chair hears none and it is so ordered. . . .

MR. [WAYNE L.] MORSE [of Oregon]: Mr. President, I suggest the absence of

9. 108 CONG. REC. 14895, 14948, 87th Cong. 2d Sess.

10. Lyndon B. Johnson (Tex.).

a quorum, and I ask that it be a live quorum. . . .

THE PRESIDING OFFICER: A quorum is not present.

RECESS TO 10 A.M. TOMORROW

MR. [GEORGE A.] SMATHERS [of Florida]: Mr. President, I move that the Senate recess in accordance with the previous order.

The motion was agreed to; and (at 10 o'clock and 14 minutes p.m.), under the previous order, the Senate recessed until tomorrow, Saturday, July 28, 1962, at 10 a.m.

On July 28,<sup>(11)</sup> Vice President Johnson ruled on a motion to recess in the absence of a quorum.

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Vice President.

. . . .

CALL OF THE ROLL

THE VICE PRESIDENT: The Senate having taken a recess last night in the absence of a quorum, no business can be transacted until a quorum is present.

The clerk will therefore call the roll for the purpose of developing a quorum.

The legislative clerk called the roll; and the following Senators answered to their names: . . .

THE VICE PRESIDENT: A quorum is not present.

MR. [HUBERT H.] HUMPHREY [of Minnesota]: Mr. President, I move that the Sergeant at Arms be directed to re-

quest the attendance of absent Senators.

THE VICE PRESIDENT: The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to.

THE VICE PRESIDENT: The Sergeant at Arms is instructed to execute the order of the Senate. . . .

MR. HUMPHREY: Mr. President, a parliamentary inquiry: Is a quorum present?

THE VICE PRESIDENT: No. . . .

MR. HUMPHREY: Mr. President, I move that the Senate stand in recess until Monday, at noon.

THE VICE PRESIDENT: That motion is not in order. A motion to adjourn would be in order.

**§ 8.29 When the Senate convenes following an adjournment taken in the absence of a quorum, the first order of business is the establishment of a quorum and the Presiding Officer directs the roll to be called.**

On Sept. 23, 1968,<sup>(12)</sup> a quorum was established, as follows:

THE PRESIDENT PRO TEMPORE:<sup>(13)</sup> The Senate having adjourned on Friday, September 20, 1968, in the absence of a quorum, the clerk will call the roll to ascertain the presence of a quorum.

The bill clerk called the roll, and the following Senators answered to their names. . . .

11. 108 CONG. REC. 14952, 87th Cong. 2d Sess.

12. 114 CONG. REC. 27814, 27815, 90th Cong. 2d Sess.

13. Carl Hayden (Ariz.).

THE PRESIDING OFFICER:<sup>(14)</sup> A quorum is not present.

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

THE PRESIDING OFFICER: The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names: . . .

THE PRESIDING OFFICER: A quorum is present.

*Parliamentarian's Note:* Under House procedures, where a quorum fails to respond on a vote on a pending matter or motion, and the House adjourns, the unfinished business when the House reconvenes is the vote on the pending matter; but where the House simply adjourns in the absence of a quorum, a quorum is presumed present when the House reconvenes and there is no requirement to affirmatively establish a quorum.

### § 9.— To Dispense With Further Proceedings Under the Call

Appearance of a quorum and passage of the motion to dispense

14. Howard W. Cannon (Nev.).

with further proceedings are necessary before pending business may be resumed<sup>(15)</sup> following a call of the House ordered on motion under Rule XV clause 2(a).<sup>(16)</sup> Agreement to the motion terminates the call of the House,<sup>(17)</sup> and efforts to call other Members to the Chamber,<sup>(18)</sup> including notation of absentees, arrest, and discharge of Members, and opens the doors.<sup>(19)</sup> The motion is not required on automatic votes by the yeas and nays because Rule XV clause 4,<sup>(20)</sup> which authorizes this procedure, provides that when the Speaker declares that a quorum is constituted, "further proceedings under the call shall be considered as dispensed with."<sup>(1)</sup>

The motion is not in order when a motion to arrest absent Members is pending,<sup>(2)</sup> and is not entertained until a quorum responds on the call,<sup>(3)</sup> is not preferential to

15. §9.7, *infra*.

16. *House Rules and Manual* §768 (1979)

17. §9.8, *infra*.

18. §9.10, *infra*.

19. §§9.9, 9.10, *infra*.

20. *House Rules and Manual* §773 (1979).

1. *Id.*

2. 4 Hinds' Precedents §§3029, 3037, and annotation to Rule XV clause 2(a), *House Rules and Manual* §770 (1979)

3. 6 Cannon's Precedents §689, and annotation to Rule XV clause 2(a),

a motion to adjourn,<sup>(4)</sup> but is not subject to challenge on a point of order of no quorum.<sup>(5)</sup> Unless a majority agrees to the motion, however, pending business cannot resume<sup>(6)</sup> and efforts to secure the attendance of absentees continue until all Members have been called for.<sup>(7)</sup>

A recently adopted rule, Rule XV clause 6(a)(4), adopted Apr. 9, 1974, provides that points of no quorum will not be in order "during the offering, consideration, and disposition of any motion incidental to a call of the House." (Motions to dispense with proceedings under the call are considered "incidental to a call of the House.") Clause 6(e)(2) of Rule XV was amended in the 96th Congress to automatically dispense with further proceedings under any call of the House when a quorum appears unless the Speaker in his discretion recognizes for a motion. The effects of these recent provisions will be discussed in supplements to this edition.

### ***Tabling of Motion***

#### **§ 9.1 Since the motion to dispense with further pro-**

*House Rules and Manual* §770 (1979).

4. 8 Cannon's Precedents §§ 2643, 2644; § 9.4, *infra*.
5. §§ 9.12, 9.13, *infra*.
6. § 9.7, *infra*.
7. § 9.10, *infra*.

**ceedings under a call of the House is neither debatable nor amendable, the motion to table (Rule XVI clause 4)<sup>(8)</sup> is not in order.**

On Aug. 27, 1962,<sup>(9)</sup> during consideration of Senate Joint Resolution 29, an amendment pertaining to qualification of electors, Speaker John W. McCormack, of Massachusetts, made a ruling regarding the motion to dispense with further proceedings.<sup>(10)</sup>

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, I demand that the Journal be read in full.

THE SPEAKER: The Clerk will read the Journal in full.

The Clerk continued with the reading of the Journal.

MR. WILLIAMS (interrupting reading of the Journal): Mr. Speaker, I make the point of order that a quorum is not present.

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

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: . . .

8. *House Rules and Manual* §782 (1979).

9. 108 CONG. REC. 17653, 87th Cong. 2d Sess.

10. See 114 CONG. REC. 26453, 90th Cong. 2d Sess., Sept. 11, 1968, for another illustration of this principle.

THE SPEAKER: On this rollcall, 356 Members have answered to their names, a quorum.

MR. WILLIAMS: Mr. Speaker, I object to dispensing with further proceedings under the call of the House.

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

THE SPEAKER: The question is on the motion.

MR. WILLIAMS: Mr. Speaker, I move to lay that motion on the table.

MR. ALBERT: Mr. Speaker, I make the point of order that the motion to lay on the table is not in order.

THE SPEAKER: The motion to dispense with further proceedings under the call is not debatable and not subject to amendment and, therefore, the motion to lay on the table is not in order.

The question is on the motion to dispense with further proceedings under the call.

The question was taken.

*Parliamentarian's Note:* Three quorum calls and two record votes on dispensing with further proceedings under the quorum calls interrupted reading of the Journal and delayed the Speaker's recognition of a Member to move to suspend the rules and pass a joint resolution proposing a constitutional amendment to abolish use of a poll tax as a qualification for voting in elections of federal officials.

### ***Effect of Adoption or Rejection of Motion***

#### **§ 9.2 A Member failing to respond on a call of the House**

**may not be recorded as present on that roll call if the House has already agreed to a motion to dispense with further proceedings under the call.**

On Apr. 3, 1935,<sup>(11)</sup> the Speaker pro tempore made a ruling relating to recording a Member.

THE SPEAKER PRO TEMPORE:<sup>(12)</sup> Three hundred and forty-four Members have answered to their names, a quorum.

MR. [EDWARD T.] TAYLOR of Colorado: Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The doors were opened.

MR. [JOHN J.] MCSWAIN [of South Carolina]: Mr. Speaker, I was present and did not hear my name called. I desire to have my name called and to answer "present."

THE SPEAKER PRO TEMPORE: The request of the gentleman comes too late, but the Record will show that he is here. The gentleman from Texas is recognized for 1 hour.

**§ 9.3 If a motion to dispense with further proceedings under a call for a quorum is rejected, the Members present remain in the Chamber until the Sergeant at Arms brings in enough Mem-**

11. 79 CONG. REC. 4925, 74th Cong. 1st Sess.

12. John E. Rankin (Miss.).

**bers to make the full membership.**

On July 29, 1946,<sup>(13)</sup> a motion to dispense with further proceedings under the call was rejected.

Mr. Rankin and Mr. Marcantonio moved 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: . . .

THE SPEAKER:<sup>(14)</sup> On this roll call 240 Members have answered to their names, a quorum.

If there is no objection, further proceedings under the call will be dispensed with.

MR. [FRANK E.] HOOK [of Michigan]: Mr. Speaker, I object.

MR. [WILLIAM C.] COLE of Missouri: Mr. Speaker, I object.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I move that further proceedings under the call be dispensed with.

The question was taken; and on a division (demanded by Mr. Hook) there were—ayes 115, noes 1. . . .

MR. COLE of Missouri: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. COLE of Missouri: Should this motion be voted down and should further proceedings under the call be not dispensed with will the Chair please state the procedure to be followed then?

13. 92 CONG. REC. 10409, 79th Cong. 2d Sess.

14. Sam Rayburn (Tex.).

THE SPEAKER: We stay here until the Sergeant-at-Arms brings in enough Members . . . to make the full membership.

***Precedence of Motion to Adjourn***

**§ 9.4 A yea and nay vote that the House adjourn takes precedence over a vote on dispensing with further proceedings under a call of the House.**

On Feb. 15, 1950,<sup>(15)</sup> Speaker Sam Rayburn, of Texas, entertained a motion to adjourn following a division vote dispensing with further proceedings under a call of the House, and when the House refused to adjourn, put the question de novo on the motion to dispense with proceedings under the call.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I move that further proceedings under the call be dispensed with.

THE SPEAKER: The question is on the motion offered by the gentleman from Massachusetts [Mr. McCormack].

The question was taken; and on a division (demanded by Mr. Pickett) there were—ayes 126, noes 17. . . .

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, a preferential motion. I move that the House do now adjourn; and on that motion I ask for the yeas and nays.

15. 96 CONG. REC. 1810, 1811, 81st Cong. 2d Sess.

The yeas and nays were ordered.

The question was taken; and there were—yeas 126, nays 198, not voting, 103, as follows: . . .

The result of the vote was announced as above recorded.

THE SPEAKER: The question is on the motion of the gentleman from Massachusetts [Mr. McCormack] to dispense with further proceedings under the call.

MR. [THOMAS J.] PICKETT [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. PICKETT: Mr. Speaker, at the time the gentleman from Michigan moved to adjourn, the Speaker had just stated what the question was—which was the motion of the gentleman from Massachusetts [Mr. McCormack] to dispense with further proceedings under a preceding call of the House. I objected to the vote, as was revealed by a division on the question, on the ground that a quorum was not present. Is not now the order of business an automatic roll call on the motion of the gentleman from Massachusetts [Mr. McCormack]?

THE SPEAKER: No; it is not. The vote now comes de novo.

The question is on the motion of the gentleman from Massachusetts [Mr. McCormack].

*Parliamentarian's Note:* Under 8 Cannon's Precedents §§ 2643, 2644, the motion to adjourn takes precedence over the motion to dispense with further proceedings.

### ***Member Retains Floor After the Call***

#### **§ 9.5 When a Member holding the floor is interrupted by a**

**call of the House, he is again entitled to the floor when a motion to dispense with further proceedings under the call has been agreed to.**

On June 4, 1963,<sup>(16)</sup> Speaker John W. McCormack, of Massachusetts, ruled on the right of a Member to hold the floor under a special order after the House had agreed to a motion to dispense with further proceedings under the call of the House.<sup>(17)</sup>

### ***Receipt of Senate Message During Pendency of Motion***

**§ 9.6 A message from the Senate was received following a call of the House while a motion to dispense with further proceedings under the call was pending and prior to the reading and approval of the Journal.**

On Sept. 11, 1968,<sup>(1)</sup> Speaker John W. McCormack, of Massachusetts, received a message while a motion to dispense with proceedings was pending and before the Journal had been read.

THE SPEAKER: On this roll call 356 Members have answered to their names, a quorum.

16. 109 CONG. REC. 10154, 88th Cong. 1st Sess.

17. For the proceedings of the House on this date, see § 8.24, *supra*.

1. 114 CONG. REC. 26453, 26454, 90th Cong. 2d Sess.

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

MR. [ROBERT] TAFT [Jr., of Ohio]: Mr. Speaker, I object.

THE SPEAKER: The gentleman objects? The Chair wishes to get the Record correct. The gentleman objects to further proceedings under the call being dispensed with?

MR. TAFT: I do object, Mr. Speaker.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move that further proceedings under the call be dispensed with. . . .

THE SPEAKER: . . . Before presenting the motion, the Chair will receive a message.

#### MESSAGE FROM THE SENATE

THE DOORKEEPER: Mr. Speaker, message from the Senate.

THE SECRETARY (Mr. Arrington): Mr. Speaker—

THE SPEAKER: Mr. Secretary.

THE SECRETARY: Mr. Speaker, I have been directed by the Senate to inform the House that the Senate has agreed to the conference report on the bill S. 3293, to authorize appropriations during the fiscal year 1969 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes

*Parliamentarian's Note:* Under Rule XV clause 6(a)(3), adopted Apr. 9, 1974, a quorum is not required to receive a message from the Senate.

### *Effect on Pending Business*

**§ 9.7 After a quorum has responded on a call of the House, further proceedings under the call must be dispensed with before the House can proceed with pending business.**

On Oct. 8, 1968,<sup>(2)</sup> a point of no quorum and a call of the House having interrupted the reading of the Journal, Speaker John W. McCormack, of Massachusetts, made a statement regarding the need for a motion to dispense with further proceedings after a quorum had responded on the call.

MR. [BROCK] ADAMS [of Washington]: 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

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

under the call have been dispensed with.

### ***Adoption of Motion Terminates Call***

#### **§ 9.8 A motion to dispense with further proceedings under a call of the House may be agreed to by less than a quorum, if a quorum has responded on the call.**

On May 14, 1930,<sup>(3)</sup> a motion to dispense with further proceedings ended the call of the House.

MR. [CHARLES R.] CRISP [of Georgia]: Then, Mr. Speaker, I move to dispense with further proceedings under the call.

THE SPEAKER PRO TEMPORE [John Q. Tilson, of Connecticut]: The question is on the motion of the gentleman from Georgia to dispense with further proceedings under the call.

The question was taken; and on a division (demanded by Mr. Stafford) there were—ayes 83, noes 22.

MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Mr. Speaker, I object to the vote because there is no quorum present, and make the point of order that there is no quorum present. . . .

THE SPEAKER PRO TEMPORE: It does not require a quorum to dispense with further proceedings under the call.<sup>(4)</sup>

#### **§ 9.9 Passage of the motion to dispense with further pro-**

3. 72 CONG. REC. 8962, 8963, 71st Cong. 2d Sess.

4. See also §9.11, *infra*.

#### **ceedings opens the doors after a call of the House.**

On May 14, 1930,<sup>(5)</sup> Speaker pro tempore John Q. Tilson, of Connecticut, responded to a parliamentary inquiry regarding the purpose of the motion to dispense with further proceedings.

MR. [EARL C.] MICHENER [of Michigan]: My question was, whether, under the proceedings of the House, where absentees are ordered to be arrested and brought in, where the doors are closed, where the roll is called, and where the absentees are brought in one at a time and brought before the bar of the House to answer to their names, and immediately the Speaker announces that a quorum is present, and the next thing to do is to move to dispense with further proceedings under the call, the doors cannot be opened until that motion is agreed to.

THE SPEAKER PRO TEMPORE: The gentleman is correct in his statement. The Chair takes no issue with him.

#### **§ 9.10 The purpose of the motion to dispense with further proceedings under the call, a matter decided by the membership, is to open the doors and terminate efforts to call other Members to the Chamber; if the motion is not agreed to, the call of the House continues until all Members are sent for.**

5. 72 CONG. REC. 8963, 71st Cong. 2d Sess.

On Feb. 22, 1950,<sup>(6)</sup> [Calendar Wednesday], Speaker Sam Rayburn, of Texas, made a ruling regarding the House's decision-making responsibility on a motion to dispense with further proceedings.

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. KEEFE: Where a point of order of no quorum has been made and the Speaker directs the calling of the roll, and at the conclusion of the calling of the roll a quorum is established, what further proceedings under the call are contemplated that require the making of a motion that further proceedings under the call be dispensed with, and force another roll call on that issue?

THE SPEAKER: It might be possible that the Members present would want to call other Members to the session; they might want to send out to get absent Members.

MR. KEEFE: With all due deference to the Speaker, I am merely seeking information. I have been here 12 years and this is a matter that has always bothered me and bothered many other Members of the House. Is there any reason why further proceedings should be had once the call of the roll indicates the presence of a quorum?

THE SPEAKER: That is a matter to be decided by the membership of the House. They may want other Members here for the consideration of certain

6. 96 CONG. REC. 2160, 2161, 81st Cong. 2d Sess.

business; they could have a further call of the House and send out and get the absent Members.

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Speaker, may I be heard?

THE SPEAKER: The Chair recognizes the gentleman from Massachusetts.

MR. McCORMACK: The Speaker is absolutely correct, but may I not add the further thought that when a quorum call is made the doors are closed, and the Sergeant at Arms is directed to notify absent Members. There are certain procedures that must be followed after the calling of the roll, such as the opening of the doors. Furthermore, when a quorum call is made it presumably continues or could continue until Members are sent for. That motion is made to bring it to a definite conclusion.

### *Quorum Requirement*

#### **§ 9.11 A motion to dispense with further proceedings under a call of the House does not require a quorum for adoption.**

On July 23, 1942,<sup>(7)</sup> after a quorum had responded on a call of the House, Speaker Sam Rayburn, of Texas, made a ruling respecting the motion to dispense with further proceedings.<sup>(8)</sup>

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

MR. [JOHN E.] RANKIN of Mississippi: Mr. Speaker, I object to that.

7. 88 CONG. REC. 6542, 77th Cong. 2d Sess.

8. See also 86 CONG. REC. 13043, 76th Cong. 3d Sess., Oct. 8, 1940.

MR. [ADOLPH J.] SABATH [of Illinois]: Mr. Speaker, I move to dispense with further proceedings under the call.

THE SPEAKER: The question is on dispensing with further proceedings under the call.

The question was taken; and on a division (demanded by Mr. Rankin of Mississippi) there were—ayes 101, noes 5.

MR. RANKIN of Mississippi: Mr. Speaker, I object to the vote upon the ground that there is no quorum present and make the point of order that there is no quorum present.

THE SPEAKER: The Chair overrules the point of order, because the House can dispense with further proceedings under the call without the presence of a quorum.<sup>(9)</sup>

The gentleman from Mississippi is out of order at the moment. The Chair has already ruled, and in conformity with a long line of decisions.

So the motion to dispense with further proceedings under the call was agreed to.

**§ 9.12 A motion to dispense with further proceedings under a call of the House is not subject to a point of no quorum where the call has disclosed the presence of a quorum.**

On Oct. 8, 1968,<sup>(10)</sup> during the reading of the Journal, Speaker

9. *Parliamentarian's Note*: Motions incidental to a call of the House do not require a quorum for adoption. This principle was formally incorporated into Rule XV clause 6(a)(4) on Apr. 9, 1974.

10. 114 CONG. REC. 30090, 90th Cong. 2d Sess.

John W. McCormack, of Massachusetts, refused to entertain a point of no quorum.

MR. [DONALD] RUMSFELD [of Illinois]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The gentleman from Illinois makes the point of order that a quorum is not present. 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.

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

THE SPEAKER: On this rollcall 279 Members have answered to their names, a quorum.

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

MR. RUMSFELD: Mr. Speaker, I object to dispensing with further proceedings under the call.

MR. [RAY J.] MADDEN [of Indiana]: Mr. Speaker, I move that further proceedings under the call be dispensed with.

MR. [ROBERT] TAFT [Jr., of Ohio]: Mr. Speaker, I object.

THE SPEAKER: The gentleman from Indiana [Mr. Madden] has moved that further proceedings under the call be dispensed with. An objection is not in order.

The question is on the motion offered by the gentleman from Indiana.

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

MR. TAFT: 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 state that the rollcall that has just been concluded discloses that a quorum is present and no business has been transacted up to this point.

So the motion was agreed to.

**§ 9.13 A motion to dispense with further proceedings under a call of the House, while not entertained until a quorum responds on the call, may be agreed to by less than a quorum thereafter.**

On Sept. 11, 1968,<sup>(11)</sup> Speaker John W. McCormack, of Massachusetts, ruled on the quorum requirement for a motion to dispense with further proceedings under the call.

MR. [DONALD] RUMSFELD [of Illinois]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The gentleman from Illinois makes the point of order that a quorum is not present, and 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.

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

THE SPEAKER: On this rollcall [No. 314] 356 Members have answered to their names, a quorum.

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

MR. [ROBERT] TAFT [Jr., of Ohio]: Mr. Speaker, I object.

THE SPEAKER: The gentleman objects? The Chair wishes to get the Record correct. The gentleman objects to further proceedings under the call being dispensed with?

MR. TAFT: I do object, Mr. Speaker.

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

Before presenting the motion, the Chair will receive a message.

MESSAGE FROM THE SENATE

THE DOORKEEPER: Mr. Speaker, a message from the Senate. . . .

MOTION TO DISPENSE WITH FURTHER PROCEEDINGS UNDER THE CALL

THE SPEAKER: The question is on the motion offered by the gentleman from Oklahoma [Mr. Albert].

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

MR. [THOMAS B.] CURTIS [of Missouri]: 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 refer the gentleman to the rules of the House; and under the rules of the House it does not require a quorum to dispense with further proceedings under the call.

MR. CURTIS: Mr. Speaker, I demand tellers.

Tellers were ordered, and the Speaker appointed as tellers Mr. Albert and Mr. Curtis.

11. 114 CONG. REC. 26453, 90th Cong. 2d Sess.

The House divided, and the tellers reported that there were—ayes 100, noes 64.

MR. RUMSFELD: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.  
So the motion was agreed to.

### *Yea and Nay Votes*

#### **§ 9.14 The yeas and nays have been ordered on a motion to dispense with further proceedings under a call of the House, where a quorum had appeared on the call.**

On June 5, 1946,<sup>(12)</sup> the yeas and nays were ordered on a motion to dispense with the call.

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

THE SPEAKER:<sup>(13)</sup> On this roll call 290 Members have answered to their names, a quorum.

MR. [GRAHAM A.] BARDEN [of North Carolina]: Mr. Speaker, I move that further proceedings under the roll call be dispensed with.

MR. [THOMAS G.] ABERNETHY [of Mississippi]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 284, nays 6, not voting 140, as follows: . . .

#### **§ 9.15 Because the motion to dispense with further pro-**

12. 92 CONG. REC. 6354, 79th Cong. 2d Sess.

13. Sam Rayburn (Tex.).

**ceedings under a call of the House (an incidental motion once a quorum has responded on the call) may be agreed to by less than a quorum, objection to the vote thereon on the ground that a quorum is not present does not force an automatic roll call under Rule XV clause 4.<sup>(14)</sup>**

On Sept. 11, 1968,<sup>(15)</sup> an automatic roll call did not result after a Member, Thomas B. Curtis, of Missouri, objected to the vote on the motion to dispense with further proceedings on the ground that a quorum was not present and made a point of order to that effect.

#### MOTION TO DISPENSE WITH FURTHER PROCEEDINGS UNDER THE CALL

THE SPEAKER:<sup>(16)</sup> The question is on the motion offered by the gentleman from Oklahoma [Mr. Albert].

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

MR. CURTIS: 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 refer the gentleman to the rules of the

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

15. 114 CONG. REC. 26453, 90th Cong. 2d Sess.

16. John W. McCormack (Mass.).

House; and under the rules of the House it does not require a quorum to dispense with further proceedings under the call.

MR. CURTIS: Mr. Speaker, I demand tellers.

Tellers were ordered, and the Speaker appointed as tellers Mr. Albert and Mr. Curtis.

The House divided, and the tellers reported that there were—ayes 100, noes 64.

MR. [DONALD] RUMSFELD [of Illinois]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the motion was agreed to.

**§ 9.16 After a quorum has been established by a call of the House pursuant to Rule XV clause 2(a),<sup>(17)</sup> a motion to dispense with further proceedings under the call does not require a quorum for adoption [and therefore an “automatic roll-call” under Rule XV, clause 4, is not in order on the motion].**

On Aug. 15, 1972,<sup>(18)</sup> Speaker Carl Albert, of Oklahoma, refused to entertain a point of no quorum on a motion to dispense with proceedings under the call.

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Speaker, I make the point of order that a quorum is not present.

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

18. 118 CONG. REC. 28255, 92d Cong. 2d Sess.

THE SPEAKER: Evidently, a quorum is not present.

MR. [JAMES A.] BYRNE [of Pennsylvania]: 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: . . .

THE SPEAKER: On this rollcall 366 Members have answered to their names, a quorum.

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

MR. FRASER: Mr. Speaker, I do object to dispensing with further proceedings under the rollcall.

THE SPEAKER: The question is on dispensing with further proceedings under the call.

The question was taken; and the Speaker announced that the ayes had it.

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

THE SPEAKER: The Chair will remind the gentleman that the House has just established a quorum and there has been no intervening business. There is a quorum present. Under the call of the House a quorum is present.

***Objections to Dispensing With Further Proceedings Under the Call***

**§ 9.17 Where objection is made to a unanimous-consent request to dispense with further proceedings under a**

**call, the Chair may put the question to the House for a vote.**

On Jan. 23, 1950,<sup>(19)</sup> Speaker Sam Rayburn, of Texas, put the question to dispense with further proceedings to a vote.

THE SPEAKER: On this roll call 392 Members have answered to their names; a quorum is present.

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

MR. [JAMES C.] DAVIS of Georgia: Mr. Speaker, I object.

THE SPEAKER: The question is on the motion to dispense with further proceedings under the call.

The question was taken; and on a division (demanded by Mr. Davis of Georgia) there were—ayes 144, noes 11. . . .

MR. DAVIS of Georgia: Mr. Speaker, I demand the yeas and nays on this vote.

The yeas and nays were refused.

So the motion to dispense with further proceedings on the call was agreed to.

**§ 9.18 Where objection is raised to a unanimous-consent request to dispense with further proceedings under a call of the House, a motion to that effect is in order.**

On Oct. 8, 1968,<sup>(20)</sup> Speaker John W. McCormack, of Massa-

19. 96 CONG. REC. 772, 81st Cong. 2d Sess.

20. 114 CONG. REC. 30212, 90th Cong. 2d Sess.

chusetts, made a statement as to the effect of an objection to a request to dispense with further proceedings under a call of the House.

THE SPEAKER: The Chair will recognize the gentleman on a parliamentary inquiry.

MR. [BROCK] ADAMS [of Washington]: Mr. Speaker, I am reserving the right to object.

As part of my reservation, Mr. Speaker the previous parliamentary inquiry was for the situation where a quorum was not present, but now, under the rule I am inquiring of the Chair about as part of my reservation, I am asking whether or not, if I object, will the call then proceed and those absent without excuse will be required to come to the Chamber "and their attendance secured and retained; and the House shall determine upon what condition they shall be discharged" ?

THE SPEAKER: The Chair will state that if any Member should object, a motion to dispense with further proceedings under the call would be in order, and the Chair would put the motion.

**§ 9.19 Objection having been raised to a unanimous-consent request to dispense with further proceedings under a call of the House, the question was moved and agreed to on a division vote.**

On June 4, 1953,<sup>(21)</sup> the House voted on a motion to dispense with further proceedings.

21. 109 CONG. REC. 10151, 10152, 10154, 88th Cong. 1st Sess.

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).

the preceding legislative day and announce his approval thereof to the House. His approval is subject to ratification by the House, and, when demanded, this question is put to the House and is subject to a vote. One fifth of those present may demand the constitutional yeas and nays or an "automatic" yea and nay vote under Rule XV clause 4 may result if a quorum is not present.<sup>(17)</sup>

Provisions of the rules adopted in and subsequent to the 93d Congress will be discussed in detail in supplements to this edition. Changes in the 93d Congress provided that after the presence of a quorum is once ascertained, a point of order that a quorum is not present could not be made or entertained during the reading of the Journal, and Rule I clause I was amended in the 96th Congress to delete the requirement for the appearance of a quorum before approval of the Journal.

### *In General*

#### **§ 11.1 The Speaker having announced his approval of the Journal under Rule I clause 1,<sup>(18)</sup> a Member may cause an**

17. See § 11.5, *infra*.

18. See *House Rules and Manual* § 621 (1979).

#### **automatic roll call to be taken on the question of approval of the Journal by the House.**

On Oct. 14, 1972,<sup>(19)</sup> an automatic call of the House was taken on the question of approval of the Journal.<sup>(20)</sup>

THE SPEAKER:<sup>(1)</sup> The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

MR. [ROBERT C.] ECKHARDT [of Texas]: Mr. Speaker, I object.

THE SPEAKER: The question is on the approval of the Journal of the last day's proceedings.

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

MR. ECKHARDT: 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 Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 248, nays 3, not voting 180, as follows: . . .

19. 118 CONG. REC. 36361, 36362, 92d Cong. 2d Sess.

20. See also 117 CONG. REC. 28331, 28332, 92d Cong. 1st Sess., July 30, 1971, for another illustration of this principle.

1. Carl Albert (Okla.).

So the Journal of the last day's proceedings was approved.

**§ 11.2 Under earlier rules permitting such procedure, the House has adjourned before the Journal was read, pending a point of order that a quorum was not present.**

On Dec. 7, 1963,<sup>(2)</sup> the House adjourned before the Journal was read.

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer: . . .

MR. [WILLIAM K.] VAN PELT [of Wisconsin]: Mr. Speaker, I make the point of order that a quorum is not present. . . .

MR. [JOHN E.] MOSS [Jr., of California]: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 2 minutes p.m.) the House adjourned until Monday, December 9, 1963, at 12 o'clock noon. order

*Parliamentarian's Note:* Rule XXIV clause 1,<sup>(3)</sup> which prescribes the order of business, provides that business on the Speaker's table is not disposed of until the Journal has been read and approved. Executive communications on the Speaker's table on this oc-

2. 109 CONG. REC. 23751, 23752, 88th Cong. 1st Sess.

3. See *House Rules and Manual* § 878 (1979).

casions were held and referred on Dec. 9, 1963.

The House met on Saturday, Dec. 7, because the leadership had been informed that objection would be raised against any unanimous-consent request that the House adjourn from Friday to Monday. Meeting on Saturday fulfilled the "seven legislative days" requirement of Rule XXVII clause 4,<sup>(4)</sup> and made possible the filing of a discharge petition against House Resolution 574 (providing for consideration of H.R. 7152, the Civil Rights Act of 1963) on Monday, Dec. 9.

***Reading and Approval of the Journal***

**§ 11.3 The roll has been called to ascertain a quorum prior to reading the Journal.**

On Apr. 26, 1948,<sup>(5)</sup> a call of the House was ordered, before the Journal was read.

THE SPEAKER:<sup>(6)</sup> The Clerk will read the Journal.

MR. [ELLSWORTH B.] BUCK [of New York]: A point of order, Mr. Speaker. I make the point of order that a quorum is not present.

THE SPEAKER: Will the gentleman withhold his point of order until after the Journal is read?

4. See *House Rules and Manual* § 908 (1979).

5. 94 CONG. REC. 4834, 80th Cong. 2d Sess.

6. Joseph W. Martin, Jr. (Mass.).

MR. BUCK: I regret that I must insist on my point of order. Mr. Speaker.

THE SPEAKER: Will the gentleman withhold his point of order so that the Chair may swear in a new Member?

MR. BUCK: Yes, Mr. Speaker.

COMMUNICATION FROM THE CLERK OF  
THE HOUSE

The Speaker laid before the House the following communication from the Clerk of the House:

April 24, 1948.

The Honorable the SPEAKER,  
*House of Representatives.*

SIR: A certificate of election in due form of law showing the election of Hon. John Albert Whitaker as a Representative-elect to the Eightieth Congress from the Second Congressional District of the State of Kentucky, to fill the vacancy caused by the resignation of Hon. Earle C. Clements, is on file in this office.

Very truly yours,

JOHN ANDREWS,  
*Clerk of the  
House of Representatives.*

SWEARING IN OF MEMBER

Mr. [John A.] Whitaker [of Kentucky] appeared at the bar of the House and took the oath of office.

CALL OF THE HOUSE

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

THE SPEAKER: Obviously a quorum is not present.

MR. [CHARLES A.] HALLECK [of Indiana]: 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: . . .

THE SPEAKER: On this roll call, 351 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

The Journal of the proceedings of Thursday, April 22, 1948, was read and approved.

**§ 11.4 A quorum call prior to the reading of the Journal, and another quorum call during its reading in full, delayed further consideration of a bill.**

On Mar. 26, 1965,<sup>(7)</sup> a day scheduled for further consideration of H.R. 2362, the Elementary and Secondary Education Act of 1965, quorum calls were raised both before and during the reading of the Journal.<sup>(8)</sup>

THE SPEAKER:<sup>(9)</sup> The Clerk will read the Journal of the proceedings of yesterday.

CALL OF THE HOUSE

MR. [CHARLES E.] GOODELL [of New York]: Mr. Speaker, I make the point of order that a quorum is not present.

7. 111 CONG. REC. 6093-95, 89th Cong. 1st Sess.
8. Rule XV clause 6(c)(1), [*House Rules and Manual* §774c (1979)] adopted on Apr. 9, 1974, providing that after the presence of a quorum is once ascertained a further point of no quorum may not be entertained during the reading of the Journal, will be discussed in detail in supplements to this edition as they appear.
9. John W. McCormack (Mass.).

THE SPEAKER: The gentleman from New York makes the point of order before the Journal is read?

MR. GOODELL: I do, Mr. Speaker.

THE SPEAKER: The gentleman from New York makes the point of order that a quorum is not present. 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.

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

THE SPEAKER: On this rollcall 416 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

#### THE JOURNAL

The Clerk proceeded to read the Journal of the proceedings of yesterday.

MR. GLENN ANDREWS [of Alabama] (interrupting the reading of the Journal): Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The Chair will count. (After counting) 222 Members are present, a quorum.

The Clerk will continue the reading of the Journal.

The Clerk proceeded to read the Journal.

#### CALL OF THE HOUSE

MR. GLENN ANDREWS (interrupting reading of the Journal): Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. ALBERT: 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: . . .

THE SPEAKER: On this rollcall 397 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

**§ 11.5 After 33 calls of the House had delayed the reading and approval of the Journal, the House ordered the doors to the Chamber locked during a call of the House and ordered that they remain locked until disposition of pending business, the reading and approval of the Journal.**

The proceedings of the legislative day of Oct. 8, 1968, are shown elsewhere (see § 6.5, supra).

**§ 11.6 Parliamentarian's Note: Only the names of the Members who failed to respond on a quorum call were spread on the Journal and read in full when demand was made.**

The proceedings which took place on Sept. 13, 1965,<sup>(10)</sup> illustrate the procedures followed

10. 111 CONG. REC. 23598, 89th Cong. 1st Sess.

when demand was made that the Journal be read in full.<sup>(11)</sup>

### *Receipt of Messages*

#### **§ 11.7 A point of no quorum was made during the reading of the Journal and, at the request of the Chair, was withheld to permit the reception of a message from the Senate.**

On Aug. 27, 1962,<sup>(12)</sup> a point of no quorum was withheld to permit receipt of a message from the Senate.<sup>(1)</sup>

#### THE JOURNAL

THE SPEAKER:<sup>(2)</sup> The Clerk will read the Journal of the last day's proceedings.

The Clerk read as follows:

Journal of the proceedings of Thursday, August 23, 1962.

MR. [JOHN BELL] WILLIAMS [of Mississippi] (interrupting the reading of the Journal): Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Will the gentleman withhold the point of order to permit the Chair to receive a message?

11. For the current practice as to the reading of the Journal, see Ch. 5, *supra*.
12. 108 CONG. REC. 17651, 17652, 87th Cong. 2d Sess.
1. See also 108 CONG. REC. 19940, 87th Cong. 2d Sess., Sept. 19, 1962, for another illustration of this principle.
2. John W. McCormack (Mass.).

MR. WILLIAMS: I withhold the point of order. . . .

A message from the Senate by Mr. McGown, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2446. An act to provide that hydraulic brake fluid sold or shipped in commerce for use in motor vehicles shall meet certain specifications prescribed by the Secretary of Commerce. . . .

THE SPEAKER: The gentleman from Mississippi makes the point of order that a quorum is not present.

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.

#### **§ 11.8 Following completion of a call of the House, the Speaker received a message from the President before ordering the Clerk to resume reading the Journal.**

On Aug. 27, 1962,<sup>(3)</sup> Speaker John W. McCormack, of Massachusetts, permitted receipt of a Presidential message following completion of a call of the House and prior to resumption of reading of the Journal.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move that further proceedings under the call of the House be dispensed with. . . .

3. 108 CONG. REC. 17653, 87th Cong. 2d Sess.

THE SPEAKER: . . . The question is on the motion to dispense with further proceedings under the call.

The question was taken. . . .

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, I demand a division.

The House divided and there were—ayes 146, noes 19.

MR. WILLIAMS: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the motion was agreed to.

#### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Ratchford, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On August 20, 1962:

H.R. 12547. An act to amend the act of August 7, 1946, relating to the District of Columbia hospital center, to extend the time during which appropriations may be made for the purposes of that act. . . .

THE SPEAKER: The Clerk will proceed with the reading of the Journal.

The Clerk continued the reading of the Journal.

### ***Refusal of Point of No Quorum***

**§ 11.9 Although a point of no quorum may interrupt the reading of the Journal, the Speaker has refused to entertain a point of no quorum where a quorum has just**

**been established by a call of the House and where no further business has been transacted.**

On Jan. 22, 1971,<sup>(4)</sup> Speaker Carl Albert, of Oklahoma, refused to entertain a point of no quorum.

MR. [DONALD W.] RIEGLE [Jr., of Michigan]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. CHARLES H. WILSON [of California]: 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: . . .

THE SPEAKER: On this rollcall 373 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

#### THE JOURNAL

THE SPEAKER: The Clerk will proceed with the reading of the Journal.

MR. [JAMES C.] CLEVELAND [of New Hampshire]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: A quorum has just been established. There has been no business transacted.

The Clerk will proceed with the reading of the Journal.

4. 117 CONG. REC. 131, 92d Cong. 1st Sess.

## § 12. As Related to Prayer by the Chaplain and Messages

Rule XV clause 6(a), added to the rules on Apr. 9, 1974, now provides that a point of no quorum may not be entertained at certain times. It is not in order during the offering of the prayer or during the reception of any message from the President or Senate. While the new rule reflects prior practice, in part, precedents interpreting the new rule will appear in supplements to this edition.

### *Prayers*

#### § 12.1 A quorum is not required for prayer by the Chaplain at the opening of a session, and the Speaker does not recognize Members for such a point of order.

On Mar. 19, 1941,<sup>(5)</sup> Speaker Sam Rayburn, of Texas, made a ruling regarding the quorum requirement for opening prayer.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

5. 87 CONG. REC. 2351, 2352, 77th Cong. 1st Sess.

MR. RICH: Mr. Speaker, when I was seeking recognition from the Speaker before the Chaplain offered prayer, I felt that there would be a call of the House and I thought it would be a good thing for all the Members to be here for once to hear the Chaplain offer prayer. What does the Speaker think about that? Would it be proper procedure for a Member to make the point of order that a quorum is not present before the Chaplain offers prayer?

THE SPEAKER: As the Chair understands, it has been held many times that the prayer is not such business of the House that a quorum is required.

#### § 12.2 Because the prayer offered at the beginning of the business of the House is not considered as business, the Speaker does not recognize a point of order that a quorum is not present before the prayer.

On Aug. 4, 1950,<sup>(6)</sup> Speaker Sam Rayburn, of Texas, made a ruling regarding the offering of the prayer.<sup>(7)</sup>

The House met at 10 o'clock a.m.

THE SPEAKER: The Chaplain will offer prayer.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: We will have the prayer first, because that is not considered business.

6. 96 CONG. REC. 11829, 81st Cong. 2d Sess.

7. See also 92 CONG. REC. 3567, 79th Cong. 2d Sess., Apr. 12, 1946.

Prayer will be offered by the Chaplain.

### **Messages**

#### **§ 12.3 A quorum is required for the reading of messages and quorum calls may interrupt such readings.**

On Jan. 21, 1946,<sup>(8)</sup> the reading of the President's budget message was twice interrupted by quorum calls.

The Speaker pro tempore laid before the House the message of the President on the state of the Union and transmitting the Budget.

(For message, see p. 136 of the proceedings of the Senate of this date.)

MR. [ROBERT F.] RICH [of Pennsylvania] (interrupting the reading of the message): Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE:<sup>(9)</sup> The Clerk read a message from the President of the United States, and the Chair feels that an inquiry at this time should not be entertained.

MR. RICH: Mr. Speaker, I think it is wise that the membership of the House hear the President's message, and I make a point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: Evidently a quorum is not present.

MR. [ALBERT A.] GORE [of Tennessee]: 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: . . .

THE SPEAKER PRO TEMPORE: On this roll call 303 Members have answered to their names; a quorum is present.

By unanimous consent, further proceedings under the call were dispensed with.

The Clerk resumed the reading of the President's message.

MR. RICH (interrupting the reading of the President's message): Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: Evidently a quorum is not present.

MR. [ADOLPH J.] SABATH [of Illinois]: 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: . . .

THE SPEAKER PRO TEMPORE: Two hundred and fifty-four Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

The Clerk concluded the reading of the President's message.

*Parliamentarian's Note:* This message contained approximately 25,000 words and took about three hours to read.

#### **§ 12.4 Messages received by the Clerk during adjournments and forwarded to the Speaker are retained by the**

8. 92 CONG. REC. 164, 165, 79th Cong. 2d Sess.

9. John W. McCormack (Mass.).

**Speaker and not laid before the House until a quorum appears.**

On Aug. 22, 1960,<sup>(10)</sup> following establishment of a quorum, receipt of a message was announced.

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

AUGUST 15, 1960.

The Honorable the SPEAKER,  
*House of Representatives.*

SIR: I have the honor to transmit herewith a sealed envelope addressed to the Speaker of the House of Representatives from the President of the United States, received in the Clerk's office on August 1, 1960. . . .

The Speaker laid before the House the following message from the President of the United States, which was read, and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed with illustrations:

THE WHITE HOUSE, *July 29, 1960.*  
*To the Congress of the United States:*

I transmit herewith the 41st Report to Congress on Lend-Lease Operations for the calendar year 1959.

More details on this and other lend-lease items are contained in the report.

DWIGHT D. EISENHOWER.

(Enclosure: 41st Report to Congress on Lend-Lease Operations.)

*Parliamentarian's Note:* A message from the President, received

10. 106 CONG. REC. 17026, 17027, 86th Cong. 2d Sess.

by the Clerk while the Congress was adjourned to a day certain, was retained at the Speaker's table for one week after the House reconvened since the transaction of business was prevented by lack of a quorum.

Notwithstanding the reconvening of the House on Aug. 15, a quorum did not appear until Aug. 22 and the House adjourned from day-to-day from the 15th through the 19th, and, by unanimous consent, from the 19th to the 22d. No business was conducted until the 22d, except that a letter of resignation from a Member was laid before the House.

**§ 12.5 Messages from the President and the Senate may be received in the absence of a quorum, pending a motion for a call of the House.**

On Oct. 8, 1968,<sup>(11)</sup> messages from the President and Senate were received pending a call of the House.

MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER:<sup>(12)</sup> Evidently a quorum is not present.

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

11. 114 CONG. REC. 30091, 90th Cong. 2d Sess.

12. John W. McCormack (Mass.).

THE SPEAKER: At this time the Chair will receive a message.

MESSAGE FROM THE PRESIDENT

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

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 8781. An act to authorize the Secretary of the Interior to exchange certain lands in Shasta County, Calif., and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 653) entitled "An act to amend the Tariff Schedules of the United States with respect to the rate of duty on certain nonmalleable iron castings." . . .

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 286 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

**§ 12.6 Messages from the President and the Senate, though they may be received in the absence of a quorum during a call of the House are not**

**read until a quorum is present.**

On Oct. 11, 1968,<sup>(13)</sup> messages were received, as follows:

THE SPEAKER:<sup>(14)</sup> The gentleman from Ohio insists upon his point of order that a quorum is not present, and 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.

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

During the call of the roll a message was received from the President of the United States and from the Senate.

THE SPEAKER: One hundred eighty-eight Members are present, not a quorum. . . .

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

The motion was agreed to; accordingly (at 7 o'clock and 53 minutes p.m.), the House adjourned until tomorrow, Saturday, October 12, 1968, at 12 o'clock noon.

*Parliamentarian's Note:* On Oct. 12, 1968,<sup>(15)</sup> immediately after the opening prayer and reading of the Journal, these messages were read and referred:

A message from the Senate by Mr. Arrington, one of its clerks, announced

13. 114 CONG. REC. 30816, 30817, 90th Cong. 2d Sess.
14. John W. McCormack (Mass.).
15. 114 CONG. REC. 31116, 31117, 90th Cong. 2d Sess.

that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 11394. An act to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes.  
 . . .

The Speaker laid before the House the following message from the Presi-

dent of the United States, which was received October 11; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor and ordered to be printed with illustrations:

*To the Congress of the United States:*

I am pleased to transmit the Third Annual Report of the Office of Economic Opportunity

### C. OBJECTIONS TO ABSENCE OF A QUORUM; POINTS OF NO QUORUM

#### § 13. In General; Timeliness and Diligence

Recently adopted provisions in Rule XV clause 6 specify certain times or circumstances in which a point of no quorum cannot be made or entertained and enumerate others where, once the presence of a quorum has been ascertained, the point of no quorum may not be entertained.— Certain parts of clause 6 reflect and incorporate existing precedents concerning points of no quorum; others are new and further restrict the use of the point of order that a quorum is not present. These provisions will be discussed in the supplements to this chapter as they appear.<sup>(16)</sup>

16. See also § 10, *supra*, for a discussion of proceedings which do and do not require a quorum.

The precedents which follow must be considered in the light of the changes to Rule XV adopted since April 1974.

Although it is clear that an objection to a vote because of the absence of a quorum comes too late after the motion to reconsider has been laid on the table,<sup>(1)</sup> whether an objection is timely when made following the announcement of a vote depends on several factors. For example, points of no quorum have been held to be timely and in order when made after the Chair announced his opinion that the yeas on a voice vote prevailed but before the House proceeded to other business;<sup>(2)</sup> after a parliamentary inquiry which immediately followed announcement of the number who voted on a divi-

1. §§ 13.23–13.25, *infra*.

2. § 13.16, *infra*.

sion vote<sup>(3)</sup> and after refusal of a yea and nay vote which followed a division.<sup>(4)</sup>

### *In General*

**§ 13.1 A sufficient number having stood to order the yeas and nays, but prior to the start of the roll call, the Speaker pro tempore recognized a Member who had shown due diligence to object to a vote on the ground of no quorum, thus causing the roll call to be automatic.**

On Feb. 18, 1943,<sup>(5)</sup> during consideration of House Resolution 124, to appropriate funds for the Select Committee to Investigate Un-American Activities, the Chair caused the call to be automatic.

THE SPEAKER PRO TEMPORE:<sup>(6)</sup> The question is on the resolution.

The question was taken; and on a division (demand by Mr. Dickstein and Mr. Kennedy) there were—ayes 133, noes 29.

Mr. [Samuel] Dickstein [of New York] rose.

MR. [LEO E.] ALLEN of Illinois: Mr. Speaker, I demand the yeas and nays.

THE SPEAKER PRO TEMPORE: The gentleman from Illinois demands the

3. § 13.18, *infra*.

4. § 13.19, *infra*.

5. 89 CONG. REC. 1111, 78th Cong. 1st Sess.

6. Jere Cooper (Tenn.).

yeas and nays. Those in favor of ordering the yeas and nays will rise and stand until counted.

Evidently, a sufficient number.

MR. DICKSTEIN: Mr. Speaker, I was on my feet making a point of order that a quorum is not present, and I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: Evidently a quorum is not present. The call is automatic.

**§ 13.2 The fact that a Member is on his feet does not constitute notice to the Chair that he is seeking recognition to object to a vote on the ground that a quorum is not present.**

On Oct. 5, 1962,<sup>(7)</sup> during consideration of S. 1447, to amend the Teachers' Salary Act for the District of Columbia, Speaker John W. McCormack, of Massachusetts, ruled on the proper procedure to raise a point of no quorum.

THE SPEAKER: The question is on the committee amendment.

The committee amendment was agreed to.

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

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Speaker, I object to the

7. 108 CONG. REC. 22649, 87th Cong. 2d Sess.

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 bill has already passed.

MR. FULTON: Mr. Speaker, I was on my feet.

THE SPEAKER: The Chair will state that if a Member is on his feet, that is insufficient. The gentleman did not address the Chair.

**§ 13.3 The action of the House in passing a bill was, by unanimous consent, vacated when a Member insisted that he had been on his feet seeking recognition to object to the vote on the ground that a quorum was not present.**

On Oct. 5, 1962,<sup>(8)</sup> during consideration of S. 1447, to amend the Teachers' Salary Act for the District of Columbia, Speaker John W. McCormack, of Massachusetts, ordered the proceedings vacated after a Member insisted that he had timely sought recognition to raise a point of no quorum.

MR. [JAMES G.] FULTON [of Pennsylvania]: 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 bill has already passed.

MR. FULTON: Mr. Speaker, I was on my feet.

8. 108 CONG. REC. 22649, 87th Cong. 2d Sess.

THE SPEAKER: The Chair will state that if a Member is on his feet, that is insufficient. The gentleman did not address the Chair.

MR. FULTON: I was saying "Mr. Speaker," and was not heard. I was on my feet.

THE SPEAKER: If the gentleman asks unanimous consent to vacate the action, the Chair will entertain a request. But the passage of the bill had been completed.

MR. FULTON: Mr. Speaker, I was on my feet addressing the Speaker, but I was not recognized.

THE SPEAKER: The Chair does not know what is in the gentleman's mind when the gentleman is on his feet.

MR. FULTON: I was saying "Mr. Speaker," right straight through. I am sure it is the custom of the House to be recognized when a point of order is being made.

THE SPEAKER: Without objection, the action whereby the bill was passed will be vacated.

There was no objection.

**§ 13.4 A point of no quorum (made following announcement of a division vote on an amendment, totaling less than a quorum) does not precipitate an automatic roll call under Rule XV clause 4<sup>(9)</sup> unless an objection to the vote on the ground that a quorum is not present is made and sustained.**

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

On Feb. 21, 1967,<sup>(10)</sup> during consideration of House Resolution 83, authorizing the Committee on Agriculture to make studies and investigations within its jurisdiction, a quorum call—and not an “automatic” vote under Rule XV clause 4—preceded the Chair’s putting the question on the next motion, ordering the previous question.<sup>(11)</sup>

THE SPEAKER:<sup>(12)</sup> The question is on agreeing to the committee amendments.

The question was taken; and on a division (demanded by Mr. Jones of Missouri), there were—ayes 34, noes 13.

So the committee amendments were agreed to.

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

THE SPEAKER: Does the gentleman make the straight point of order that a quorum is not present?

MR. JONES OF MISSOURI: Mr. Speaker, the gentleman makes the point of order. I want to get a quorum here and then I will have a division.

10. 113 CONG. REC. 4139, 4140, 90th Cong. 1st Sess.

11. Note: Representative Paul C. Jones (Mo.), intended to demand a second division vote on the amendments following the quorum call. During the call he was advised that a vote *de novo* would not be in order; consequently, he did not press the point after the quorum had been established.

12. John W. McCormack (Mass.).

THE SPEAKER: The gentleman from Missouri makes the point of order that a quorum is not present.

The Chair will state that the vote is automatic at this point.

MR. JONES OF MISSOURI: The vote on the resolution is not automatic. At this point we are only voting on the amendments.

THE SPEAKER: Does the gentleman from Missouri make the point of order that a quorum is not present and objects to the vote on the ground that a quorum is not present?

Evidently, a quorum is not present.

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

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. HALL: Mr. Speaker, the parliamentary inquiry is whether or not the gentleman from Missouri did object to the vote on the basis that a quorum was not present as was stated by the Speaker.

THE SPEAKER: The Chair would like to understand clearly what the gentleman from Missouri is demanding.

Is the gentleman from Missouri demanding a straight quorum call?

MR. JONES OF MISSOURI: I was demanding a straight quorum call, and then I am going to ask for a division when we come to adopting the resolution.

THE SPEAKER: Evidently a quorum is not present.

#### CALL OF THE HOUSE

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: . . .

THE SPEAKER: On this rollcall, 323 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, I move the previous question.

THE SPEAKER: The question is on ordering the previous question.

The question was taken, and on a division (demanded by Mr. Jones of Missouri) there were—ayes 87, noes 35.

MR. JONES of Missouri: 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 230, nays 85, not voting 117, as follows: . . .

So the previous question was ordered. . . .

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

The question was taken, and on a division (demanded by Mr. Jones of Missouri) there were—ayes 128, noes 25.

MR. JONES of Missouri: 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 gentleman from Missouri objects to the vote on the

ground that a quorum is not present, and makes the point of order that a quorum is not present.

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.

**§ 13.5 Where objection was made to a vote on the ground that a quorum was not present, the Speaker, without ruling on the point of no quorum and pursuant to a special order, declared that further proceedings would be put over until the following day.**

**An objection to a vote on the ground that a quorum is not present takes precedence of a demand for tellers on such question.**

On May 4, 1966,<sup>(13)</sup> during consideration of H.R. 14745, appropriations measures for the Departments of Labor and Health, Education, and Welfare for fiscal year 1967, Speaker John W. McCormack, of Massachusetts, ruled on the precedence of a point of no quorum over a demand for tellers.

MR. [FRANK T.] BOW [of Ohio]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the bill?

13. 112 CONG. REC. 9838, 9839, 89th Cong. 2d Sess.

MR. BOW: I am, Mr. Speaker.

THE SPEAKER: The Clerk will report the motion to recommit. . . .

THE SPEAKER: The question is on the motion to recommit.

MR. BOW: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

THE SPEAKER: The question is on the passage of the bill.

MR. BOW: 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: Under the order of the House of May 3, further proceedings will be postponed until tomorrow.<sup>(14)</sup>

MR. [MELVIN R.] LAIRD [of Wisconsin]: Mr. Speaker, is this on the motion to recommit, or on passage?

THE SPEAKER: This is on passage.

MR. LAIRD: That is what I thought, Mr. Speaker.

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

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. GERALD R. FORD: As I understood it, the question was on the motion to recommit.

Mr. Speaker, in all sincerity, it did not appear to me that the motion to recommit had been put to the House.

14. On May 3, 1966, the House agreed by unanimous consent to postpone roll calls, except on procedural matters, from Wednesday, May 4, 1966, to Thursday, May 5, 1966, to permit Members to attend the funeral of Senator Patrick V. McNamara (Mich.). See 112 CONG. REC. 9686, 89th Cong. 2d Sess., May 3, 1966.

The gentleman from Ohio was on his feet and the assumption was, from that fact, that he was objecting to the vote on the motion to recommit.

THE SPEAKER: The Chair will always try to protect the intent of a Member. Without objection, the question will be on the motion to recommit, and under the order of May 3, that vote will go over to tomorrow.

MR. [JOHN E.] FOGARTY [of Rhode Island]: Mr. Speaker, I ask for tellers on the motion to recommit.

THE SPEAKER: The Chair will state that the Chair has already announced that under the order of May 3, the vote will go over until tomorrow.

MR. FOGARTY: Is a teller vote a record vote?

THE SPEAKER: The Chair has already passed upon the demand of the gentleman from Ohio who objected to the vote on the ground that a quorum was not present and made the point of order that a quorum was not present on the motion to recommit. The Chair has already passed on that and stated that under the order of May 3, the vote is postponed for further consideration until tomorrow.

MR. FOGARTY: Mr. Speaker, a parliamentary inquiry, then.

THE SPEAKER: Does the gentleman from Ohio withdraw his point of order of no quorum?

MR. BOW: Yes, Mr. Speaker, I do at this point.

THE SPEAKER: Then, the vote on the motion to recommit will go over until tomorrow.

MR. FOGARTY: Mr. Speaker, I would expect the same consideration on this side as was given to the gentleman from Ohio when it was too late on his

motion to recommit. I have been standing on my feet trying to get recognized for a teller vote. I would expect the same consideration be given to me as was given to the opposition. I was trying to demand tellers all the time and I was not recognized. All I ask for is the same consideration as was given to the gentleman from Ohio.

THE SPEAKER: The Chair will state that the Chair has made its ruling that under the order of May 3 further proceedings will go over on the motion to recommit and on the final passage of the bill until tomorrow.

MR. FOGARTY: I never realized a teller vote was a record vote.

THE SPEAKER: The point of order that no quorum was present had been made by the gentleman from Ohio. The Chair will advise the gentleman from Rhode Island that that point of order takes precedence.

MR. FOGARTY: I was trying to get recognized before the point of order of no quorum was made and before the decision of the Chair was made in favor of the gentleman from Ohio and against the gentleman from Rhode Island.

THE SPEAKER: The point of order of no quorum, the Chair will state, takes precedence over the demand for tellers and the gentleman from Ohio has made the point of order of no quorum.

MR. FOGARTY: The only point I make is I think the Chair ruled in favor of the gentleman from Ohio and against the gentleman from Rhode Island. That is the way it seems to me. If the Chair insists on it, there is not anything I can do about it. I just want my views known and expressed. That is the way I feel about it.

THE SPEAKER: The motion to recommit is the right of the minority, and if the member of the minority seeks recognition and is qualified, then he is recognized. The gentleman from Ohio pursued his rights in demanding a call by the yeas and nays. An insufficient number rose. The gentleman from Ohio then made a point of order that a quorum was not present and objected to the vote on that ground. The Chair has already made its ruling that under the order of May 3, further proceedings under the call are postponed until tomorrow.

MR. FOGARTY: How am I to know that a quorum is not present?

THE SPEAKER: The Chair counted. The Chair is aware of the number.

MR. FOGARTY: I assumed that the Chair counted the necessary number for a rollcall vote and found an insufficient number arose for that purpose but not for the purpose of establishing a quorum.

That was my understanding of the Chair at that time.

THE SPEAKER: The Chair will repeat for the benefit of the gentleman from Rhode Island [Mr. Fogarty] that in accordance with the order of May 3, further consideration at this stage of the bill is postponed until tomorrow on a motion to recommit. That is the status of the matter and there is nothing left which the Chair can say.

*Parliamentarian's Note:* After objection to a vote on the ground that a quorum is not present has been made and, pursuant to previous agreement, the vote put over to the following day, a demand for tellers on the propo-

sition is not in order because the question is no longer before the House.

### *During Debate*

#### **§ 13.6 A point of no quorum may interrupt a Member in debate.**

On July 29, 1935,<sup>(15)</sup> Louis Ludlow, of Indiana, Speaker pro tempore, indicated that debate in the House could not proceed if a point of no quorum were made and sustained and that a point of no quorum could interrupt a Member who held the floor in debate.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, the gentleman is making a very good speech; therefore I make the point of order there is not a quorum present.

MR. [SAMUEL B.] PETTENGILL [of Indiana]: Mr. Speaker, I make the point that the gentleman cannot make a point of no quorum while the gentleman from Maryland is speaking.

THE SPEAKER PRO TEMPORE: The Chair will count.

MR. [HENRY B.] STEAGALL [of Alabama]: Mr. Speaker, the gentleman from Maryland has not yielded for a point of no quorum.

THE SPEAKER PRO TEMPORE: The Chair will state that a quorum must be present before any business may be transacted.

*Parliamentarian's Note:* See Rule XV clause 6 and interpreta-

15. 79 CONG. REC. 12017, 74th Cong. 1st Sess.

tions of that rule in supplements to this edition to the effect that debate is not business of the House under that rule as amended.

#### **§ 13.7 A point of no quorum may interrupt a Member having the floor in debate.**

On July 2, 1940,<sup>(1)</sup> Speaker William B. Bankhead, of Alabama, alluded to the constitutional question raised by a point of no quorum.

MR. [J. PARNELL] THOMAS of New Jersey: Mr. Speaker, I make a point of order that there is not a quorum present.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I do not yield for that purpose.

THE SPEAKER: The point of no quorum is a constitutional question at all times. Does the gentleman from New Jersey insist upon his point of order?

MR. THOMAS of New Jersey: I do.

THE SPEAKER: The Chair will count. [After counting.] One hundred and sixty-three Members are present, not a quorum.

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

A call of the House was ordered.

#### **§ 13.8 A point of no quorum is a privileged matter and is in**

1. 86 CONG. REC. 9189, 76th Cong. 3d Sess.

**order at any time, even when a Member has the floor in debate.**

On May 4, 1949,<sup>(2)</sup> during consideration in the Committee of the Whole of H.R. 3989, to incorporate the Virgin Islands Corporation, the Chairman, Henry M. Jackson, of Washington, made a ruling regarding the privileged nature of a point of no quorum.<sup>(3)</sup>

MR. [FRED L.] CRAWFORD [of Michigan]: Mr. Chairman, I yield 10 minutes to the gentleman from Nebraska [Mr. Miller].

MR. [DONALD W.] NICHOLSON [of Massachusetts]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. NICHOLSON: Is it in order to move that the Committee adjourn?

THE CHAIRMAN: That motion is not in order in Committee. . . .

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

MR. [MONROE M.] REDDEN [of North Carolina]: Mr. Chairman, I have not heard the gentleman from Massachusetts ask the gentleman from Nebraska to yield and therefore suggest that the gentleman from Massachusetts is out of order.

THE CHAIRMAN: The Chair will state that a point of order based on no

2. 95 CONG. REC. 5616, 5617, 81st Cong. 1st Sess.

3. See also 95 CONG. REC. 9312, 81st Cong. 1st Sess., July 12, 1949; and 79 CONG. REC. 1868, 74th Cong. 1st Sess., July 29, 1935.

quorum is a privileged matter and is in order at any time.

**§ 13.9 A point of no quorum may be made while a Member is occupying the floor in debate; in the event there is no quorum, the right of the Member to the floor is suspended until a quorum is secured.**

On Mar. 25, 1937,<sup>(4)</sup> Speaker William B. Bankhead, of Alabama, stated the procedure when a quorum is not present.

MR. [SCOTT W.] LUCAS [of Illinois]: Mr. Speaker, will the gentleman yield?

MR. [RALPH E.] CHURCH [of Illinois]: When I finish my statement, please.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: I demand the gentleman be protected in his rights.

THE SPEAKER: The gentleman has declined to yield.

MR. [FRANK E.] HOOK [of Michigan]: Mr. Speaker, I make the point of no quorum.

THE SPEAKER: The gentleman from Michigan makes the point there is no quorum present. The Chair will count. [After counting.] One hundred and ten Members are present, not a quorum.

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, I move that the House do now adjourn.

MR. [ADOLPH J.] SABATH [of Illinois]: Mr. Speaker, will the gentleman yield?

MR. RAYBURN: No business can be conducted in the absence of a quorum.

4. 81 CONG. REC. 2793, 75th Cong. 1st Sess.

MR. SABATH: I should like to answer these despicable statements.

THE SPEAKER: The gentleman from Texas moves the House do now adjourn.

MR. CHURCH: I will yield to the gentleman. I want to be fair.

THE SPEAKER: No business of any character can be transacted during the absence of a quorum. It raises a constitutional question. A quorum is not present. The gentleman from Texas has moved that the House do now adjourn, which is not a debatable motion.

The question was taken; and the Speaker announced that the ayes had it.

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Speaker, I ask for the yeas and nays.

THE SPEAKER: The gentleman from New York demands the yeas and nays.

The yeas and nays were refused.

So the motion to adjourn was agreed to.

### *During Special Order*

#### **§ 13.10 A point of no quorum interrupted a Member who was speaking under a special order following the business of the day.**

On Sept. 22, 1965,<sup>(5)</sup> a call of the House interrupted a special order.<sup>(6)</sup>

5. 111 CONG. REC. 24716, 24717, 89th Cong. 1st Sess.

6. 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

THE SPEAKER:<sup>(7)</sup> Under previous order of the House the gentleman from New York [Mr. Multer] is recognized for 20 minutes.

MR. [ABRAHAM J.] MULTER: Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include extraneous matter.

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

There was no objection.

MR. MULTER: Mr. Speaker, as the Members of the House well know, for many long days and hours the gentleman from New York [Mr. Horton], the gentleman from Maryland [Mr. Mathias], the gentleman from Maryland [Mr. Sickles], and I have been engaged in a bipartisan effort to bring to the District of Columbia home rule which will be meaningful home rule to the District. . . .

MR. [JOE D.] WAGGONER [Jr., of Louisiana]: 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.

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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.

7. John W. McCormack (Mass.).

***During Reading of Resolution*****§ 13.11 A point of no quorum may interrupt the reading of a resolution.**

On Mar. 1, 1967,<sup>(8)</sup> reading of a privileged resolution was interrupted.<sup>(9)</sup>

MR. [EMANUEL] CELLER [of New York]: Mr. Speaker, pursuant to House Resolution 1, I call up for immediate consideration the following privileged resolution, House Resolution 278, which is at the Clerk's desk.

The Clerk read the resolution, as follows:

Whereas,

The Select Committee appointed pursuant to H. Res. 1 (90th Congress) has reached the following conclusions:

First, Adam Clayton Powell possesses the requisite qualifications of age, citizenship and inhabitancy for membership in the House of Representatives. . . .

MR. [PORTER] HARDY [Jr., of Virginia] (during reading of H.R. 278): Mr. Speaker, I make the point of order that a quorum is not present.

8. 113 CONG. REC. 4997, 90th Cong. 1st Sess. Compare §13.28, *infra*, where the Chair refused to permit a point of no quorum during the reading of a resolution called up immediately following the establishment of a quorum.
9. See also 111 CONG. REC. 26727, 26728, 89th Cong. 1st Sess., Oct. 12, 1965; and 92 CONG. REC. 10639, 10640, 79th Cong. 2d Sess., Aug. 1, 1946

THE SPEAKER:<sup>(10)</sup> 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.

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

THE SPEAKER: On this rollcall 420 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with. . . .

THE SPEAKER: The Clerk will resume the reading of the resolution.

**§ 13.12 A Member may make a point of no quorum during the reading of a privileged resolution.**

On July 31, 1946,<sup>(11)</sup> Speaker Sam Rayburn, of Texas, ruled on the propriety of interrupting the reading of a privileged resolution relating to contempt of a witness.<sup>(12)</sup>

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I send to the Clerk's desk a privileged resolution.

THE SPEAKER: The Clerk will report the resolution.

10. John W. McCormack (Mass.).
11. 92 CONG. REC. 10592, 79th Cong. 2d Sess.
12. But see §13.28, *infra*, for a precedent in which the point of no quorum was not permitted during the reading of a privileged resolution called up immediately after establishment of a quorum by a call of the House.

The Clerk read the resolution, as follows:

*Resolved*, That the Speaker of the House of Representatives certify the foregoing report of the House Committee on Un-American Activities as to the willful and deliberate refusal of the following persons to produce before the said committee for its inspection certain books, papers, and records.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a point of order. I make the point of order that a quorum is not present.

MR. RANKIN: Mr. Speaker, I make the point of order that the gentleman is interrupting the reading of a resolution that is privileged.

MR. MARCANTONIO: That is just too bad.

THE SPEAKER: The resolution is privileged but a Member may make a point of no quorum at any time.

Evidently there is no quorum present.

Without objection, a call of the House is ordered.

There was no objection.

### ***Effect of Postponing Roll Calls***

#### **§ 13.13 An agreement to postpone roll call votes until a time certain would not preclude a point of order of no quorum prior to that time.**

On July 30, 1970,<sup>(13)</sup> Speaker John W. McCormack, of Massachusetts, answered a parliamen-

13. 116 CONG. REC. 26525, 26526, 91st Cong. 2d Sess.

tary inquiry relating to the effect of an agreement to postpone roll calls.

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

THE SPEAKER: The gentleman will state it.

MR. HALL: Mr. Speaker, in the opinion of the Chair, is the unanimous consent restriction on quorum calls and on votes put over until after 4 p.m. today, anent the return of those who would honor our departed colleague still in effect inasmuch as they have returned, and many of them are now on the floor?

THE SPEAKER: The gentleman will restate his parliamentary inquiry.

MR. HALL: Mr. Speaker, may I inquire, in view of the fact that there was an agreement as to quorum calls and rollcalls, whether or not we may see by a quorum call whether we have a quorum on the floor, in view of the importance of this bill, and in view of the fact that it was not scheduled, and in view of the fact that we were deferring until our colleagues returned from Ohio and the services for our departed colleague, Mike Kirwan.

THE SPEAKER: The Chair will state there is no agreement that would prevent a point of order that a quorum is not present.

The Chair will further state that the action taken has been with the understanding of the leadership on both sides and with the further understanding that general debate on the bill will terminate at 4 o'clock.

MR. HALL: Mr. Speaker, I appreciate the statement of the Chair. The Chair

has answered my question. I thoroughly understand the problem, and I am interested in expediting the business of this House, but because of the importance of this bill and the national interest, I make the point of order that a quorum is not present.

MR. [WRIGHT] PATMAN [of Texas]: Mr. Speaker, will the gentleman withhold his point of order so I may ask a question?

MR. HALL: I will withhold my point of order.

MR. PATMAN: Mr. Speaker, the understanding is that we will go ahead and at 4 o'clock we will stop, and then we will have the rollcalls, and then the question of proceeding will take place after that.

MR. HALL: Mr. Speaker, I appreciate that, but the importance as brought out during the discussion of the rule far transcends the importance of a lapsed agreement, or stopping at any time certain to resume the other rollcalls. I believe Members should be here and hear whether we should have a teller vote on whether we go into session, so I let my point of order stand.

THE SPEAKER: The gentleman insists on his point of order?

MR. HALL: I do, Mr. Speaker.

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

THE SPEAKER: Evidently a quorum is not present.

MR. [HENRY S.] REUSS [of Wisconsin]: 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: . . .

THE SPEAKER: On this rollcall 335 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

### *During Reading of Journal*

#### **§ 13.14 A point of no quorum is in order during the reading of the Journal.**

On Dec. 18, 1970,<sup>(14)</sup> the Speaker pro tempore ruled that the reading of the Journal could be interrupted by a point of no quorum.<sup>(15)</sup>

THE SPEAKER:<sup>(16)</sup> The Clerk will proceed with the reading of the Journal.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, I demand that the Journal be read in full.

The Clerk proceeded to read the Journal of the proceedings of yesterday. . . .

MR. [H. R.] GROSS [of Iowa] (during the reading): Mr. Speaker, I make the point of order that a quorum is not present.

14. 116 CONG. REC. 42505, 91st Cong. 2d Sess.

15. 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 the reading of the Journal and the deletion of the requirement for the appearance of a quorum before approval of the Journal in the 96th Congress on Jan. 15, 1979.

16. John W. McCormack (Mass.).

THE SPEAKER PRO TEMPORE:<sup>(17)</sup> The Chair will count. . . .

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Speaker, a parliamentary inquiry.

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

MR. STRATTON: Mr. Speaker, is it in order for a Member to be recognized during the reading of the Journal which is a highly privileged document which we all want to hear in full?

THE SPEAKER PRO TEMPORE: The Chair will inform the distinguished gentleman from New York that a point of order that a quorum is not present is always in order.

A quorum is not present.

MR. [CLAUDE D.] PEPPER [of Florida]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

**§ 13.15 The reading of the Journal was interrupted by a point of no quorum and a call of the House.**

On Nov. 3, 1967,<sup>(18)</sup> the following proceedings took place:

THE SPEAKER:<sup>(19)</sup> The Clerk will read the Journal of the proceedings of Thursday, November 2, 1967.

The Clerk began the reading of the Journal. . . .

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

- 17. William J.B. Dorn (S.C.).
- 18. 113 CONG. REC. 31081, 90th Cong. 1st Sess.
- 19. 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.

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

THE SPEAKER: On this rollcall 298 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

***After Announcement of Voice Vote***

**§ 13.16 Objection to a vote in the House under Rule XV clause 4,<sup>(20)</sup> does not come too late after the Chair has announced his opinion of the voice vote on that question but before the House has proceeded to further business.**

On Sept. 28, 1972,<sup>(1)</sup> during consideration of H.R. 13694, the American Revolution Bicentennial Commission amendments, Speaker pro tempore Chet Holifield, of California, ruled on the timeliness of a point of no quorum.

The Clerk reread the amendment.

- 20. See *House Rules and Manual* § 773 (1979).
- 1. 118 CONG. REC. 32766, 92d Cong. 2d Sess.

THE SPEAKER PRO TEMPORE: The question is on the amendment.

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

MR. [LAWRENCE G.] WILLIAMS [of Pennsylvania]: 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.

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

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

MR. GERALD R. FORD: Mr. Speaker, I believe that the request of the gentleman from Pennsylvania (Mr. Williams), for a rollcall vote comes too late.

THE SPEAKER PRO TEMPORE: The Chair will state that the Chair had announced his opinion of the vote, but had not proceeded to the next question. Does the gentleman from Pennsylvania insist upon his point of order that a quorum is not present and object to the vote on the ground that a quorum is not present?

MR. WILLIAMS: I do, Mr. Speaker.

THE SPEAKER PRO TEMPORE: Evidently a quorum is not present.

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

The question was taken; and there were—yeas 145, nays 182, not voting 103.

### ***After Permission to Extend Remarks***

#### **§ 13.17 A second point of order that a quorum is not present**

#### **is in order after intervening business such as permission to extend remarks in the Record.**

On June 4, 1951,<sup>(2)</sup> The Speaker pro tempore, J. Percy Priest, of Tennessee, ruled that a second point of no quorum was in order.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, I make the point of order a quorum is not present.

THE SPEAKER PRO TEMPORE: Evidently a quorum is not present.

MR. [JERE] COOPER [of Tennessee]: 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: . . .

THE SPEAKER PRO TEMPORE: On this roll call 242 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with. . . .

Mr. Harrison of Virginia asked and was given permission to extend his remarks in two instances and include extraneous matter. . . .

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Speaker, I make the point of order that a quorum is not present. . . .

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

2. 97 CONG. REC. 6096, 6097, 82d Cong. 1st Sess.

MR. HALLECK: Mr. Speaker, in view of the fact that a call of the House has just disclosed the presence of a quorum, is not the point of order sought to be made by the gentleman from Pennsylvania out of order at this time?

THE SPEAKER PRO TEMPORE: The Chair may say that some business has been transacted since the quorum was announced by the Chair.

MR. EBERHARTER: Mr. Speaker, I renew my point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: The Chair will count. [After counting.] One hundred and forty-one Members are present, not a quorum.

MR. [MIKE] MANSFIELD [of Montana]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

***Preceded by Parliamentary Inquiry***

**§ 13.18 Even though the Chair entertains a parliamentary inquiry following announcement of a vote by division, an objection to a vote on the grounds that a quorum was not present and voting does not come too late and is in order.**

On Mar. 7, 1956,<sup>(3)</sup> during consideration of amendments to H.R. 9739, making appropriations for executive bureaus and agencies

3. 102 CONG. REC. 4215, 4216, 84th Cong. 2d Sess.

for the fiscal year ending June 30, 1957, Speaker pro tempore John W. McCormack, of Massachusetts, ruled on the timeliness of a point of no quorum.

THE SPEAKER PRO TEMPORE: The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Page 18, strike out lines 14 through 20.

THE SPEAKER PRO TEMPORE: The question is on the amendment.

The question was taken; and the Chair being in doubt, the Committee divided and there were ayes 17, noes 31.

MR. [GORDON] CANFIELD [of New Jersey]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. CANFIELD: Is it too late to request that that amendment be read to the House?

THE SPEAKER PRO TEMPORE: The Chair will state that the amendment was read to the House.

MR. CANFIELD: Mr. Speaker, in all frankness, I do not believe that many Members knew what they were voting on.

THE SPEAKER PRO TEMPORE: The amendment was read. The Chair assumes every Member present was aware of the content of the amendment.

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.

MR. [JOHN] TABER [of New York]: Mr. Speaker, I make the point of order that the gentleman's point comes too late. There was a parliamentary inquiry submitted since the division.

THE SPEAKER PRO TEMPORE: The gentleman from New Jersey [Mr. Canfield] addressed the Chair on a point of order. The gentleman from Iowa [Mr. Gross] was justified in waiting until that point of order had been determined by the Chair. Immediately upon that determination the gentleman from Iowa made the point of order that a quorum was not present and objected to the vote on the ground that a quorum was not present. The Chair feels that the gentleman from Iowa exercised his rights under the rules in such manner that a point of order against his point of order would not lie.

Evidently a quorum is not present.

***After Division Vote and Rejection of Yeas and Nays***

**§ 13.19 Less than a quorum having voted on a division, and a yea and nay vote having been refused, it is not too late to object to the division vote on the ground that a quorum is not present.**

On June 1, 1942,<sup>(4)</sup> Speaker Sam Rayburn, of Texas, ruled on the timeliness of a point of no quorum.

THE SPEAKER: The gentleman's time has expired. All time has expired. The

4. 88 CONG. REC. 4767, 4774, 77th Cong. 2d Sess.

question is, Will the rules be suspended and the bill passed?

The question was taken; and on a division (demanded by Mr. Dingell) there were ayes 85 and noes 121.

MR. [MIKE] MANSFIELD [of Montana]: Mr. Speaker, I ask for the yeas and nays.

THE SPEAKER (after counting): Eighteen Members have arisen; not a sufficient number.

The yeas and nays were refused.

MR. [HERMAN P.] KOPPLEMANN [of Connecticut]: Mr. Speaker, I raise the point of order that there is no quorum present, and I object to the vote on that ground.

THE SPEAKER: The Chair will count.

MR. [ALBERT E.] CARTER [of California]: Mr. Speaker, I make the point of order that the gentleman's point of order comes too late.

THE SPEAKER: The Chair will hold that it does not come too late. The Chair will count. [After counting.] More than 218 Members are present, a quorum.

So, two-thirds not having voted in favor thereof, the motion to suspend the rules and pass the bill was rejected.

***After Division Vote***

**§ 13.20 Objection to a voice vote for lack of a quorum having been withdrawn and demand then being made for a division, an objection to the division vote for lack of a quorum is in order and, if a quorum is not present, the roll call is automatic.**

On Feb. 5, 1957,<sup>(5)</sup> during consideration of H.R. 4249, to make appropriations for the fiscal year ending June 30, 1957, an automatic roll call took place.

THE SPEAKER:<sup>(6)</sup> The Clerk will report the amendment on which a separate vote is demanded. . . .

THE SPEAKER: The question is on the amendment.

The question was taken and the Speaker announced that the "ayes" had it.

MRS. [EDITH S.] GREEN of Oregon: Mr. Speaker, I object to the vote on the ground a quorum is not present.

THE SPEAKER: The Chair will count.

MRS. GREEN of Oregon: Mr. Speaker, I withdraw the point of order and ask for a division.

The question was taken; and on a division (demanded by Mrs. Green of Oregon) there were—ayes 118, noes 46.

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

MR. H. CARL ANDERSEN [of Minnesota]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. H. CARL ANDERSEN: The point of order is that that request has already been made in reference to this vote, and the gentlewoman withdrew it.

THE SPEAKER: The objection to the voice vote on the grounds that a quorum was not present was with-

drawn. The objection to the vote by division, on the grounds that a quorum is not present, is in order.

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.

### *During Vote on Amendment*

**§ 13.21 Where a quorum of the House is not present during the consideration of a bill in the House as in Committee of the Whole, any Member may object to the vote on an amendment and invoke an "automatic" roll call.**

On May 11, 1970,<sup>(7)</sup> Speaker pro tempore John J. Flynt, Jr., of Georgia, entertained a point of no quorum during proceedings of the House as in the Committee of the Whole.

THE SPEAKER PRO TEMPORE: The question is on the committee amendments to the salary schedule found on pages 14 and 15 of the bill.

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

MR. [BROCK] ADAMS [of Washington]: 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.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

5. 103 CONG. REC. 1553, 85th Cong. 1st Sess.

6. Sam Rayburn (Tex.).

7. 116 CONG. REC. 14924, 91st Cong. 2d Sess.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. GROSS: Is this bill not being considered in the House as in Committee of the Whole?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

MR. GROSS: Then, we cannot vote on an amendment on a roll-call vote.

THE SPEAKER PRO TEMPORE: The Chair will state that the bill is being considered in the House as in Committee of the Whole and it is in the House. The gentleman's point of order is in order, and the rollcall will be automatic as soon as the Chair announces it.

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.

### *Before Prayer*

#### **§ 13.22 A quorum is not required for prayer by the Chaplain opening a session, and the Speaker does not recognize Members for points of no quorum at such time.**

On Mar. 19, 1941,<sup>(8)</sup> Speaker Sam Rayburn, of Texas, refused to entertain a point of no quorum raised before the opening prayer.<sup>(9)</sup>

8. For the proceedings of this date, see § 12.1, *supra*.

9. See supplements to this edition for discussion of provisions in Rule XV

### *After Announcement of Vote Result*

#### **§ 13.23 It is too late to object to a vote for lack of a quorum under Rule XV clause 4,<sup>(10)</sup> after the Speaker has announced the result of the vote and a motion to reconsider has been laid on the table.**

On Apr. 17, 1972,<sup>(11)</sup> during consideration of H.R. 13435, the Upper Colorado River basin authorization, Speaker Carl Albert, of Oklahoma, ruled on the timeliness of a point of no quorum.

THE SPEAKER: The question is on the motion offered by the gentleman from California (Mr. Johnson) that the House suspend the rules and pass the bill H.R. 13435, as amended.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MR. [MARIO] BIAGGI [of New York]: Mr. Speaker, I object to the vote on the ground that a quorum is not present

clause 6 adopted in the 93d Congress on Apr. 9, 1974, and subsequently, to the effect that a point of no quorum shall not be in order or entertained before or during prayer.

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

11. 118 CONG. REC. 12981, 92d Cong. 2d Sess.

and make the point of order that a quorum is not present.

THE SPEAKER: The gentleman's point comes too late. The gentleman should have made that point before the result of the vote was announced.

**§ 13.24 Objection to a division vote on the ground that a quorum was not present comes too late after the vote has been announced, the bill passed, and a motion to reconsider laid on the table.**

On Sept. 17, 1962,<sup>(12)</sup> after a vote on H.R. 12761, to provide relief for occupants of unpatented mining claims, Speaker pro tempore Carl Albert, of Oklahoma, ruled that a point of no quorum was made too late.

THE SPEAKER PRO TEMPORE: The question is, Will the House suspend the rules and pass the bill H.R. 12761?

The question was taken, and on a division (demanded by Mr. Dingell) there were—ayes 49, noes 13.

THE SPEAKER PRO TEMPORE: In the opinion of the Chair, two-thirds having voted in the affirmative, the rules are suspended and the bill is passed, and without objection, a motion to reconsider is laid on the table.

There was no objection.

MR. [JOHN D.] DINGELL [Jr., of Michigan]: 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.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, I make the point of order that the point of order comes too late. The result of the vote has been announced.

THE SPEAKER PRO TEMPORE: The gentleman is making a point of order.

MR. DINGELL: And I object to the vote.

THE SPEAKER PRO TEMPORE: That objection comes too late.

MR. DINGELL: Very well, Mr. Speaker, I withdraw the point of order.

*After Completing Action*

**§ 13.25 Objection to a vote on the ground that a quorum is not present comes too late after the bill has been passed, a motion to reconsider laid on the table, and further business is under discussion but the Speaker may entertain a unanimous-consent request to vacate the proceedings.**

On Oct. 5, 1962,<sup>(13)</sup> during consideration of S. 1447, to amend the Teachers' Salary Act for the District of Columbia, Speaker John W. McCormack, of Massachusetts, after indicating that objection to a vote had not been timely made, obtained unanimous consent to vacate the proceedings whereby the bill was passed, after a Member, James G. Fulton, of

12. 108 CONG. REC. 19650, 87th Cong. 2d Sess.

13. 108 CONG. REC. 22649, 22650, 87th Cong. 2d Sess.

Pennsylvania, insisted that he had timely sought recognition to raise a point of no quorum.

THE SPEAKER: The question is on the committee amendment.

The committee amendment was agreed to.

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

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, I would like to inquire whether or not there are further conference reports or unanimous-consent requests to be considered this evening.

MR. [JOHN L.] McMILLAN [of South Carolina]: I have one more bill I desire to call up from the Committee on the District of Columbia.

MR. FULTON: 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 bill has already passed.

MR. FULTON: Mr. Speaker, I was on my feet.

THE SPEAKER: The Chair will state that if a Member is on his feet, that is insufficient. The gentleman did not address the Chair.

MR. FULTON: I was saying "Mr. Speaker," and was not heard. I was on my feet.

THE SPEAKER: If the gentleman asks unanimous consent to vacate the action, the Chair will entertain a request. But the passage of the bill had been completed.

MR. FULTON: Mr. Speaker, I was on my feet addressing the Speaker, but I was not recognized.

THE SPEAKER: The Chair does not know what is in the gentleman's mind when the gentleman is on his feet.

MR. FULTON: I was saying "Mr. Speaker," right straight through. I am sure it is the custom of the House to be recognized when a point of order is being made.

THE SPEAKER: Without objection, the action whereby the bill was passed will be vacated.

There was no objection.

THE SPEAKER: The question is on the passage of the bill.

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

**§ 13.26 An action having been completed, the Speaker declined to recognize a Member to object to the vote where the Member had not shown the proper diligence in seeking recognition.**

On June 29, 1959,<sup>(1)</sup> after a vote on the conference report on H.R. 7523, to provide a one-year extension of existing corporate and excise tax rates (H. Rept. No. 587), Speaker Sam Rayburn, of Texas, declined to recognize for an objection to the vote on the ground that a quorum was not present.

THE SPEAKER: Without objection, the previous question is considered as ordered.

There was no objection.

1. 105 CONG. REC. 12110, 86th Cong. 1st Sess.

The previous question was ordered.

THE SPEAKER: The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

MR. [LEONARD G.] WOLF [of Iowa]: Mr. Speaker, I object on the ground that a quorum was not present on that vote.

THE SPEAKER: The gentleman is somewhat late. The Chair would not hold that the gentleman's point comes too late, if the gentleman insists on it, but the Chair had already declared the result of the vote and the motion to reconsider the vote was laid on the table.

***Between Establishment of Quorum and Reading Message***

**§ 13.27 Where a quorum had been established on a call of the House, the Speaker has held that the act of laying a message before the House is not such transaction of business so as to permit another point of no quorum.**

On Apr. 21, 1971,<sup>(2)</sup> Speaker Carl Albert, of Oklahoma, ruled untimely a point of no quorum raised after a message was received but before it was read.<sup>(3)</sup>

2. For the proceedings of this date, see § 14.17, *infra*.

3. See supplements to this edition for discussion of provisions in Rule XV clause 6 adopted on Apr. 9, 1974, to the effect that a point of no quorum

***During Reading of Resolution After Establishment of Quorum***

**§ 13.28 While a point of order of no quorum may ordinarily interrupt the reading of a resolution (see § 13.11, *supra*), the Chair has refused to permit a point of no quorum during the reading of a resolution called up immediately following the establishment of a quorum by a call of the House.**

On Apr. 21, 1971,<sup>(4)</sup> Speaker Carl Albert, of Oklahoma, refused to allow interruption of reading of a resolution for a point of no quorum.

MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The Chair will count. One hundred twenty-three Members are present, not a quorum.

MR. [JOHN J.] MCFALL [of California]: 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: . . .

THE SPEAKER: On this rollcall 352 Members have answered to their names, a quorum.

may not be made or entertained during the reception of any message from the President or the Senate.

4. 117 CONG. REC. 11101, 11102, 92d Cong. 1st Sess.

By unanimous consent, further proceedings under the call were dispensed with. . .

MR. [RAY J.] MADDEN [of Indiana]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 373 and ask for its immediate consideration.

The Clerk read as follows:

H. RES. 373

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole. . . .

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

THE SPEAKER: The Chair will state to the gentleman from Indiana that there has been no completed business at all since the Chair has just announced the presence of a quorum.

The Clerk will continue reading the resolution

***During Receipt of Report From Committee of the Whole***

**§ 13.29 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,<sup>(5)</sup>**

5. See *House Rules and Manual* § 863 (1979). See supplements to this edition for discussion of provisions in Rule XXIII clause 2 adopted in the 93d Congress on Apr. 9, 1974, to the

**he immediately directs the Committee to resume its sitting and does not recognize Members in the House with a point of order that a quorum is not present.**

On Aug. 2, 1967,<sup>(6)</sup> Speaker pro tempore Carl Albert, of Oklahoma, refused to recognize a point of no quorum.<sup>(7)</sup>

**§ 14. Dilatoriness; Effect of Prior Count**

Rule XVI clause 10,<sup>(8)</sup> provides that no dilatory motion shall be entertained by the Speaker. Although the question of the presence of a quorum is a constitutional one<sup>(9)</sup> which is always in order where the House is conducting business<sup>(10)</sup> and has the

effect that the Chairman of the Committee is empowered to declare that a quorum is constituted when he determines that a quorum has appeared; and that, following such a declaration, proceedings are considered vacated and the committee does not rise but continues its sitting and resumes business.

6. 113 CONG. REC. 21095, 90th Cong. 1st Sess.  
7. For the House proceedings on this date, see § 7.17, *supra*.  
8. *House Rules and Manual* § 803 (1979).  
9. § 14.2, *infra*.  
10. § 14.3, *infra*.

highest priority except for the motion to adjourn,<sup>(11)</sup> the Chair may refuse to entertain it if he determines that the motion was made for the purpose of delay<sup>(12)</sup> and the presence of a quorum, as evidenced by an immediately preceding vote or quorum call, is apparent to him.<sup>(13)</sup>

However, when presence of a quorum is not apparent or the Chair is uncertain, he counts the House.<sup>(14)</sup> If “business”<sup>(15)</sup> has intervened between ascertainment of a quorum and a point of no quorum, the Speaker may count the House.<sup>(16)</sup> Where the Speaker ascertains the presence of a quorum by actual count following objection to a vote under Rule XV clause 4, or where a demand for the yeas and nays is rejected and a division vote is then had on the pending question, the division vote is intervening business permitting another objection to the lack of a quorum, and the Speaker

11. See *House Rules and Manual* § 769 (1979); 4 Hinds' Precedents §§ 2950, 2988; and 6 Cannon's Precedents § 680. See also § 8, *supra*, for discussions of the motion to adjourn as related to a quorum.

12. § 14.9, *infra*.

13. §§ 14.10 et seq., *infra*.

14. § 14.1, *infra*.

15. For discussion of proceedings which qualify as “business,” see § 10, *supra*.

16. See §§ 14.7, 14.8, *infra*.

must again count the House. Nonetheless, when convinced that a point of no quorum is made for the purpose of obstructing business, the Speaker has declined to entertain it even after intervention of business.<sup>(17)</sup> Normally, the Chair declines to hold such a point of order dilatory, based upon the constitutional requirement for the presence of a quorum.<sup>(1)</sup>

The question of dilatoriness is not necessarily determined by the length of time since ascertainment of a quorum or the character of the intervening business, but by the Speaker's opinion as to whether, under the circumstances, the motion is made with intent to delay the business of the House.<sup>(2)</sup>

### *In General*

#### **§ 14.1 A point of no quorum may be held to be dilatory when a quorum has been es-**

17. 8 Cannon's Precedents § 2811.

1. See §§ 14.2, 14.3, *infra*.

2. 8 Cannon's Precedents § 2804.

See supplements to this edition for discussion of provisions in Rule XV clause 6 adopted by the 93d Congress on Apr. 9, 1974, to the effect that after 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.

**established and it is apparent to the Chair that a quorum remains on the floor of the House; but where the presence of a quorum is not apparent, or the Chair is uncertain, he will count the House.**

On the legislative day of Oct. 8, 1968,<sup>(3)</sup> during consideration of Senate Joint Resolution 175 to suspend the equal-time provision of the Communications Act of 1934 for candidates for President and Vice President for the 1968 campaign, Speaker John W. McCormack, of Massachusetts, clarified certain procedures with respect to points of no quorum.

MR. [BARBER B.] CONABLE [Jr., of New York]: Mr. Speaker, I make the point of order that a quorum is not present.

MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state his point of order.

MR. WRIGHT: Mr. Speaker, I make a point of order against the gentleman's point of order on the ground that the gentleman's point of order is a dilatory motion, proscribed by the rules, wherein it is clearly set forth that no dilatory motion shall be entertained by the Speaker.

THE SPEAKER: When it is apparent to the Chair that a quorum is present, the Chair can declare a point of order

3. 114 CONG. REC. 30212, 90th Cong. 2d Sess., Oct. 8, 1968 (Calendar Day).

of no quorum to be dilatory; but when it is apparent to the Chair that a quorum is not present, or the Chair is not certain, the Chair will count. And the Chair will count on this occasion.

One hundred and fifty-five Members are present, not a quorum.

### *Chair's Reluctance to Hold Points of No Quorum to Be Dilatory*

**§ 14.2 The Speaker stated that a question as to whether a quorum was present was a constitutional one, and he refused to hold it to be dilatory.**

On May 22, 1946,<sup>(4)</sup> after debate in the House had been interrupted by numerous points of no quorum and calls of the House, Speaker Sam Rayburn, of Texas, made a statement as to the constitutional nature of a point of no quorum.

MR. [THOMAS G.] ABERNETHY [of Mississippi]: Mr. Speaker, I make a point of order that a quorum is not present.

MR. [CHRISTIAN A.] HERTER [of Massachusetts]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. HERTER: Mr. Speaker, the motion just made is a dilatory motion which should be ruled out under rule XVI.

4. 92 CONG. REC. 5445, 79th Cong. 2d Sess.

THE SPEAKER: The Chair may say, in reply to the gentleman from Massachusetts, that the question of whether a quorum is present or not is a constitutional one.

The Chair will count. [After counting.] One hundred and twenty-six Members are present, not a quorum.

**§ 14.3 Since the Constitution defines a quorum of the House and states that it shall be required for the conduct of business, and a point of order that a quorum is not present is the only way a Member has of enforcing this constitutional requirement, the Chair is extremely reluctant to withhold recognition for this purpose.**

On Oct. 8, 1968,<sup>(5)</sup> (during consideration of Senate Joint Resolution 175, to suspend for the 1968 campaign the equal-time requirements of the Communications Act of 1934 for candidates for President and Vice President, Speaker pro tempore Wilbur D. Mills, of Arkansas, responded to a parliamentary inquiry.

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

MR. [JAMES C.] WRIGHT [Jr., of Texas]: I thank the Speaker for permitting me this additional parliamentary inquiry. . . .

5. 114 CONG. REC. 30097, 90th Cong. 2d Sess.

On occasion the Chair has held that certain motions and points of order amounted to dilatory tactics, and that that was their obvious motivation, and on those occasions the Chair has summarily refused to recognize such obviously dilatory points of order and motions.

Mr. Speaker, my point of parliamentary inquiry is: would the Chair not feel that under the present situation, with repeated points of order being made that a quorum is not present, immediately followed by the absenting of themselves by certain Members who have come in to answer the quorum, to be a rather obvious dilatory tactic, and one which might obviously lend itself to the assumption on the part of the Chair that a quorum having been established and proven so frequently and repeatedly during the day, would be presumed to be present for the completion of business?

THE SPEAKER PRO TEMPORE: The Chair is ready to respond to the parliamentary inquiry posed by the gentleman from Texas.

It is the understanding of the Chair that no occupant of the Chair has ever in the history of the Congress held that a point of order that a quorum is not present is a dilatory tactic. The reasoning, obviously, is that the Constitution itself requires the presence on the floor of the House of a quorum at all times in the transaction of the business of the House of Representatives.

**§ 14.4 The Chair has the right under certain circumstances to hold that motions are dilatory, but a point of no quorum is a question of very high privilege.**

On June 5, 1946,<sup>(6)</sup> (Speaker Sam Rayburn, of Texas, made a statement regarding the Chair's authority to hold that motions are dilatory.

THE SPEAKER: On this roll call 260 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE SPEAKER: This is Calendar Wednesday.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RANKIN: Mr. Speaker, I want to know whether these bills to be called on Calendar Wednesday are to be considered in the House as in Committee of the Whole?

MR. [DAN R.] MCGEHEE [of Mississippi]: Mr. Speaker, I make the point of order there is not a quorum present.

THE SPEAKER: There has been no business transacted as yet. The Clerk will call the committees.

THE CLERK: The Committee on Banking and Currency.

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

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. KEEFE: Mr. Speaker, I make the point of order that the point of order

raised by the gentleman from Mississippi is purely dilatory. Under section 10, rule XVI of the House, the Chair having just announced that a quorum is present, it is obvious that the point of order made by the gentleman from Mississippi is a purely dilatory motion and should not under the rules of the House be entertained by the Speaker.

MR. MCGEHEE: Mr. Speaker, in my opinion it does not lie within the province of any Member of the House to criticize or impugn the motive of any other Member when he makes a point of order in connection with any procedure on the floor of the House. Important legislation is contemplated being taken up and I observe on the floor at present that evidently there is not a quorum present and I therefore make the point of order that a quorum is not present.

THE SPEAKER: The Chair, of course, has the right under certain circumstances to hold that motions are dilatory but a point of no quorum is a question of very high privilege. The Chair will not state what he will do at other times. The gentleman makes the point of order that a quorum is not present. The Chair will count. [After counting.] One hundred and thirty-three Members are present; not a quorum.

#### **§ 14.5 The Speaker overruled a point of order that a Member making a point of order that a quorum was not present was exercising a dilatory tactic.**

On Jan. 23, 1950,<sup>(7)</sup> (during consideration of House Resolution

6. 92 CONG. REC. 6352, 6353, 79th Cong. 2d Sess.

7. 96 CONG. REC. 774, 81st Cong. 2d Sess.

217, which provided for consideration of H.R. 331, to extend statehood to Alaska, Speaker Sam Rayburn, of Texas, ruled on a point of order of dilatoriness.<sup>(8)</sup>

MR. [GEORGE W.] ANDREWS [of Alabama]: Mr. Speaker, I make the point of order that a quorum is not present.

MR. [ADOLPH J.] SABATH [of Illinois]: Mr. Speaker, I make the point of order that the gentleman's point of order is dilatory.

THE SPEAKER: The Chair overrules the point of order made by the gentleman from Illinois.

The Chair will count. [After counting.] Two hundred and twenty-four Members are present, a quorum.

**§ 14.6 Insistence by a Member on the presence of a quorum on the floor, evidenced by repeated points of no quorum, was held not to be dilatory where a quorum was in fact not present; and the Speaker refused to find that such points of order were designed to deliberately delay public business.**

On July 23, 1942,<sup>(9)</sup> (during consideration of House Resolution 528 and H.R. 7416, which provided for absentee voting by members of the armed forces, Speaker

8. See also, for example, 92 CONG. REC. 6352-56, 79th Cong. 2d Sess., June 5, 1946.

9. 88 CONG. REC. 6543, 77th Cong. 2d Sess.

Sam Rayburn, of Texas, rejected a point of dilatoriness.

MR. [JOHN E.] RANKIN of Mississippi: Mr. Speaker, I make the point of order that there is no quorum present. If we are to discuss this matter I think a quorum should be present.

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, I make the point of order that the gentleman from Mississippi has clearly evidenced the fact that he is filibustering, and that his only object in pursuing the tactics he is pursuing is to delay the passage of the Ramsay bill, to which he objects. It surely must be apparent to the Speaker that these quorum calls are for the sole purpose of delay. Therefore the action of the gentleman from Mississippi is dilatory and out of order.

Mr. Rankin of Mississippi rose.

THE SPEAKER: The Chair trusts that he will never be called upon to make a ruling that a Member is deliberately delaying public business. There is a quorum in town. I think the gentleman from Mississippi, for the moment, at least, is within his rights in asking that a quorum be present.

The Chair will count. [After counting.] Evidently there is no quorum present.

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

***Points of No Quorum After Intervening Business***

**§ 14.7 The point of order that a quorum was not present was held not to be dilatory; The**

**Speaker noted that business had intervened in that unanimous-consent requests had been granted following the last quorum call, and that Members were entitled to have a quorum present to have business transacted in the regular way.**

On Apr. 24, 1956,<sup>(10)</sup> while Mr. Carl Vinson, of Georgia, spoke under a special-order agreement, Speaker Sam Rayburn, of Texas, refused to hold dilatory a point of no quorum.

MR. [JAMES C.] DAVIS [of Georgia]: The gentleman is making a great speech and I think it should be heard by the entire membership. Mr. Speaker, I insist on my point of order.

MR. [JOHN W.] McCORMACK [of Massachusetts]: 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: . . .

THE SPEAKER: Two hundred and ninety-two Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

MR. [JOHN W.] HESELTON [of Massachusetts]: Mr. Speaker, I ask unanimous consent that I may be permitted to have 2 days to file minority views with respect to H.R. 8901, the District of Columbia transit bill.

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

There was no objection.

MR. VINSON: Mr. Speaker, as I said just before the quorum call, I refer specifically to the decision of the Supreme Court of May 17, 1954. . . .

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state his point of order.

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

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I object to the point of order.

MR. VINSON: Will the gentleman not withhold that? I have only about 5 minutes.

MR. WILLIAMS of Mississippi: Mr. Speaker, I withdraw the point of order.

MR. VINSON: Mr. Speaker, I deny with all the power of my being the naive presumption that the Constitution of the United States is nothing more than what the Supreme Court says it is. . . .

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, the gentleman is making a very sound statement here and I make the point of order that a quorum is not present.

MR. YATES: Mr. Speaker, may I be heard on the point of order?

THE SPEAKER: The point of order that a quorum is not present is not debatable.

MR. YATES: Since the last point of order on a quorum there has been no further transaction of business, and it is obvious that the points of order being made are dilatory.

10. 102 CONG. REC. 6889, 6891, 84th Cong. 2d Sess.

THE SPEAKER: There were various unanimous-consent requests granted since the last call of the House. The Chair has been up against this question of whether there was a filibuster or whether there was not a great many times. This occupant of the Chair is very liberal with Members who want a quorum present or to have business transacted in the regular way. The Chair is not going to hold that this point of order is dilatory.

**§ 14.8 Precedents of the House which indicate that the Chair has held a point of no quorum to be dilatory when it immediately follows a call of the House which discloses the presence of a quorum are not applicable to the situation where there is “intervening business” between the establishment of the quorum and the making of the point of no quorum; the correction of a roll call, by unanimous consent, is such “business” as will prevent the Chair from holding the point of order to be dilatory on its face.**

On Oct. 8, 1968,<sup>(11)</sup> Speaker pro tempore Carl Albert, of Oklahoma, ruled on a question of dilatoriness.

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker, I make the point of order that a quorum is not present.

11. 114 CONG. REC. 30224, 90th Cong. 2d Sess. Calendar day of Oct. 9.

THE SPEAKER PRO TEMPORE: The gentleman from Ohio makes the point of order that a quorum is not present.

MR. [BROCK] ADAMS [of Washington]: A point of order, Mr. Speaker. There has been no intervening business since the rollcall on the resolution which indicated a quorum.

THE SPEAKER PRO TEMPORE: The Chair will state that the gentleman is in error, since we have had a correction of a rollcall.

The gentleman from Ohio makes the point of order that a quorum is not present. Evidently a quorum is not present.

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

### ***When Points of No Quorum Not Entertained***

**§ 14.9 Repeated points of no quorum may be held to be dilatory in the Committee of the Whole if, after the Chair has once counted and found a quorum present, it appears to him that further points of order are without foundation.**

On Dec. 30, 1932,<sup>(12)</sup> during consideration of H.R. 13872, the Department of Agriculture appropriation bill, Chairman Andrew J. Montague, of Virginia, held that a point of no quorum was dilatory.

MR. [LEONIDAS C.] DYER [of Missouri]: Mr. Chairman, I make the

12. 76 CONG. REC. 1123, 72d Cong. 2d Sess.

point of order there is not a quorum present.

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

MR. [MILES C.] ALLGOOD [of Alabama]: Mr. Chairman, I ask unanimous consent to return to page 52, line 23, for the purpose of offering an important amendment.

MR. [JAMES P.] BUCHANAN [of Texas]: Mr. Chairman, I object.

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

MR. [FIORELLO H.] LAGUARDIA [of New York]: Mr. Chairman, that point of order is dilatory, because the Chair has just counted and found a quorum present.

THE CHAIRMAN: The Chair has counted a quorum and will not entertain the point of order raised by the gentleman from Alabama.

MR. ALLGOOD: But the Members who were in the Chamber when the Chair counted a quorum have returned to the cloakroom.

THE CHAIRMAN: The Chair believes a quorum is still present. The Clerk will read.

**§ 14.10 The Speaker may decline to entertain a point of no quorum after the House has voted to resolve itself into the Committee of the Whole and while the Speaker is in the process of leaving the chair.**

On Apr. 14, 1937,<sup>(13)</sup> the House was proceeding with the call of

13. 81 CONG. REC. 3455, 3456, 75th Cong. 1st Sess.

committees under the Calendar Wednesday rule. The House having voted to consider a bill, Speaker William B. Bankhead, of Alabama, refused to entertain a point of order that a quorum was not present made after his announcement that the House had resolved itself into the Committee of the Whole but before he had vacated the chair.

The yeas and nays were ordered.

THE SPEAKER: The question is, Will the House consider the bill (H.R. 1668) to amend paragraph (1) of section 4 of the Interstate Commerce Act, as amended February 28, 1920 (U.S.C., title 49, sec. 4)?

The question was taken; and there were—yeas 278, nays 97, answered “present” 1, not voting 54, as follows:

. . .

The result of the vote was announced as above recorded.

THE SPEAKER: The House automatically resolves itself into the Committee of the Whole House on the State of the Union for the consideration of the bill.

MR. [SCHUYLER OTIS] BLAND [of Virginia]: Mr. Speaker, I make the point of order there is not a quorum present.

THE SPEAKER: The Chair feels compelled to overrule the point of order, as the recent vote discloses a quorum is present.

**§ 14.11 The Speaker held as dilatory a point of no quorum made immediately after a yea and nay vote which disclosed a quorum**

**present where the only event intervening between announcement of the vote and the point of no quorum was the receipt of a message.**

On July 21, 1947,<sup>(14)</sup> Speaker Sam Rayburn, of Texas, ruled on a point of no quorum.

MR. [TOM] PICKETT [of Texas]: Mr. Speaker, I move that the House do now adjourn. . . .

The yeas and nays were ordered.

The question was taken; and there were—yeas 85, nays 299, not voting 46, as follows: . . .

The result of the vote was announced as above recorded.

THE SPEAKER: The gentleman from New York [Mr. Gamble] is recognized.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RANKIN: Mr. Speaker, I notice there is a message here from the President. Do we not receive them when they come in?

THE SPEAKER: The Chair was about to suspend for a moment to receive a message.

[A message in writing from the President of the United States was announced and received.]

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

THE SPEAKER: The gentleman's point of order is dilatory. That is obvious to all Members.

14. 93 CONG. REC. 9523, 9524, 80th Cong. 1st Sess.

**§ 14.12 After stating that, “. . . he [the Speaker] has yet to hold a motion to be dilatory, and will not until it becomes obvious to everybody that dilatory tactics are being indulged in and that a filibuster is being conducted,” the Speaker declined to recognize a point of no quorum immediately after a vote by yeas and nays which disclosed that 362 Members were present.**

On July 25, 1949,<sup>(15)</sup> Speaker Sam Rayburn, of Texas, refused to recognize a point of no quorum.

MR. [ROBERT L. F.] SIKES [of Florida]: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The gentleman from Florida moves that the House do now adjourn.

The Chair desires to make a statement. Since the present Speaker has occupied the chair he has yet to hold a motion to be dilatory, and will not until it becomes obvious to everybody that dilatory tactics are being indulged in and that a filibuster is being conducted.

The question is on the motion to adjourn.

MR. SIKES: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The Clerk called the roll; and there were—yeas 110, nays 252, not voting 70, as follows: . . .

15. 95 CONG. REC. 10095, 10096, 81st Cong. 1st Sess.

The result of the vote was announced as above recorded.

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

MR. [TOM] PICKETT [of Texas]: Mr. Speaker, I make a point of order that a quorum is not present.

THE SPEAKER: The roll call just disclosed that there were 362 Members present, quite a substantial quorum.

**§ 14.13 The Speaker, being satisfied that a quorum was present and that a point of no quorum was made for dilatory purposes, declined to entertain it and allowed debate to proceed without taking time to count the House.**

On June 3, 1960,<sup>(1)</sup> Speaker Sam Rayburn, of Texas, refused to entertain a point of no quorum where more than the number necessary to make a quorum had just responded on a yea and nay vote on a motion to adjourn.

THE SPEAKER: The question is on the motion to adjourn.

MR. [JOHN JAMES] FLYNT [Jr., of Georgia]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 77, nays 195, not voting 159. . . .

So the motion to adjourn was rejected. . . .

The result of the vote was announced as above recorded.

1. 106 CONG. REC. 11829, 86th Cong. 2d Sess.

THE SPEAKER: Under previous order of the House, the gentleman from California [Mr. Holifield] is recognized for 60 minutes.

MR. [CARROLL D.] KEARNS [of Pennsylvania]: Mr. Speaker, will the gentleman yield?

MR. [CHET] HOLIFIELD: I yield to the gentleman from Pennsylvania.

MR. KEARNS: Mr. Speaker, I make the point of order that there is no quorum present.

THE SPEAKER: The roll was called only 1 minute ago and a quorum was present. A quorum is present.

The gentleman from California.

**§ 14.14 After he counted a quorum and a quorum failed to vote on an amendment immediately thereafter, the Speaker in reply to a point of order ruled that a quorum remained present at the time of the division vote and the Chair was not responsible if all Members did not vote.**

On Apr. 2, 1943,<sup>(2)</sup> after a vote held during consideration of H.R. 2087, the War Security Act, Speaker Sam Rayburn, of Texas, rejected a point of no quorum.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The Chair will count. [After counting.] Two hundred and nineteen Members are present, a quorum.

2. 89 CONG. REC. 2886, 78th Cong. 1st Sess.

The question is on the amendment offered by the gentleman from Wisconsin.

The question was taken; and the Chair being in doubt, the House divided, and there were—ayes 62, noes 112.

MR. [HARRY] SAUTHOFF [of Wisconsin]: Mr. Speaker, I object to the vote on the ground that a quorum is not present.

THE SPEAKER: The Chair has just counted, and a quorum was present. The Chair is not responsible if all Members in the House do not vote. The Chair must hold that a quorum is present.

So the amendment was rejected.

**§ 14.15 Where the House ordered the doors of the Chamber locked until establishment of a quorum and disposition of pending business, the Chair indicated that after a quorum was present in the Chamber further points of no quorum would be dilatory until the business was completed and the doors opened.**

On the legislative day of Oct. 8, 1968,<sup>(3)</sup> during consideration of Senate Joint Resolution 175, to suspend the equal-time requirement of the Communications Act of 1934, for candidates for Presi-

3. 114 CONG. REC. 30213, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

dent and Vice President, Speaker John W. McCormack, of Massachusetts, made a statement as to assuming the presence of a quorum when the doors were locked to prevent exit of Members.

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

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. GERALD R. FORD: Let me repeat the language of the motion of the gentleman from Washington:

That a motion be made for the majority here that those who are not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed.

Mr. Speaker, I respectfully argue that in the language used by the gentleman from Washington in the motion that he made, he says very specifically and very categorically that those who are not here are the ones who must be kept in the Chamber.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Speaker, I demand the regular order.

THE SPEAKER: The regular order is that the gentleman is making a parliamentary inquiry.

MR. GERALD R. FORD: And I am indicating, Mr. Speaker, in my parliamentary inquiry, that the doors to the Chamber shall not be closed to those Members who were here at the time of the call for the quorum.

THE SPEAKER: The Chair, in response to the parliamentary inquiry of

the distinguished minority leader, feels, in construing the motion, that a part of the construction is the happenings of the last 10 or 12 or more hours and the intent and purpose of the gentleman from Washington in making the motion.

It seems to the Chair, in response to the parliamentary inquiry—and the Chair makes such a response—that the motion offered by the gentleman from Washington [Mr. Adams] meant that any Member who answered the last quorum call cannot leave the Chamber until the pending business has been disposed of; and the doors will be kept closed.

The Chair might observe in relation to any future points of order that a quorum is not present that apparently a quorum is present because the last one disclosed 222 Members and the Chair is justified in assuming that the 222 Members are still here. The doors will remain locked until the present business is disposed of.

**§ 14.16 The Speaker has refused to entertain a point of no quorum where a quorum had just been established by a call of the House and where no further business had been transacted.**

On Jan. 22, 1971,<sup>(4)</sup> Speaker Carl Albert, of Oklahoma, refused to entertain a point of no quorum.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

4. 117 CONG. REC. 131, 92d Cong. 1st Sess.

Mr. [DONALD W.] RIEGLE [Jr., of Michigan]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

Mr. CHARLES H. WILSON [of California]: 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: . . .

THE SPEAKER: On this rollcall 373 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE SPEAKER: The Clerk will proceed with the reading of the Journal.

Mr. [JAMES C.] CLEVELAND [of New Hampshire]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: A quorum has just been established. There has been no business transacted.

The Clerk will proceed with the reading of the Journal.

**§ 14.17 Where a quorum has been established on a call of the House and the Chair then lays a message before the House, a further point of no quorum is not entertained before the message is read by the Clerk or other business is transacted.**

On Apr. 21, 1971,<sup>(5)</sup> Speaker Carl Albert, of Oklahoma, ruled

5. 117 CONG. REC. 11095, 11096, 92d Cong. 1st Sess.

on the timeliness of a point of no quorum raised after a message was received but before it was read.<sup>(6)</sup>

MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. [THOMAS P.] O'NEILL [of Massachusetts]: 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: . . .

THE SPEAKER: On this rollcall 334 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with. . . .

THE SPEAKER: The Chair lays before the House the following message from the President of the United States:

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

THE SPEAKER: A rollcall just disclosed the presence of a quorum.

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

THE SPEAKER: The Chair advises the gentleman that a quorum has just

been established and no business has transpired.

MR. JACOBS: At the moment I make a point of order that a quorum is not present.

THE SPEAKER: The gentleman's point of order is out of order.

## § 15. Proceedings Pending Call of House in Absence of Quorum

Because the point of no quorum is not debatable,<sup>(7)</sup> no Member may be heard on it and subsequent remarks should not be included in the *Congressional Record*.<sup>(8)</sup> However, the Speaker may entertain points of order which relate to the pending call of the House.<sup>(9)</sup> Although the Chair may decline to recognize a Member for a parliamentary inquiry when a point of no quorum has been made,<sup>(10)</sup> or absence of a quorum has been announced<sup>(11)</sup> he has entertained inquiries during a roll call vote to explain procedures available if a quorum fails to appear,<sup>(12)</sup> or to clarify the nature of the pending question.<sup>(13)</sup>

6. See supplements to this edition for discussion of provisions in Rule XV clause 6 added by the 93d Congress on Apr. 9, 1974, to the effect that a point of no quorum may not be made or entertained during the reception of any message from the President or the Senate.

7. §§ 15.1, 15.2, *infra*.

8. § 15.2, *infra*.

9. § 15.3, *infra*.

10. § 15.4, *infra*.

11. § 15.5, *infra*.

12. § 15.6, *infra*.

13. § 15.7, *infra*.

*In General; Debate***§ 15.1 The point of order that a quorum is not present is not debatable.**

On Apr. 24, 1956,<sup>(1)</sup> Speaker Sam Rayburn, of Texas, ruled on a request to be heard on a point of no quorum.

MR. [William M.] COLMER [of Mississippi]: Mr. Speaker, the gentleman is making a very sound statement here and I make the point of order that a quorum is not present.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, may I be heard on the point of order?

THE SPEAKER: The point of order that a quorum is not present is not debatable.

**§ 15.2 Because a point of order that a quorum is not present is not debatable, remarks by the proponent after the point is raised should not be included in the Record.**

On Apr. 15, 1940,<sup>(2)</sup> Speaker pro tempore Sam Rayburn, of Texas, answered a parliamentary inquiry, as follows:

MR. [JOHN] TABER [of New York]: Mr. Speaker—

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

1. 102 CONG. REC. 6891, 84th Cong. 2d Sess.
2. 86 CONG. REC. 4517, 76th Cong. 3d Sess.

MR. TABER: A question of the privileges of the House and of the Record.

THE SPEAKER PRO TEMPORE: The gentleman from New York.

MR. TABER: Mr. Speaker, a little while ago the gentleman from Mississippi [Mr. Rankin] made a point of order that no quorum was present, and thereafter he said:

You are not going to raid the veterans of the World War and pass these other pension bills and run over the House that way. I make the point of order there is no quorum present.

Now, the gentleman was not recognized for that purpose; and then thereafter the gentleman from Mississippi further stated:

And there will be a quorum and a vote on every other bill from now on today.

The gentleman was not recognized for that purpose, and that should not be in the Record. I make the point of order that that language should not be contained in the Record.

THE SPEAKER PRO TEMPORE: The gentleman from New York makes the point of order that certain remarks made in the House should not be included in the Record. The Chair is prepared to rule.

Under the rules of the House, remarks should only be included in the Record that are made in order. After a point of order is made, which is not debatable, any further remarks should not be included in the Record. Therefore the Chair rules that any remarks that may have been made after the point of order that a quorum was not present was made should not be included in the Record.

*Points of Order***§ 15.3 While a parliamentary inquiry is normally not entertained by the Chair in the absence of a quorum, the Chair may recognize a Member on an inquiry or on a point of order which relates to the pending call of the House.**

On Oct. 8, 1958,<sup>(3)</sup> Speaker John W. McCormack, of Massachusetts, entertained a point of order.

MR. [DONALD] RUMSFELD [of Illinois]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE:<sup>(4)</sup> The Chair will count.

One hundred sixty-seven Members are present, not a quorum.

MR. [JOHN H.] DENT [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: A parliamentary inquiry cannot be asked at this time.

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

A call of the House was ordered.

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

MR. DENT: Mr. Speaker, a point of order, which relates to the call of the roll.

3. 114 CONG. REC. 30093, 90th Cong. 2d Sess.

4. Wilbur D. Mills (Ark.).

THE SPEAKER: The House will be in order. The Clerk will proceed with the call of the roll.

MR. DENT: Mr. Speaker, the point of order relates to the proper calling of the roll.

THE SPEAKER: The gentleman will state his point of order.

MR. DENT: The point of order is the doors were ordered closed, and the doors to the outside of the Chamber are open in the cloakrooms.

THE SPEAKER: The Chair has given instructions to close all doors and allow no Members out.

*Parliamentarian's Note:* The Speaker ordered the doors locked during roll call Nos. 382 and 383. When this remedy did not prove effective, since Members continued to leave the Chamber immediately after the calls were dispensed with, he did not continue to enforce the rule.

*Parliamentary Inquiries***§ 15.4 The Chair has declined to recognize a Member to propound a parliamentary inquiry when a point of no quorum has been made unless it is withdrawn.**

On July 23, 1942,<sup>(5)</sup> Speaker Sam Rayburn, of Texas, refused to recognize a Member.

MR. [WRIGHT] PATMAN [of Texas]: Mr. Speaker, I make the point of order that a quorum is not present.

5. 88 CONG. REC. 6540, 77th Cong. 2d Sess.

MR. [ADOLPH J.] SABATH [of Illinois]: Mr. Speaker, may I ask unanimous consent that we call up a resolution?

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

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The Chair doubts the authority of the Chair to recognize the gentleman to propound a parliamentary inquiry when a point of order is made, unless the gentleman from Texas withholds it.

*Parliamentarian's Note:* The Chair may, in his discretion, entertain parliamentary inquiries pending his announcement of his count for a quorum, but after the absence of a quorum has been disclosed, the Chair then only responds to inquiries relating to the call of the House.

**§ 15.5 The Chair refuses to recognize a Member for a parliamentary inquiry after the absence of a quorum has been announced.**

On June 3, 1964,<sup>(6)</sup> Speaker pro tempore Carl Albert, of Oklahoma, refused to recognize a Member for a parliamentary inquiry.<sup>(7)</sup>

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

6. 110 CONG. REC. 12521, 88th Cong. 2d Sess.

7. See also 110 CONG. REC. 7353-55, 88th Cong. 2d Sess., Apr. 9, 1964.

THE SPEAKER PRO TEMPORE: The Chair will count. [After counting.] There are 159 Members present; not a quorum.

MR. [HALE] BOGGS [of Louisiana]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

MR. [PAUL C.] JONES of Missouri: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: No parliamentary inquiry can be made.

MR. JONES of Missouri: I can make a parliamentary inquiry; certainly.

THE SPEAKER PRO TEMPORE: A quorum is not present. A call of the House has been ordered. The gentleman cannot make his parliamentary inquiry in the absence of a quorum.

The Clerk will call the roll.

**§ 15.6 The Speaker recognized Members to propound parliamentary inquiries during a roll call vote, a quorum as yet not having responded, but made it clear that such recognition was not to be considered a precedent.**

On Oct. 18, 1966,<sup>(8)</sup> during a roll call vote on House Resolution 1062, relating to the refusal of Jeremiah Stamler to testify before the Committee on Un-American Activities, Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries before the result of the vote was announced.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, I object to the

8. 112 CONG. REC. 27512, 27513, 89th Cong. 2d Sess.

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. [SIDNEY R.] YATES [of Illinois] (interrupting the rollcall): Regular order. . . .

MR. [JOHN H.] DENT [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. DENT: Am I correct that if we do not have a quorum present on the vote, tomorrow the first order of business will be a vote on the same question?

THE SPEAKER: Exactly.

MR. DENT: Then I would advise those Members who are hiding to come out and vote.

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.

The Chair might state that recognizing Members for parliamentary inquiries at this stage is not to be considered as a precedent in the future.

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. HALL: I thank the Speaker.

MR. [LESLIE C.] ARENDS [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. ARENDS: If it should happen that a quorum does not develop tonight, the unfinished business tomorrow would be the retaking of this same vote?

THE SPEAKER: Exactly. That would be the first order of business.

**§ 15.7 Following completion of the first call of the roll, the Speaker responded to parliamentary inquiries and clarified the nature and effect of the question upon which the House was then voting.**

On Oct. 12, 1962,<sup>(9)</sup> Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries.

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.

The question was taken; and there were—yeas 84, nays 120, not voting 230, as follows: . . .

(After completion of first call of the roll:)

MR. [WILLIAM H.] AVERY [of Kansas]: Mr. Speaker—

THE SPEAKER: For what purpose does the gentleman from Kansas rise?

MR. AVERY: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. AVERY: What motion is the House presently voting on?

THE SPEAKER: The Chair will state that the parliamentary inquiry is very pertinent. The Chair will state in response that the House is voting on a motion which was made by the gentleman from Missouri [Mr. Cannon] to recede and concur in a Senate amendment, with an amendment.

MR. [CLARENCE] CANNON. Mr. Speaker, my motion was for the previous question.

THE SPEAKER: The House is voting on a motion made by the gentleman from Missouri to recede and concur in the Senate amendment, with an amendment.

That is the motion pending at the present time.

The Clerk will proceed to call the roll of those Members who failed to answer on the first rollcall.

(The Clerk resumed calling the roll.)

MR. [WILLIAM C.] CRAMER [of Florida]: (interrupting call of the roll): Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. CRAMER: Mr. Speaker, do I understand the parliamentary situation to be that the motion now being voted upon is a motion to recede and concur in a Senate amendment with an amendment, and a vote "no" is a vote for \$205,000 for the Florida Cross-State Barge Canal planning, and a vote of "aye" is against it?

THE SPEAKER: The Chair has already stated that the parliamentary inquiry is correct in response to the inquiry of the gentleman from Kansas [Mr. Avery]. The Chair is confident that Members know what they are voting upon.

9. 108 CONG. REC. 23433, 87th Cong. 2d Sess.

(The Clerk resumed calling the roll.)

## § 16. In the Committee of the Whole

In the Committee of the Whole a point of order that a quorum is not present is in order, but an objection to a vote on the ground that a quorum is not present is not in order.<sup>(10)</sup> A recorded vote in the Committee of the Whole may be ordered by 25 or more Members.<sup>(11)</sup>

Provisions of the rules relating to quorum requirements in the Committee of the Whole adopted in the 93d Congress on Apr. 9, 1974, will be discussed in detail in supplements to this edition. Briefly, these provisions authorize the Chairman of the Committee of the Whole, at any time during a quorum call, to declare that a quorum is constituted when he determines that a quorum is present. Proceedings under the call, in such instances, are considered vacated. The new rule also incorporates the preexisting precedents to the effect that a quorum is not required in the Committee

of the Whole for agreement to a motion that the Committee rise. Furthermore, it is stated that a point of order that a quorum is not present may not be made or entertained after the presence of a quorum is once ascertained during the period after a Committee of the Whole has risen after completing consideration of a bill or resolution and before the Chairman has reported the measure back to the House.

Rule XXIII clause 2 was also amended in the 95th<sup>(12)</sup> and 96th<sup>(13)</sup> Congresses to limit the right to make a point of no quorum during general debate in Committee of the Whole. Under the later practice, a point of no quorum is a matter of right each day only once during five-minute debate, and then again only when a question is put on an amendment or motion. In the 97th<sup>(1)</sup> Congress, the rule was further amended to allow the Chairman the discretion whether or not to entertain a point of order of no quorum during general debate only.

10. § 16.1 and § 16.4, *infra*.

11. See Rule XXIII clause 2(b), *House Rules and Manual* (1979).

See also § 7, *supra*, for a discussion of the call in the Committee.

12. H. Res. 5, 123 CONG. REC. 53-70, 95th Cong. 1st Sess., Jan. 4, 1977.

13. H. Res. 5, 125 CONG. REC. —, 96th Cong. 1st Sess., Jan. 15, 1979.

1. H. Res. 5, 127 CONG. REC. —, 97th Cong. 1st Sess., Jan. 5, 1981.

*When in Order***§ 16.1 In the Committee of the Whole, a point of order that a quorum is not present will lie; but objection will not lie to a vote on the ground that a quorum is not present.**

On Dec. 17, 1970,<sup>(2)</sup> during consideration of H.R. 19446, the Emergency School Aid Act of 1970 Chairman James C. Corman, of California, after entertaining a point of order that a quorum was not present refused to entertain an objection to a vote on the ground that a quorum was not present.

MR. [ROMAN C.] PUCINSKI [of Illinois]: Mr. Chairman, I move that all debate on this amendment end in the next 3 minutes.

MR. [JAMES A.] HALEY [of Florida]: Mr. Chairman, I make a point of order.

THE CHAIRMAN: The gentleman will state it.

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

THE CHAIRMAN: The Chair will count.

MR. [WILLIAM L.] CLAY [of Missouri]: Mr. Chairman, I move that the committee do now rise.

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

The question was taken; and the Chairman announced that the ayes had it.

2. 116 CONG. REC. 42232, 42233, 91st Cong. 2d Sess.

MR. PUCINSKI: Mr. Chairman, 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 CHAIRMAN: The gentleman's point of order is not in order in the Committee of the Whole.

MR. PUCINSKI: Mr. Chairman, I demand tellers.

THE CHAIRMAN: Tellers are demanded. Those in favor of taking the vote on the motion to rise by tellers will rise and remain standing until counted.

An insufficient number have arisen. Tellers are not ordered.

MR. PUCINSKI: Mr. Chairman, I make a point of order against that ruling in that a quorum is not present. The Chair ruled there is an insufficient number that have arisen for tellers. I challenge that ruling on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will advise the gentleman from Illinois again that his point of order is not in order.

The motion to rise was agreed to.

*Automatic Roll Call***§ 16.2 Although a point of no quorum raised between a division and a teller vote is in order in the Committee of the Whole, it does not bring about an automatic call even though a quorum is not present.**

On Aug. 21, 1950,<sup>(3)</sup> during consideration in the Committee of the

3. 96 CONG. REC. 12960, 12961, 81st Cong. 2d Sess.

Whole of H.R. 9313, a bill to amend the Agricultural Act of 1949, an objection to the vote was raised.

THE CHAIRMAN: <sup>(4)</sup> 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.

**§ 16.3 An objection to a division vote on the motion to rise decided in the negative in the Committee of the Whole on the ground that a quorum is not present does not precipitate an automatic roll call on the pending question but merely requires the Chair to count the Committee for a quorum.**

On May 26, 1955,<sup>(5)</sup> the Chairman of the Committee of the Whole, Prince H. Preston, Jr., of Georgia, made a ruling regarding an objection to a vote.

MR. H. CARL ANDERSEN [of Minnesota]: Mr. Chairman, I offer a privileged motion.

The Clerk read as follows:

Mr. H. Carl Andersen moves that the Committee do now rise.

THE CHAIRMAN: The question is on the motion.

The question was taken; and on a division (demanded by Mr. H. Carl Andersen) there were—ayes 7, noes 56.

So the motion was rejected.

MR. H. CARL ANDERSEN: Mr. Chairman, I object to the vote on the ground that a quorum is not present.

THE CHAIRMAN: The Chair will state that that does not bring on an automatic roll call. The Chair will count to determine whether a quorum is

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

5. 101 CONG. REC. 7149, 84th Cong. 1st Sess.

present. [After counting.] One hundred and eleven Members are present, a quorum.

**§ 16.4 Because the provisions of Rule XV clause 4,<sup>(6)</sup> which permit a Member to object to a vote where a quorum is not present, are applicable only in the House, an automatic roll call is not in order in the Committee of the Whole.**

On June 7, 1973,<sup>(7)</sup> during consideration of H.R. 7446, to establish the American Revolution Bicentennial Administration, Chairman Henry B. Gonzalez, of Texas, clarified the procedures admissible in the Committee of the Whole.<sup>(8)</sup>

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

6. *House Rules and Manual* §773 (1979).

7. 119 CONG. REC. 18521, 93d Cong. 1st Sess.

8. 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.

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 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.

### *Pending Demand for Tellers*

#### **§ 16.5 A point of no quorum in the Committee of the Whole is in order while a demand for tellers is pending.**

On Mar. 23, 1970,<sup>(9)</sup> Chairman William J. B. Dorn, of South Carolina, ordered a quorum call in response to a point of no quorum.

THE CHAIRMAN: The question is on the motion 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. . . .

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.

### *Pending Motion to Rise*

#### **§ 16.6 A point of order of no quorum is not in order in Committee of the Whole where there is pending a motion that the Committee rise, since the motion to rise does not require a quorum for adoption.**

On May 31, 1972,<sup>(10)</sup> during consideration of H.R. 13918, a bill to provide improved financing for the Corporation of Public Broad-

9. 116 CONG. REC. 8562, 8563, 91st Cong. 2d Sess.

10. 118 CONG. REC. 19353, 92d Cong. 2d Sess.

casting, in the Committee of the Whole, 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.

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.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Boggs) resumed the chair.

### § 16.7 A point of order that no quorum is present is not in

### order pending a tentative affirmative vote that the Committee of the Whole rise.

On Mar. 9, 1936,<sup>(11)</sup> during consideration of H.R. 11563, the District of Columbia rent commission bill, William B. Umstead, of North Carolina, Chairman of the Committee of the Whole, sustained a point of order that a point of no quorum was not in order.

MR. [THOMAS L.] BLANTON [of Texas] (interrupting the reading of the bill): Mr. Chairman, I move that the Committee do now rise.

The question was taken.

MR. BLANTON: Mr. Chairman, I ask for a division.

The Committee divided; and there were—ayes 40, noes 33.

MR. [HENRY] ELLENBOGEN [of Pennsylvania]: Mr. Chairman, I make the point of order there is not a quorum present.

THE CHAIRMAN: The Chair will count.

MR. [JOHN] TABER [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. TABER: Mr. Chairman, I make the point of order that a point of no quorum is not in order after the Committee has determined to rise.

THE CHAIRMAN: The point of order is sustained. The vote had already been announced.

MR. ELLENBOGEN: Mr. Chairman, I ask for tellers.

11. 80 CONG. REC. 3459, 74th Cong. 2d Sess.

MR. BLANTON: Mr. Chairman, I make the point of order that the request comes too late, business having intervened.

THE CHAIRMAN: The point of order is overruled. The question is on ordering tellers.

Tellers were ordered, and the Chair appointed as tellers Mrs. Norton and Mr. Blanton.

The Committee again divided; and there were—ayes 30, noes 61.

MR. BLANTON: Mr. Chairman, I object to the vote on the ground there is not a quorum present.

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

The Clerk continued reading the bill.

*Parliamentarian's Note:* At the point that the point of no quorum was first made, the Committee had determined to rise, on which vote a quorum is not required.

### ***Proceedings Following a Point of No Quorum***

**§ 16.8 Where a point of order is made that a quorum is not present in the Committee of 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;<sup>(12)</sup> if the vote on the mo-**

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

**tion discloses a quorum and the motion is lost, the Committee continues with its business.**

On May 26, 1966,<sup>(13)</sup> during consideration of H.R. 13712, the fair labor standards amendments of 1966, the Committee of the Whole resumed business after a teller vote.<sup>(14)</sup>

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

THE CHAIRMAN:<sup>(15)</sup> 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 and 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.

**§ 16.9 While an automatic roll call may not be taken in the Committee of the Whole, a**

13. 112 CONG. REC. 11621, 89th Cong. 2d Sess.

14. See also 74 CONG. REC. 886, 71st Cong. 3d Sess., Dec. 16, 1930.

15. Charles M. Price (Ill.).

**Member may make a point of order that a quorum is not present, as evidenced by the announced division or teller vote on the pending question; but if the Chair counts a quorum, business may proceed.**

On Feb. 8, 1950,<sup>(16)</sup> during consideration of H.R. 2945, to adjust postal rates, the Chairman of the Committee of the Whole, Chet Holifield, of California, made a ruling regarding the need for a quorum.

THE CHAIRMAN: 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.

16. 96 CONG. REC. 1678, 1679, 81st Cong. 2d Sess.

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.

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.

**§ 16.10 After a point of order that a quorum is not present in the Committee of the Whole has been made and a motion to rise is rejected (a quorum failing to respond on that vote), the Chair directs the Clerk to call the roll to obtain a quorum.**

On July 15, 1942,<sup>(17)</sup> Wright Patman, of Texas, Chairman of the Committee of the Whole, directed the Clerk to call the roll.

THE CHAIRMAN: The gentleman from New York [Mr. Taber] makes a point of order that a quorum is not present. The Chair will count. [After counting.] Sixty-five Members are present, not a quorum.

MR. [JOHN E.] RANKIN of Mississippi: Mr. Chairman, I move that the Committee do now rise, and on that I demand tellers.

17. 88 CONG. REC. 6214, 6215, 77th Cong. 2d Sess.

Tellers were ordered, and the Chair appointed as tellers Mr. Rankin of Mississippi and Mr. Kinzer.

The Committee divided; and the tellers reported that there were—ayes 13, noes 33.

THE CHAIRMAN: So the Committee refuses to rise. A quorum is not present. The Clerk will call the roll.

**§ 16.11 Where the Committee of the Whole rises and the Chairman thereof reports to the House that, pursuant to Rule XXIII clause 2,<sup>(18)</sup> 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,<sup>(19)</sup> the House, after receiving a report from the Chairman of the Committee of the Whole, resolved itself back into the Committee.<sup>(20)</sup>

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

THE CHAIRMAN:<sup>(21)</sup> 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: . . .

18. See *House Rules and Manual* § 863 (1979).
19. 113 CONG. REC. 8600, 90th Cong. 1st Sess.
20. See also 115 CONG. REC. 9705, 91st Cong. 1st Sess., Apr. 21, 1969, for another illustration of this principle.
21. John H. Dent (Pa.).

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.

**§ 16.12 Where a point of no quorum is made in the Committee of the Whole and the roll is called while a demand for a teller vote on an amendment is pending, the question of ordering tellers is put immediately after the Committee resumes its sitting, and a division vote taken prior to the demand for tellers is not final.**

On May 10, 1946,<sup>(22)</sup> the Chairman of the Committee of the Whole, Jere Cooper, of Tennessee, made a ruling regarding the finality of a division.

THE CHAIRMAN: The question is on the amendment to the amendment.

The question was taken; and on a division (demanded by Mr. Rooney) there were—ayes 41, noes 29.

MR. [JED] JOHNSON of Oklahoma: Mr. Chairman, I demand tellers.

22. 92 CONG. REC. 4840, 79th Cong. 2d Sess.

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.] Eighty-seven Members are present, not a quorum.

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. Cooper, 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. 6335, and finding itself without a quorum, he had directed the roll to be called, when 313 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

THE SPEAKER:<sup>(23)</sup> The Committee will resume its sitting.

THE CHAIRMAN: The gentleman from Oklahoma [Mr. Johnson] demands tellers on the amendment offered by the gentleman from Idaho [Mr. Dworshak] to the amendment offered by the gentleman from Utah [Mr. Robertson].

MR. [WALTER K.] GRANGER [of Utah]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. GRANGER: As I understood the situation when the quorum was called, the Chair had already announced that the amendment offered by the gentleman from Idaho to the amendment had been agreed to; and the request comes too late.

23. Sam Rayburn (Tex.).

THE CHAIRMAN: The Chair had announced that on a division the amendment to the amendment had been agreed to. Thereupon, the gentleman from Oklahoma [Mr. Johnson] demanded tellers. At that point a point of order was made that a quorum was not present.

The gentleman's demand for tellers is now pending.

### § 17. Absence of Quorum in Standing Committee as Bar to Floor Consideration or Other Subsequent Proceedings

According to Jefferson's Manual,<sup>(24)</sup> a majority of a committee acting when together constitutes a quorum for business. A rule<sup>(25)</sup> further provides that no measure or recommendation shall be reported from any committee unless a majority of the committee was actually present. Because of this provision, a point of order that a quorum was not present when a committee reported a measure, if

24. *House Rules and Manual* §§ 407, 409 (1979). See supplements to this edition for discussion of Rule XI clause 2(h)(2) adopted in the 95th Congress for recent rule permitting committees to adopt a rule designating one-third of the members as a quorum for certain preliminary business.

25. Rule XI clause 2(1)(2)(A), *House Rules and Manual* § 713(c) (1979).

made in a timely fashion and sustained, bars consideration on the floor.

A decision by the Chair to recommit a measure because a quorum was not present when it was reported from committee is made after a series of steps. After the chairman of the committee or other designated person requests floor consideration, a point of order that a quorum was not present in the committee when the measure was reported may be made.<sup>(26)</sup> If the point of order has been raised at the appropriate time, the Chair may examine the committee report or inquire of the committee chairman or floor manager whether the allegation is true.<sup>(27)</sup> Based on the answer of the committee chairman, who is obligated to be certain in his response, the Chair sustains or overrules the point of order. When the point is sustained, the measure is recommitted to the committee.<sup>(28)</sup>

Whether a quorum is actually present also affects issues which do not arise on the floor, such as

**26.** See §§ 17.7–17.10, for precedents relating to the appropriate time to raise this point of order.

**27.** See §§ 17.17–17.19, for precedents relating to questioning committee chairmen.

**28.** § 17.19, *infra*.

criminal culpability for perjury in testimony given to a House committee. In *Christoffel v United States*,<sup>(29)</sup> the United States Supreme Court with four members dissenting reversed a conviction under a District of Columbia statute<sup>(30)</sup> which defines perjury as falsifying testimony “before a competent tribunal,” because a quorum of the Committee on Education and Labor was not present when the allegedly perjurious statements were made. The Court observed that the Constitution<sup>(1)</sup> authorizes each House to determine the rules of its proceedings, and that the rules of the House apply to committees<sup>(2)</sup> and authorize calls of the House when a quorum is not present;<sup>(3)</sup> furthermore, a statute<sup>(4)</sup> (which is also a

**29.** 338 U.S. 84 (1949). The Court in a footnote alluded to *Meyers v United States*, 171 F2d 800, 11 A.L.R. 2d 1 (1948) in which the Court of Appeals for the District of Columbia Circuit reversed a perjury conviction because a Senate subcommittee lacked a quorum when allegedly perjurious testimony was given.

**30.** D.C. Code Anno. § 22–2501.

**1.** U.S. Const. art. I, § 5, clause 2.

**2.** Rule XI clause 1(a)(1), *House Rules and Manual* § 703(a) (1979).

**3.** Rule XV clauses 2(a), 4, *House Rules and Manual* §§ 768, 773, respectively (1979).

**4.** Legislative Reorganization Act of 1946, Pub. L. No. 601, Ch. 753, § 133(d), 60 Stat. 812.

rule) provides that no measure or recommendation shall be reported from any committee unless a majority was actually present. Basing its ruling on the aforementioned provisions, the Court held that a quorum of the committee must be present to satisfy the "competent tribunal" element of the crime of perjury. By admitting Christoffel's evidence that a quorum was not present when the allegedly perjurious testimony was given<sup>(5)</sup> notwithstanding the fact that committee records showed that a quorum was present when the meeting was convened and no Member during the session objected to absence of a quorum, the Court accepted Christoffel's contention that a criminal trial is an appropriate occasion for a defendant to raise the quorum issue.

Convicting Christoffel in the face of evidence that a quorum was not present when allegedly perjurious statements were made was found to be not only contrary

5. The Court alluded to evidence tending to show that as few as six of the 25 committee members were in attendance during parts of Christoffel's testimony. 338 U.S. 80, 86 (1949). Clause 2(h)(1) of Rule XI was added on Mar. 23, 1955, to require that a quorum in committee for taking testimony and receiving evidence shall not be less than two.

to the rules and practices of the House, but a denial of his fundamental right to be convicted only on proof beyond a reasonable doubt of all elements of the crime. "A tribunal that is not competent is no tribunal, and it is unthinkable that such a body can be the instrument of a criminal conviction."<sup>(6)</sup>

The dissenting opinions argued that the majority denied records of Congress the credit and effect to which they are entitled. Instead, it was felt, the Court should defer to the "universal practice" of assumption of a quorum unless and until a point of no quorum is made in the committee meeting.<sup>(7)</sup>

The Supreme Court in *United States v Bryan*<sup>(8)</sup> upheld a trial court conviction (which had been reversed by the Court of Appeals for the District of Columbia Circuit) for willful failure to comply with a committee subpoena under a federal statute.<sup>(9)</sup> In reaching this holding the Court rejected

6. 338 U.S. 80, 90 (1949).

7. *Id.* at pp. 90, 91.

8. 339 U.S. 323 (1950); reh. den. 339 U.S. 991 (1950).

9. 2 USC §192, which provides in relevant part that every person who, having been summoned to produce papers before a committee, willfully defaults shall be deemed guilty of a misdemeanor.

Bryan's contention that the Committee on Un-American Activities, by lacking a quorum when she appeared and refused to produce the organizational records under her control, was without power to receive such subpoenaed documents and that the committee could not be obstructed because it was "organizationally defective."<sup>(10)</sup> Such defense, based on *Christoffel v United States*,<sup>(11)</sup> was held to be inapposite because the District of Columbia perjury statute<sup>(12)</sup> in *Christoffel* required an affirmative act, falsification of testimony "before a competent tribunal," while the statute in *Bryan*<sup>(13)</sup> required intentional failure to produce papers without mentioning anything about competency of the tribunal.<sup>(14)</sup>

There were other reasons to reject Bryan's defense. Her refusal to produce papers obstructed the legislative inquiry, a situation the statute was designed to punish. Furthermore, her failure to raise an objection to lack of a quorum during the hearing when that defect could have been remedied, rather than at the trial two years later, violated the minimum du-

ties and obligations imposed on a witness by a subpoena.<sup>(15)</sup>

### *In General*

**§ 17.1 No measure or recommendation shall be reported from any committee unless a majority of the committee was actually present when such measure was ordered to be reported.**<sup>(16)</sup>

On May 11, 1950,<sup>(17)</sup> upon consideration of a privileged resolution, House Resolution 495, reported from the Committee on House Administration, John W. McCormack, of Massachusetts, Speaker pro tempore, made a rul-

10. 339 U.S. 323, 328 (1950).

11. 338 U.S. 80 (1949).

12. D.C. Code Anno. § 22-2501.

13. 2 USC § 192.

14. 339 U.S. 323, 329, 330 (1950).

15. See the portion of the opinion designated "Second," 339 U.S. 323, 331-335 (1950), for these reasons. The Court's conclusion on the issue of timeliness of raising the point of no quorum contrasts markedly with its conclusion, on the same facts (but in relation to a different criminal offense), in *Christoffel v United States*, 338 U.S. 84, 88 (1949), which held that a criminal trial is a proper time first to raise an objection to lack of a quorum. Justice Jackson, in his concurring opinion in *United States v Bryan*, 339 U.S. 323, 343-346 (1950) comments on this disparity.

16. See Rule XI clause 2(1)(2)(A), *House Rules and Manual* § 713(c) (1979).

17. 96 CONG. REC. 6920, 81st Cong. 2d Sess.

ing based on the requirement of a quorum in committees.

MR. [WAYNE L.] HAYS of Ohio: Mr. Speaker, I make a point of order against the consideration of the resolution on the ground that a quorum was not present when it was reported out of committee.

MRS. [MARY T.] NORTON [of New Jersey]: Mr. Speaker, we did have a quorum present, but some Members may have slipped out of committee during the consideration of the resolution. I assumed that a quorum was present.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. RANKIN: Mr. Speaker, it is too late to raise the point of order that a quorum was not present in the committee after it has reached the floor of the House. If no point of order is made in the committee, the presumption is that a quorum was present. To take any other attitude would virtually paralyze legislation. If no point of order was made at the time, the presumption then is that a quorum was present.

THE SPEAKER PRO TEMPORE: The Chair will state in response to the parliamentary inquiry that the point of order is properly addressed at this point because the resolution has just been reported to the House. . . .

MR. RANKIN: Mr. Speaker, a further point of order. This is a very serious proposition that really affects the orderly procedure of the House. I make the point of order that it is too late to

raise a point of order that there was no quorum present in the committee unless that point of order was made in the committee.

THE SPEAKER PRO TEMPORE: The Chair will state that the point of order can be made in the House when the report is made. A point of order that a quorum was not present when the resolution was reported out can be made when the resolution is reported to the House. For that reason the Chair rules that the gentleman from Ohio [Mr. Hays] is within his rights at this particular time in making the point of order that he has.

MRS. NORTON: Mr. Speaker, if the gentleman insists on his point of order, I will withdraw the resolution.

THE SPEAKER PRO TEMPORE: The resolution is withdrawn. . . .

MR. RANKIN: Mr. Speaker, under the rules of the House and the rules of every committee, legislation is passed every day without a quorum being present, and unless that question is raised they cannot go into the courts and contest the legislation. The same thing applies to the committee. A ruling to the contrary would simply demoralize legislative procedure as far as the committees of this House are concerned.

THE SPEAKER PRO TEMPORE: The Chair calls the attention of the gentleman from Mississippi to paragraph (d) of section 133 of the Legislative Reorganization Act, which reads as follows:

No measure or recommendation shall be reported from any such committee unless a majority of the committee was actually present.<sup>(18)</sup>

18. See Rule XI clause 2(1)(2)(A), *House Rules and Manual* §713(c) (1979),

**§ 17.2 A standing committee cannot validly report a measure unless the report was authorized at a formal meeting of the committee with a quorum present and the mere fact that a majority of the committee members have “approved” the report (but not in a formal meeting of the committee) will not suffice.**

On Sept. 30, 1966,<sup>(19)</sup> Speaker John W. McCormack, of Massachusetts, ruled on an objection to a motion to consider a committee report.

MR. [OMAR T.] BURLESON [of Texas]: Mr. Speaker, by direction of the Committee on House Administration, I submit the following privileged report, Report No. 2158, to accompany House Resolution 1028, providing funds for the Committee on House Administration, and ask for its immediate consideration.

MR. [JONATHAN B.] BINGHAM [of New York]: Mr. Speaker, a point of order.

THE SPEAKER: The Chair would like to ask the gentleman from Texas if he is undertaking to bring this resolution up by unanimous consent, or is he re-

which adopts this language. This provision, however, did not become part of the rules until Jan. 3, 1953, after the above proceedings took place.

19. 112 CONG. REC. 24548, 89th Cong. 2d Sess.

porting it and calling it up as privileged business?

MR. BURLESON: Mr. Speaker, I submit the report as a privileged matter. Should a point of order be raised and should the point of order be sustained, then I would ask unanimous consent for the consideration of House Resolution 1028.

THE SPEAKER: For what purpose does the gentleman from New York rise?

MR. BINGHAM: I make a point of order against the resolution, Mr. Speaker.

THE SPEAKER: On what grounds?

MR. BINGHAM: On the grounds that a quorum of the committee was not present when the resolution was reported. There are a number of members of the committee who have not had an opportunity to have this resolution discussed in a meeting of the committee.

THE SPEAKER: Does the gentleman from Texas desire to be heard?

MR. BURLESON: Mr. Speaker, I desire to be heard.

Mr. Speaker, I do not see that this is a matter involving rules but rather a matter of custom and practice. We were simply following what has been a practice for a great many years relating to noncontroversial matters. This method of obtaining committee approval has been for the convenience of committee members. I shall be glad to relate to the House in just a few words what transpired in this instance.

Recently it has been difficult to get a quorum, and, for obvious reasons, it has been just about impossible for the last 10 days. Never before has the gentleman from New York objected to a

telephone poll of members. In this instance, each of the 25 members of the committee, except those who were on the subcommittee examining contracts, the subcommittee headed by the gentleman from Ohio [Mr. Hays]—who had already agreed to the resolution, were called, and a majority of the members approved the resolution.

This practice has been prevalent and has been permitted over the years, although it has been held to a minimum.

Now Mr. Speaker, I shall be glad to yield to the gentleman from New York if he wants to tell us the real reason he is objecting to the consideration of this resolution: The gentleman never before has objected to this procedure and I ask why he objects now?

MR. BINGHAM: Mr. Speaker, will the gentleman yield?

MR. BURLESON: I yield to the gentleman from New York.

MR. BINGHAM: Mr. Speaker, I shall be glad to explain. There has been apparently the establishment of a subcommittee of the Committee on House Administration.

THE SPEAKER: The Chair does not want to go into all that. The Chair wants to ask the gentleman from Texas, the chairman of the committee, was a committee meeting called for the purpose of acting on this resolution? And if so, was a quorum present?

MR. BURLESON: Mr. Speaker, I have explained in some detail the procedure used in this instance. There was an agreement by a majority of the committee that the resolution may be presented.

THE SPEAKER: Was there a meeting? Did the committee meet? Was there a quorum present and voting and acting on it?

MR. BURLESON: Mr. Speaker, on infrequent occasions when we have resorted to this procedure as a matter of convenience and of expediting legislation, it has always been accepted as establishing a quorum. As far as I know this procedure has not been challenged. In this case a majority of the committee agreed to the resolution and I insist that a quorum was established and that the report is proper and that the resolution is privileged.

THE SPEAKER: The Chair is prepared to rule.

The Chair does not inquire into the procedure of a committee, in reporting a bill, unless a point of order as to the matter is raised and thus called to the attention of the Chair. Unless a Member makes a point of order, the Chair does not go into the question of committee procedure.

However, since the point of order has been raised, the Chair will point out that the provisions of clause 26(e), rule XI,<sup>(20)</sup> make it clear that no measure can be reported from a committee unless a majority of the committee were actually present.

The chairman of the Committee on House Administration has stated that the resolution he now seeks to call up was not ordered reported at a formal meeting of the committee where a quorum was present.

Therefore, the Chair sustains the point of order made by the gentleman from New York [Mr. Bingham].

The report and resolution are recommended to the Committee on House Administration.

20. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* §713(c) (1979).

**§ 17.3 Although a quorum of the committee must be present when a measure is ordered reported, the Speaker has approved a practice whereby less than a quorum having tentatively voted to report a measure, a majority, in a formal meeting, has subsequently ratified such action before the report was filed.**

On July 9, 1956,<sup>(1)</sup> Speaker Sam Rayburn, of Texas, ruled on a question of quorum requirements in committees.

MR. [JOHN L.] McMILLAN [of South Carolina]: Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H. R. 4697) to amend the Alcoholic Beverage Control Act of the District of Columbia, 1954, as amended, and I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

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

MR. [ALBERT P.] MORANO [of Connecticut]: Mr. Speaker, I make the point of order against the consideration of this bill on the ground that when the committee considered this bill there was not a quorum present to report it to the House. . . .

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, there is great difficulty,

it is true, in getting a quorum of the District Committee, but I was personally present when this bill was voted out, and there was a quorum of the committee present. And, in order to be sure that there was no such question as this raised on the floor of the House, I myself made a motion, when a quorum was present, to reconsider all of the bills that had been considered and voted them out again, which was done. . . .

THE SPEAKER: The Chair must know whether the gentleman says that there was a quorum present or not, to his knowledge.

MR. McMILLAN: Mr. Speaker, there was a quorum present part of the time and part of the time there was not.

MR. MORANO: Mr. Speaker, I press my point of order. I would like to know whether or not there was a quorum present when this bill was reported, not when the gentleman from Virginia made his motion.

THE SPEAKER: The chairman of the legislative committee has just stated to the Chair that there was a quorum present when this bill was reported. The Chair is going to take the word of the chairman of the committee, because that is according to the rules and practices of the House.

MR. MORANO: Mr. Speaker, I understood the chairman to say that when the gentleman from Virginia [Mr. Smith] made his motion there was a quorum present. But I did not understand the chairman of the committee to say that when this bill was reported there was a quorum present.

THE SPEAKER: The Chair is going to ask the gentleman from South Carolina [Mr. McMillan] that question now.

1. 102 CONG. REC. 12199, 12200, 84th Cong. 2d Sess.

MR. McMILLAN: Mr. Speaker, when the gentleman from Virginia made his motion he stated that he wanted all bills that were considered that day passed with a quorum present.

THE SPEAKER: The Chair is going to ask the gentleman again if a quorum was present, to his certain knowledge, when this bill was reported.

MR. McMILLAN: There was not when this bill was passed.

MR. MORANO: Mr. Speaker, I insist on my point of order.

MR. SMITH of Virginia: Mr. Speaker, I should like to be heard further, because I think it is important to straighten this question out.

THE SPEAKER: It is.

MR. SMITH of Virginia: Not from the standpoint of this bill, but as a parliamentary question. Frequently bills are discussed and voted upon when a quorum is not present. It is the custom, at the conclusion of the discussion, when a quorum is present, to move a reconsideration of all the bills that have been passed, and to move to report them out. That is what was done in this matter. I think it is important for the House to know just how strict this rule is and how it is to be applied, because I think every bill that was passed upon this morning came here under the same conditions as this bill.

MR. [SIDNEY E.] SIMPSON of Illinois: Mr. Speaker, will the gentleman yield?

MR. SMITH of Virginia: I yield.

MR. SIMPSON of Illinois: Mr. Speaker, I wish to verify what Judge Smith is saying. That was exactly the procedure in this matter in the House Committee on the District of Columbia.

MR. SMITH of Virginia: On this proceeding of the committee, I think we

ought to be straightened out on it for the future.

THE SPEAKER: This has come up many times and it has always been decided by the Chair on the statement of the chairman of the legislative committee concerned. The gentleman from South Carolina said that when this bill was reported there was not a quorum present. Is the Chair quoting the gentleman from South Carolina correctly?

MR. McMILLAN: That is correct, Mr. Speaker.

MR. SMITH of Virginia: That really is not the question I am trying to get determined for the benefit of the House and other committees. It is true, I believe, there was not a quorum present when any one of these bills was considered, but before the session adjourned a quorum did appear, and then a blanket motion was made to reconsider all of the bills that had previously been passed upon and to vote them out, which motion was carried. May I ask the chairman of the committee if that is a correct statement of what occurred?

MR. McMILLAN: That is correct.

THE SPEAKER: A quorum was present at that time?

MR. SMITH of Virginia: At that time a quorum was present. That was the reason the motion was made. That is the only way we can operate in that committee, I might add.

MR. [HENRY O.] TALLE [of Iowa]: Mr. Speaker, may I say as a member of the District Committee that I was present at the meeting. The gentleman from Virginia [Mr. Smith] has recorded the proceedings accurately.

MR. MORANO: There is obviously a contradiction here, Mr. Speaker. The

chairman of the committee said there was not a quorum present when this bill was considered. The issue before the Speaker, as I understand it, is a ruling on this bill, not on other bills that were considered en bloc.

THE SPEAKER: That is correct, but the gentleman from South Carolina said that on the last action on the bill in the committee a quorum was present.

The Chair under the circumstances must overrule the point of order made by the gentleman from Connecticut.<sup>(2)</sup>

**§ 17.4 Even though a report is filed as privileged, to retain the status of privileged business when considered, such business must be ordered reported from standing committees when a quorum is present in such committees.**

On May 11, 1950,<sup>(3)</sup> during consideration of House Resolution 495, which had been offered as a privileged matter by the Committee on House Administration and was withdrawn because a point of no quorum during consideration in committee had been made and sustained on the floor,

2. See §17.2, supra, in which the Speaker rejected another method of expediting determination of committee sentiment, a telephone poll, since the committee was not acting when together as required by §407 of Jefferson's Manual.

3. 96 CONG. REC. 6920, 81st Cong. 2d Sess.

Speaker pro tempore John W. McCormack, of Massachusetts, made a ruling regarding the prerequisite for privileged status.

MR. [THOMAS B.] STANLEY [of Virginia]: A further parliamentary inquiry, Mr. Speaker. Is this a privileged matter?

THE SPEAKER PRO TEMPORE: If it is reported out of committee with a quorum present, it is a privileged matter.

***Presumption of Presence of a Quorum***

**§ 17.5 Unless a point of order is raised, the House assumes that reports from committees were authorized when a quorum of the committee was present.**

On Sept. 30, 1966,<sup>(4)</sup> Speaker John W. McCormack, of Massachusetts, ruled on an objection to a motion to consider a committee report.

***Timeliness of Point of Order***

**§ 17.6 While any Member may challenge the presumption that a committee's action was taken when a quorum of the committee was present, he must do so when the measure is called up; a point**

4. For the proceedings of this date, see §17.2, supra.

**of order comes too late when the House has already agreed to the measure.**

On Feb. 28, 1968,<sup>(5)</sup> Speaker John W. McCormack, of Massachusetts, made a ruling as to the proper time to raise a point of no quorum.

MR. [SAMUEL N.] FRIEDEL [of Maryland]: Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 1127) on the resolution (H. Res. 1042) authorizing the expenditure of certain funds for the expenses of the Committee on Un-American Activities, and ask for immediate consideration of the resolution.

MR. [WILLIAM F.] RYAN [of New York]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state his point of order.

MR. RYAN: Mr. Speaker, I make a point of order against the consideration of the privileged report on House Resolution 1042 on the ground that a quorum was not present in the Committee on House Administration when this matter was considered.

THE SPEAKER: Does the gentleman from Maryland desire to be heard on the point of order?

MR. FRIEDEL: Mr. Speaker, it is true that we did not have a quorum present for the consideration of House Resolution 1042, but we had unanimous consent by the members that they would not raise a point of order.

However, Mr. Speaker, under the circumstances, in view of the point of

order being raised, I withdraw the resolution.

THE SPEAKER: The gentleman from Maryland withdraws the resolution.

MR. [EDWIN E.] WILLIS [of Louisiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. WILLIS: Mr. Speaker, the last resolution sought to be called up was a resolution relative to the House Committee on Un-American Activities, and it was withdrawn.

Now, however, the gentleman from Maryland states, no, it is not so, that there was no more a quorum present for all the other resolutions than there was a quorum present to consider our resolution.

I, therefore, ask unanimous consent that all the other resolutions be withdrawn also.

THE SPEAKER: The Chair will state that if a quorum was not present—and the Chair is not saying that there was not a quorum present—but if a quorum was not present then the point of order should have been made by any Member at the time a particular resolution was called up.

**§ 17.7 A point of order that a quorum of a committee was not present when a privileged bill or resolution was ordered reported may be made when the Member presents the report to the House in the appropriate manner.**

On May 11, 1950,<sup>(6)</sup> upon consideration of a privileged resolu-

5. 114 CONG. REC. 4449, 90th Cong. 2d Sess.

6. 96 CONG. REC. 6920, 81st Cong. 2d Sess.

tion, Speaker pro tempore John W. McCormack, of Massachusetts, made a ruling regarding the timeliness of a point of no quorum in the committee reporting the measure.<sup>(7)</sup>

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. RANKIN: Mr. Speaker, it is too late to raise the point of order that a quorum was not present in the committee after it has reached the floor of the House. If no point of order is made in the committee, the presumption is that a quorum was present. To take any other attitude would virtually paralyze legislation. If no point of order was made at the time, the presumption then is that a quorum was present.

THE SPEAKER PRO TEMPORE: The Chair will state in response to the parliamentary inquiry that the point of order is properly addressed at this point because the resolution has just been reported to the House. . . .

MR. RANKIN: Mr. Speaker, a further point of order. This is a very serious proposition that really affects the orderly procedure of the House. I make the point of order that it is too late to

7. Note: This inquiry was made after Mr. Wayne L. Hays (Ohio), made a point of no quorum in committee against consideration of the resolution that had just been offered as a privileged matter (by direction of the Committee on House Administration) by Mrs. Mary T. Norton (N.J.).

raise a point of order that there was no quorum present in the committee unless that point of order was made in the committee.

THE SPEAKER PRO TEMPORE: The Chair will state that the point of order can be made in the House when the report is made. A point of order that a quorum was not present when the resolution was reported out can be made when the resolution is reported to the House. For that reason the Chair rules that the gentleman from Ohio [Mr. Hays] is within his rights at this particular time in making the point of order that he has.

MRS. NORTON: Mr. Speaker, if the gentleman insists on his point of order, I will withdraw the resolution.

THE SPEAKER PRO TEMPORE: The resolution is withdrawn.

**§ 17.8 A point of order that a bill was ordered reported from a standing committee in the absence of a quorum of that committee is properly raised in the House when the bill is called up for consideration. (However, where a bill is being considered under suspension of the rules, a point of order will not lie against the bill on the ground that a quorum was not present when the bill was reported from committee.)**

On Oct. 7, 1968,<sup>(8)</sup> Speaker John W. McCormack, of Massachusetts,

8. 114 CONG. REC. 29764, 90th Cong. 2d Sess.

ruled on the timeliness of a point of no quorum of the committee reporting out a bill.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, relating to our program for today, a number of bills are slated to be considered under suspension of rules in the House. There are four bills from the Committee on Post Office and Civil Service which, from evidence I have, were reported in violation of rule XI, clause 26(e) which states:

(e) No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.<sup>(9)</sup>

The evidence I have is that H.R. 17954 and H.R. 7406 were ordered reported from the Committee on Post Office and Civil Service in executive session on August 2, 1968, without a quorum present.

Additional evidence reveals that S. 1507 and S. 1190 were ordered reported from the Committee on Post Office and Civil Service in executive session on September 3, 1968, without a quorum present. I further cite from Jefferson's Manual, section 408:

A bill improperly reported is not entitled to its place on the calendar; but the validity of a report may not be questioned after the House has voted to consider it, or after actual consideration has begun.

Mr. Speaker, I submit that the bills S. 1507, S. 1190, H.R. 17954, and H.R. 7406 all were improperly reported. Mr. Speaker, my parliamentary inquiry is this: At what point in the proceedings

would it be in order to raise the question against these bills as being in violation of rule XI, clause 26(e) inasmuch as they are scheduled to be considered under suspension of the rules, which would obviously suspend the rule I have cited.

Mr. Speaker, I ask the guidance of the Chair in lodging my point of order against these listed bills so that my objection may be fairly considered, and so that my right to object will be protected. Mr. Speaker, I intend to do so only because orderly procedure must be based on compliance with the rules of the House which we have adopted.

THE SPEAKER: The Chair will state that any point of order would have to be made when the bill is called up.

The Chair might also advise or convey the suggestion to the gentleman from Missouri that the bills will be considered under suspension of the rules, and that means suspension of all rules.

MR. HALL: Mr. Speaker, a further parliamentary inquiry. Would it not be in order, prior to the House going into the Consent Calendar or suspension of the rules, to lodge the point of order against the bills at this time?

THE SPEAKER: The point of order could be directed against such consideration when the bills are called up under the general rules of the House. The rules we are operating under today as far as these bills are concerned concerns suspension of the rules, and that motion will suspend all rules.

MR. HALL: Mr. Speaker, if I may inquire further, is it not true that, until such time as we go into that period of suspension of the rules, a point of

9. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* §713(c) (1979).

order would logically lie against such bills which violate the prerogatives of the House and of the individual Members thereof, to say nothing of the committee rules? My belief that a point of order should be sustained is based on improper committee procedure and addresses itself to the fact that the bills are improperly scheduled, listed, or programed on the calendar, or rule of suspension, and so forth.

THE SPEAKER: The Chair will state, as to points of order, at the time the Chair answered the specific inquiry of the gentleman from Missouri, a point of order would not lie until the bill is reached and brought up for consideration.

MR. HALL: Mr. Speaker, may I be recognized at that time to lodge such a point of order, and will this Member be protected?

THE SPEAKER: The Chair will always protect the rights of any Member. The Chair has frankly conveyed to the gentleman that we are operating under a suspension of the rules procedure today, and that suspends all rules.

MR. [LESLIE C.] ARENDS [of Illinois]: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. ARENDS: Do I correctly understand the ruling of the Chair that suspending all the rules pertains to more than just the House; it pertains to the rules of committee action likewise?

THE SPEAKER: The gentleman from Illinois is correct.

MR. ARENDS: I thank the Speaker.

### § 17.9 A point of order that a bill was reported from com-

**mittee in the absence of a quorum is in order while the motion that the House resolve itself into the Committee of the Whole for the consideration of the bill is pending.**

On Oct. 11, 1968,<sup>(10)</sup> a point of order that a quorum was absent when the standing committee considered a bill was entertained pending a vote on a motion to resolve into the Committee of the Whole.

MR. [WILLIAM R.] POAGE [of Texas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 2511) to maintain and improve the income of producers of crude pine gum, to stabilize production of crude pine gum, and for other purposes.

MR. [PAUL] FINDLEY [of Illinois]: Mr. Speaker, I make a point of order against consideration of S. 2511.

THE SPEAKER:<sup>(11)</sup> The gentleman will state his point of order.

MR. FINDLEY: Mr. Speaker, I make a point of order against the consideration of S. 2511 on the grounds that the Committee on Agriculture acted without a quorum being present when it ordered S. 2511 reported to the House on July 2, 1968.

Rule XI, clause 26(e), of the rules of the House states as follows:

10. 114 CONG. REC. 30739, 90th Cong. 2d Sess.

11. John W. McCormack (Mass.).

(e) No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.<sup>(12)</sup>

I have personally checked with the staff of the Committee on Agriculture and have been informed that on July 2, 1968, there were only 14 members of the committee present and that the vote to report S. 2511 to the House was 11 to 0 in favor of such action. Since the total membership of that committee is 35, there obviously was not a majority actually present as required by rule XI, clause 26(e).

THE SPEAKER: The Chair would like to inquire of the chairman of the Committee on Agriculture if a quorum was present when the bill was reported.

MR. POAGE: Mr. Speaker, the chairman of the Committee on Agriculture was not present the day this bill was reported. The record indicates that there were only 14 members of the committee present at the time it was reported.

THE SPEAKER: Does the gentleman from Texas state that the record of his committee shows there were 14 members present when the bill was acted upon and reported out?

MR. POAGE: That is correct.

THE SPEAKER: [The rule] states:

No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.

Upon the statement of the chairman of the committee, a majority of the committee were not actually present. Therefore, the point of order is sus-

12. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).

tained; and the bill is recommitted to the Committee on Agriculture.

**§ 17.10 A point of order under Rule XI clause 27(e),<sup>(13)</sup> that a bill was reported from committee in the absence of a quorum, is properly raised when the bill is called up for consideration; such a point of order will not lie against a resolution providing for the consideration of the bill.**

On Oct. 11, 1968,<sup>(14)</sup> Speaker John W. McCormack, of Massachusetts, made a ruling regarding the proper time to raise a point of order that a bill was reported from committee without a quorum being present.

MR. [JOHN A.] YOUNG [of Texas]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1256 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1256

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 2511) to maintain and improve the income of producers of crude pine gum. . . .

13. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).

14. 114 CONG. REC. 30738, 90th Cong. 2d Sess.

MR. [PAUL] FINDLEY [of Illinois]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state his point of order.

MR. FINDLEY: Mr. Speaker, I make a point of order against the consideration of House Resolution 1256 on the grounds that the Committee on Agriculture acted without a quorum being present when it ordered S. 2511 reported to the House on July 2, 1968.

Rule XI, clause 26(e), of the rules of the House states as follows:<sup>(15)</sup>

(e) No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.

I have personally checked with the staff of the Committee on Agriculture and have been informed that on July 2, 1968, there were only 14 members of the committee present and that the vote to report S. 2511 to the House was 11 to 0 in favor of such action. Since the total membership of that committee is 35, there obviously was not a majority actually present as required by rule XI, clause 26(e).

Mr. Speaker, I raise the point of order at this time in order to have it presented to the Chair in a timely fashion. The precedents indicate that such a point of order is made too late if it comes after debate has started on either the rule or on the bill itself—VIII 2223 and February 24, 1947, page 1374.<sup>(16)</sup>

Furthermore, the Chair stated in a response to a parliamentary inquiry by

15. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).

16. See § 17.14, *infra*, for proceedings on Feb. 24, 1947.

the gentleman from Missouri [Mr. Hall] on Monday of this week—October 7, page 29764—that any point of order under rule XI, clause 26(e), would have to be made when the bill is called up.

Since House Resolution 1256 is the rule which calls up S. 2511 for consideration in the Committee of the Whole House on the State of the Union, I therefore insist on my point of order at this time.

THE SPEAKER: The Chair states, in response to the inquiry of the gentleman from Illinois, that the point of order at this time would be premature.

The Chair might state that the appropriate time to make the point of order would be at the time the motion is made to go in the Committee of the Whole.

MR. FINDLEY: That is after the rule is adopted?

THE SPEAKER: After the rule is adopted.

MR. FINDLEY: Mr. Speaker, I thank the Chair.

**§ 17.11 Points of order against a bill on the ground that a quorum of the committee was not present when the bill was ordered reported should be made in the House; such points come too late after the House has resolved itself into the Committee of the Whole for consideration of the bill.**

On June 14, 1946,<sup>(17)</sup> during consideration of S. 524, the na-

17. 92 CONG. REC. 6961, 79th Cong. 2d Sess.

tional cemetery bill, Jere Cooper, of Tennessee, Chairman of the Committee of the Whole, made a ruling on the proper time to raise objection to proceedings of the committee reporting a bill.

MR. [FOREST A.] HARNESS of Indiana: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HARNESS of Indiana: At what time would a point of order lie against the bill on the ground that the committee reporting it was without jurisdiction because at the time it reported the bill there was not a quorum present?

THE CHAIRMAN: Answering the gentleman's parliamentary inquiry the Chair will state that such a point of order would be too late now that the House is in the Committee of the Whole House on the State of the Union. Such a point of order should be made in the House before consideration of the bill.

**§ 17.12 A point of order that a nonprivileged measure was reported from committee in the absence of a quorum will not lie until the House has agreed to consider the bill.**

On Oct. 11, 1968,<sup>(18)</sup> Speaker John W. McCormack, of Massachusetts, ruled on the timeliness of a point of no quorum of the

18. 114 CONG. REC. 30751, 90th Cong. 2d Sess.

committee reporting a bill, when raised in the House against consideration of the bill.<sup>(19)</sup>

**§ 17.13 Following the discharge of the Committee of the Whole from further consideration of a bill, a Member was permitted, pending consideration of the bill, to make the point of order that the measure had been reported from committee in the absence of a quorum.**

On Oct. 11, 1968,<sup>(1)</sup> Speaker John W. McCormack, of Massachusetts, entertained a point of order concerning the lack of a quorum of the committee reporting a bill after the bill was read.

MR. [THADDEUS J.] DULSKI [of New York]: Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 1507) to include firefighters within the provisions of section 8336(c) of title 5, United States Code, relating to the retirement of Government employees engaged in certain hazardous occupations.

The Clerk read the title of the bill.

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

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker, reserving the right to object, I would make a point of order

19. See the excerpt from § 17.13, *infra*, for the proceedings of this date.

1. 114 CONG. REC. 30751, 90th Cong. 2d Sess.

against the bill. I make a point of order that report No. 1945 violates rule XI, clause 26,<sup>(2)</sup> and that a quorum was not present when the bill was passed by the Post Office and Civil Service Committee.

THE SPEAKER: The Chair will state that the unanimous-consent request is for the present consideration of the bill. In the opinion of the Chair, at this point a point of order is not in order. If the consent is granted, then a point of order might be in order, though the Chair does not indicate what the decision of the Chair might be.

MR. ASHBROOK: Mr. Speaker, I would say to the Chair, on that ground I would withdraw my reservation of objection.

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

There was no objection.

The Clerk read the bill, as follows:

S. 1507

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8336(c) of title 5, United States Code, is amended. . . .*

THE SPEAKER: Now does the gentleman from Ohio want to make the point of order?

MR. ASHBROOK: Yes, Mr. Speaker. I make the point of order for the reasons already stated and request that the bill be recommitted to the Committee on Post Office and Civil Service.

THE SPEAKER: The Chair would like to ask the gentleman from New York if

a quorum was present in his committee when the bill was reported?

MR. DULSKI: Mr. Speaker, the gentleman from Ohio is correct. There was no quorum present.

THE SPEAKER: Under those circumstances, the Chair sustains the point of order and the bill is recommitted to the Committee on Post Office and Civil Service.

*Parliamentarian's Note:* The Chair was, under the ruling of July 19, 1947, contained at Chapter 19, § 8.2, infra, and at Chapter 31, § 8.2, infra, and at Chapter 17, § 58.7, supra, justified in interpreting the granting of the original unanimous-consent request (to discharge the Committee of the Whole House on the state of the Union) as not tantamount to waiving the point of order, since the request here did not specify a waiver of all points of order.

**§ 17.14 The point of order that a bill was reported from a committee without a formal meeting and a quorum present comes too late if debate has started on the bill in the House.**

On Feb. 24, 1947,<sup>(3)</sup> during consideration of a bill providing for daylight saving time in the District of Columbia, Speaker Joseph W. Martin, Jr., of Massachusetts, made a ruling regarding timeli-

2. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).

3. 93 CONG. REC. 1368, 1369, 1374, 80th Cong. 1st Sess.

ness of a point of no quorum in committee.<sup>(4)</sup>

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 1700) to provide for daylight saving in the District of Columbia, and ask for its immediate consideration.

The Clerk read the bill, as follows: . . .

THE SPEAKER: The gentleman from Illinois is recognized for 1 hour. . . .

MR. DIRKSEN: Mr. Speaker, this is the first District Day that has been claimed by the Committee on the District of Columbia. . . .

MR. [DANIEL A.] REED of New York: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. REED of New York: I believe the Reorganization Act [section 133(d)] provides that no bill shall come to the floor unless it is reported out of committee when a quorum is present. As I understand the statement of the gentleman from Illinois, there was no meeting of the committee.

THE SPEAKER: The point of order comes too late. It should have been made before debate started on the bill.

**§ 17.15 A point of order that a quorum was not present in committee when a resolution was ordered reported comes too late if not made when the resolution was read.**

On Feb. 25, 1954,<sup>(5)</sup> after debate had commenced on House Resolu-

4. See also § 17.10, supra.

5. 100 CONG. REC. 2294, 2295, 2303, 83d Cong. 2d Sess.

tion 419, which was offered by the Committee on House Administration and provided by additional funds from the contingent fund to be paid for an investigation by a subcommittee of the Committee on Government Operations, Speaker Joseph W. Martin, Jr., of Massachusetts, made a ruling on the timeliness in the House of a point of no quorum in committee when the resolution was ordered reported.

MR. [KARL M.] LECOMPTE [of Iowa]: Mr. Speaker, by direction of the Committee on House Administration, I call up for consideration at this time House Resolution 419 with a committee amendment.

The Clerk read as follows: . . .

With the following committee amendment: . . .

MR. LECOMPTE: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. LECOMPTE: Mr. Speaker, this is a privileged resolution?

THE SPEAKER: Yes.

MR. LECOMPTE: And the same rules apply in this case as in the case of the resolution just agreed to by the House?

THE SPEAKER: Yes.

MR. LECOMPTE: Mr. Speaker, for the benefit of the Members of the House may I say that by the terms of this resolution the sum of \$100,000 is provided for an investigation by one of the subcommittees of the Committee on Government Operations, the subcommittee being headed by the gentleman from Ohio [Mr. Bender]. . . .

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. HOFFMAN of Michigan: Mr. Speaker, I object to consideration of the resolution at this time unless it appears that a quorum was present when the resolution was authorized by the committee or unless the chairman of the committee will so state that a quorum was present. If he does, that will be satisfactory.

THE SPEAKER: The gentleman from Michigan [Mr. Hoffman], makes the point of order that a quorum was not present in the committee reporting this resolution. Unfortunately for the gentleman from Michigan, he makes his point of order too late. That should have been made at the time the resolution was read.

MR. HOFFMAN of Michigan: Mr. Speaker, I want to make one correction. I did not make the point of order that a quorum was not present. The point of order was that consideration of the bill is not in order unless the record showed a quorum was present or unless the gentleman so stated

THE SPEAKER: The gentleman should have made that point of order at the time the resolution was read.

**§ 17.16 After the adoption of a resolution by the House, it is too late to attack the validity of the action taken by the committee reporting the resolution on the ground that a quorum was not present when it was ordered reported.**

On Feb. 28, 1968,<sup>(6)</sup> Speaker John W. McCormack, of Massachusetts, made a ruling as to the proper time to raise a point of order that a committee action was taken in the absence of a quorum.

*Questioning the Committee Chairman*

**§ 17.17 Where a report from a committee was challenged on the ground that a quorum of the committee was not present when the report was authorized, the Speaker questioned the chairman of the committee concerning the truth of the contention.**

On Oct. 11, 1968,<sup>(7)</sup> Speaker John W. McCormack, of Massachusetts, questioned the Chairman of the Committee on Agriculture with respect to a point of order.<sup>(8)</sup>

**§ 17.18 Because the Chair has no knowledge of what occurred in a standing committee, he must rely on the certain statement of the chairman of the committee as to whether a quorum was**

6. For the proceedings of this date, see § 17.6, supra.

7. 114 CONG. REC. 30739, 90th Cong. 2d Sess.

8. For the proceedings of this date, see § 17.9, supra.

**present when the committee ordered the bill reported.**

On July 9, 1956,<sup>(9)</sup> Speaker Sam Rayburn, of Texas, ruled on a point of order, as follows:

MR. [JOHN L.] McMILLAN [of South Carolina]: Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 4697) to amend the Alcoholic Beverage Control Act of the District of Columbia, 1954, as amended, and I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

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

MR. [ALBERT P.] MORANO [of Connecticut]: Mr. Speaker, I make the point of order against the consideration of this bill on the ground that when the committee considered this bill there was not a quorum present to report it to the House. . . .

MR. [SIDNEY E.] SIMPSON of Illinois: I will say for the benefit of the House that I was at the committee meeting when the gentleman from Virginia [Mr. Smith] brought up the point of no quorum; and there was a quorum present.

THE SPEAKER: That is what the Chair is trying to ascertain from the chairman of the committee.

MR. McMILLAN: That is correct.

THE SPEAKER: That is the point that is involved here.

MR. McMILLAN: The gentleman from Virginia [Mr. Smith] made that motion and there was a quorum present.

MR. MORANO: Mr. Speaker, I press my point of order. I would like to know whether or not there was a quorum present when this bill was reported, not when the gentleman from Virginia made his motion.

THE SPEAKER: The chairman of the legislative committee has just stated to the Chair that there was a quorum present when this bill was reported. The Chair is going to take the word of the chairman of the committee, because that is according to the rules and practices of the House.

MR. MORANO: Mr. Speaker, I understood the chairman to say that when the gentleman from Virginia [Mr. Smith] made his motion there was a quorum present. But I did not understand the chairman of the committee to say that when this bill was reported there was a quorum present.

THE SPEAKER: The Chair is going to ask the gentleman from South Carolina [Mr. McMillan] that question now.

MR. McMILLAN: Mr. Speaker, when the gentleman from Virginia made his motion he stated that he wanted all bills that were considered that day passed with a quorum present.

THE SPEAKER: The Chair is going to ask the gentleman again if a quorum was present, to his certain knowledge, when this bill was reported. . . . The gentleman from South Carolina said that on the last action on the bill in the committee a quorum was present.

The Chair under the circumstances must overrule the point of order made by the gentleman from Connecticut.

**§ 17.19 Where the chairman of a committee concedes that a bill was ordered reported**

9. 102 CONG. REC. 12199, 12200, 84th Cong. 2d Sess.

**when a quorum was not present, and a point of order is sustained against the bill on that ground, the bill is recommitted.**

On Oct. 11, 1968,<sup>(10)</sup> a bill reported from the Committee on Agriculture was recommitted because a quorum had not been present when the bill was ordered reported.<sup>(11)</sup>

***Withdrawal of Floor Consideration***

**§ 17.20 Where a point of order was raised against consideration of a privileged resolution, reported and called up by the Committee on House Administration, on the ground that a quorum of the committee was not present when the resolution was ordered reported, the resolution was withdrawn before the Chair ruled.**

On Feb. 28, 1968,<sup>(12)</sup> a resolution was withdrawn after a point of order was raised in the House

10. 114 CONG. REC. 30739, 90th Cong. 2d Sess.

11. See the proceedings discussed in § 17.9, supra. See also 114 CONG. REC. 30751, 90th Cong. 2d Sess., Oct. 11, 1968, for another illustration.

12. 114 CONG. REC. 4449, 90th Cong. 2d Sess.

that the committee lacked a quorum when the resolution was reported.

MR. [SAMUEL N.] FRIEDEL [of Maryland]: Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 1127) on the resolution (H. Res. 1042) authorizing the expenditure of certain funds for the expenses of the Committee on Un-American Activities, and ask for immediate consideration of the resolution.

MR. [WILLIAM F.] RYAN [of New York]: Mr. Speaker, a point of order.

THE SPEAKER:<sup>(13)</sup> The gentleman will state his point of order.

MR. RYAN: Mr. Speaker, I make a point of order against the consideration of the privileged report on House Resolution 1042 on the ground that a quorum was not present in the Committee on House Administration when this matter was considered.

THE SPEAKER: Does the gentleman from Maryland desire to be heard on the point of order?

MR. FRIEDEL: Mr. Speaker, it is true that we did not have a quorum present for the consideration of House Resolution 1042, but we had unanimous consent by the members that they would not raise a point of order.

However, Mr. Speaker, under the circumstances, in view of the point of order being raised, I withdraw the resolution.

THE SPEAKER: The gentleman from Maryland withdraws the resolution.

**§ 17.21 A report from the Committee on Rules, about to be**

13. John W. McCormack (Mass.).

**reported from the floor, was not filed because of a question as to the presence of a quorum of the committee when the resolution was ordered reported.**

On Feb. 2, 1951,<sup>(14)</sup> House Resolution 95, authorizing the Committee on the Judiciary to conduct studies and investigations relating to matters within its jurisdiction, was withdrawn.

MR. [ADOLPH J.] SABATH [of Illinois]: Mr. Speaker, I desire to file a privileged report for printing in the Record. The Clerk read as follows:

House Resolution 95, authorizing the Committee on the Judiciary to conduct studies and investigations relating to matters within its jurisdiction.

MR. [CLARENCE J.] BROWN of Ohio: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:<sup>(15)</sup> The gentleman will state it.

MR. BROWN of Ohio: Mr. Speaker, may the gentleman from Ohio inquire what is the privileged report?

THE SPEAKER: The Clerk read the report. The Clerk will reread it.

The Clerk read as follows:

House Resolution 95, authorizing the Committee on the Judiciary to conduct studies and investigations relating to matters within its jurisdiction.

Mr. Brown of Ohio and Mr. [Edward E.] Cox [of Georgia] rose.

14. 97 CONG. REC. 876, 82d Cong. 1st Sess.

15. Sam Rayburn (Tex.).

THE SPEAKER: The gentleman from Illinois has the floor.

MR. COX: Mr. Speaker, will the gentleman yield?

MR. SABATH: For a question.

MR. COX: For a statement. The gentleman violates an agreement we had on the floor.

MR. SABATH: I did not violate any agreement.

THE SPEAKER: The gentleman from Illinois asked unanimous consent to have until midnight to file a report from the Committee on Rules. That was day before yesterday. The request was objected to. There was no agreement the Chair knows anything about.

MR. COX: Mr. Speaker, I had an agreement with the gentleman myself. The Committee on Rules reported this resolution when a quorum was not present.

MR. BROWN of Ohio: Mr. Speaker, I desire to make a point of order.

MR. COX: Mr. Speaker, I approached the gentleman on the floor and made a statement to him. He said he would not offer this resolution until the committee had had opportunity to act on it again. Now, that was fair of the gentleman. Of course, I do not mean to say the gentleman intentionally violates an agreement, but he has violated an agreement.

MR. SABATH: No. Wait a minute. Mr. Speaker, to make matters clear, two of the Republican Members left the committee—the committee remained in session—to answer a roll call. We had seven Members and there was no objection.

MR. COX: The gentleman is mistaken. There were six. I counted them.

MR. BROWN of Ohio: Mr. Speaker, I make the point of order that the reso-

lution has not been properly reported by the Rules Committee.

MR. SABATH: It has been reported.

MR. BROWN of Ohio: I think an inquiry by the Chair will determine there was not a quorum present, and that the resolution was not before the committee at that time.

MR. COX: That is right. That is a correct statement.

MR. BROWN of Ohio: I must protest, Mr. Speaker, and I must make the point of order. . . .

MR. SABATH: Mr. Speaker, even if a quorum was not present, no point of order has been made. But a quorum was present, and I can give you the names of the seven Members who were present. They were Mr. Cox, Mr. Colmer, Mr. Madden, Mr. Delaney, Mr. Mitchell, Mr. Latham, and myself. Seven of twelve makes a quorum. But I withheld it because the gentleman from Ohio [Mr. Brown] objected due to some misunderstanding with the gentleman from New York [Mr. Celler]. Since that time I have learned that the gentleman from New York [Mr. Celler] has agreed with the gentleman from Ohio [Mr. Brown] on the assignment of committees and because the gentleman from New York [Mr. Celler] assured me that an agreement has been reached with the gentleman from Ohio [Mr. Brown] as to the number of subcommittees, I present it today. A quorum was present. The committee had jurisdiction.

MR. COX: Mr. Speaker, if the gentleman will yield there, the gentleman will recall that the gentleman from Virginia [Mr. Smith] and the gentleman from Texas were not present. There was not a single Republican present.

MR. SABATH: There was a Republican present.

MR. COX: Not a single Republican was present. This was not on the agenda but it was called up after the Republicans left, and there was not the majority present. . . .

MR. SABATH: I withdraw the resolution, Mr. Speaker.

### *Suspension of the Rules*

**§ 17.22 Because a motion to suspend the rules and pass a bill suspends all rules in conflict with the motion, a point of order will not lie against the bill on the ground that a quorum of the committee was not present when it was reported.**

On Sept. 16, 1968,<sup>(16)</sup> Speaker John W. McCormack, of Massachusetts, ruled on the validity of a point of no quorum during a suspension of the rules procedure.

MR. [MORRIS K.] UDALL [of Arizona]: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 19136) to amend title 5, United States Code, to provide for the payment of overtime and standby pay to certain personnel employed in the Department of Transportation.

The Clerk read as follows:

H.R. 19136

*Be it enacted by the Senate and House of Representatives of the*

16. 114 CONG. REC. 27029, 27030, 90th Cong. 2d Sess.

*United States of America in Congress assembled*, That section 5542(a) of title 5, United States Code, is amended by adding the following new paragraph after paragraph (2):

...  
 Sec. 3. The amendments made by this Act shall take effect on the first day of the first pay period which begins on or after the thirtieth day after the date of enactment of this Act.

THE SPEAKER: Is a second demanded?

MR. [H. R.] GROSS [of Iowa]: Mr Speaker, at the proper time I ask to be recognized to make a point of order against consideration of this bill.

THE SPEAKER: The Chair will state that if the gentleman proposes to make a point of order, this is the time to make it.

MR. GROSS: Mr. Speaker, I make a point of order against the consideration of the bill (H.R. 19136) on the ground that it violates rule XI, clause 26(e),<sup>(1)</sup> in that it was reported from the committee without a quorum being present.

THE SPEAKER: The Chair will state that the motion to suspend the rules suspends all rules, including the rule mentioned by the gentleman from Iowa.

**§ 17.23 Where a bill is being considered under suspension of the rules, a point of order will not lie against the bill on the ground that a quorum was not present when the bill was reported from committee.**

1. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).

On Oct. 7, 1968,<sup>(2)</sup> Speaker John W. McCormack, of Massachusetts, ruled on the point of no quorum under a suspension of the rules procedure.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, relating to our program for today, a number of bills are slated to be considered under suspension of rules in the House. There are four bills from the Committee on Post Office and Civil Service which, from evidence I have, were reported in violation of rule XI, clause 26(e) which states:

(e) No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.<sup>(3)</sup>

The evidence I have is that H.R. 17954 and H.R. 7406 were ordered reported from the Committee on Post Office and Civil Service in executive session on August 2, 1968, without a quorum present.

Additional evidence reveals that S. 1507 and S. 1190 were ordered reported from the Committee on Post Office and Civil Service in executive session on September 3, 1968, without a quorum present. I further cite from Jefferson's Manual, section 408:

A bill improperly reported is not entitled to its place on the calendar; but the validity of a report may not be questioned after the House has voted to consider it, or after actual consideration has begun.

Mr. Speaker, I submit that the bills S. 1507, S. 1190, H.R. 17954, and H.R.

2. 114 CONG. REC. 29764, 90th Cong. 2d Sess.

3. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).

7406 all were improperly reported. Mr. Speaker, my parliamentary inquiry is this: At what point in the proceedings would it be in order to raise the question against these bills as being in violation of rule XI, clause 26(e) inasmuch as they are scheduled to be considered under suspension of the rules, which would obviously suspend the rule I have cited?

Mr. Speaker, I ask the guidance of the Chair in lodging my point of order against these listed bills so that my objection may be fairly considered, and so that my right to object will be protected. Mr. Speaker, I intend to do so only because orderly procedure must be based on compliance with the rules of the House which we have adopted.

THE SPEAKER: The Chair will state that any point of order would have to be made when the bill is called up.

The Chair might also advise or convey the suggestion to the gentleman from Missouri that the bills will be considered under suspension of the rules, and that means suspension of all rules.

MR. HALL: Mr. Speaker, a further parliamentary inquiry. Would it not be in order, prior to the House going into the Consent Calendar or suspension of the rules, to lodge the point of order against the bills at this time?

THE SPEAKER: The point of order could be directed against such consideration when the bills are called up under the general rules of the House. The rules we are operating under today as far as these bills are concerned concerns suspension of the rules, and that motion will suspend all rules.

MR. HALL: Mr. Speaker, if I may inquire further, is it not true that, until

such time as we go into that period of suspension of the rules, a point of order would logically lie against such bills which violate the prerogatives of the House and of the individual Members thereof, to say nothing of the committee rules? My belief that a point of order should be sustained is based on improper committee procedure and addresses itself to the fact that the bills are improperly scheduled, listed, or programed on the calendar, or rule of suspension, and so forth.

THE SPEAKER: The Chair will state, as to points of order, at the time the Chair answered the specific inquiry of the gentleman from Missouri, a point of order would not lie until the bill is reached and brought up for [consideration].

MR. HALL: Mr. Speaker, may I be recognized at that time to lodge such a point of order, and will this Member be protected?

THE SPEAKER: The Chair will always protect the rights of any Member. The Chair has frankly conveyed to the gentleman that we are operating under a suspension of the rules procedure today, and that suspends all rules.

MR. [LESLIE C.] ARENDS [of Illinois]: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. ARENDS: Do I correctly understand the ruling of the Chair that suspending all the rules pertains to more than just the House; it pertains to the rules of committee action likewise?

THE SPEAKER: The gentleman from Illinois is correct.

MR. ARENDS: I thank the Speaker.

*Parliamentarian's Note:* Two of the bills which were allegedly re-

ported in the absence of a quorum, H.R. 17954 and H.R. 7406, were scheduled for consideration on both the Consent Calendar and under suspension of the rules. In his response to the inquiry of Mr. Hall, the Speaker discussed the validity of a point of order only in relation to the suspension of the rules procedure. He did not foreclose the making of a point of order against a bill on the Consent Calendar. However, the two bills which might have been vulnerable when called on the Consent Calendar were passed over without prejudice, by unanimous consent.

None of the bills challenged by Mr. Hall were in fact considered on this date. When it became apparent to the leadership that the proceedings would be delayed by repeated points of no quorum, the Speaker informally advised Members that the four bills would not be called up under suspension. On Oct. 11, S. 1507 was recommitted when a point of order was sustained against its consideration on the ground that it was reported in the absence of a quorum. (See 114 CONG. REC. 30751, 90th Cong. 2d Sess.) A bill similar to H.R. 17954 was called up on Oct. 11 (S. 4120), considered, and passed by unanimous consent. (See 114 CONG. REC. 30752, 90th Cong. 2d Sess.)

### ***Rule Waiving Quorum Requirement***

**§ 17.24 The House rejected a resolution reported from the Committee on Rules, providing for an “open” rule but including a waiver of Rule XI clause 27(e),<sup>(4)</sup> which requires that a majority of a committee be actually present when a measure is reported from committee, to permit consideration of a bill improperly voted on and reported by the Committee on Post Office and Civil Service.**

On July 23, 1973,<sup>(5)</sup> the House defeated a resolution to waive the rule which requires presence of a quorum when a committee reports a bill.

MR. [CLAUDE D.] PEPPER [of Florida]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 495 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 495

*Resolved*, That upon the adoption of this resolution it shall be in order to move, clause 27(e), rule XI to the contrary notwithstanding, that the House resolve itself into the Com-

4. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).
5. 119 CONG. REC. 25476-79, 25482, 93d Cong. 1st Sess.

mittee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8929) to amend title 39, United States Code, with respect to the financing of the cost of mailing certain matter free of postage.

MR. PEPPER: Mr. Speaker, House Resolution 495 provides for an open rule with 2 hours of general debate on H.R. 8929, a bill to provide relief from postal rate increases for certain mailers.

House Resolution 495 provides that the provisions of clause 27(e), rule XI of the Rules of the House of Representatives are waived.

I will state to my able friend from Iowa, whose inquiry I anticipate, if I may, that the occasion for this request for a waiver by the Rules Committee is this: The committee had before it H.R. 7554. The committee, on the 21st of June, I believe it was, voted, with a quorum present, by a record vote of 33 to 10, to report out the committee bill, H.R. 7554, with amendments. The bill and the amendments were voted favorably by the committee. . . .

I am sorry. It was 13 to 10. I understand that there are 25 members of the committee, and 23 voted, and the vote to report out the bill was 13 to 10.

The committee voted to report out a clean bill, which would embody H.R. 7554 and the amendments in a single clean bill.

On the day following that meeting of the committee there was introduced a clean bill, embodying exactly H.R. 7554 plus the amendments that had been voted upon favorably by the committee. There was not a subsequent meeting of the committee upon the clean bill. But the clean bill embodying what was

voted upon exactly by the committee, as H.R. 8929, was reported out and presented to the Rules Committee. The situation was reported to the Rules Committee, and the Rules Committee voted to recommend consideration of the bill to the House, but recommended that there be a waiver of points of order so that any technicality which might arise out of that situation would be cured by the waiver of the rule, if the House adopted the waiver of the rule. . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I thank the gentleman for yielding.

I believe one slight correction should be made. A clean bill was introduced 2 days after the committee voted on the proposition, and I would have to differ again with the gentleman in his statement that this is an open rule. It is not an open rule since it waives a point of order.

MR. PEPPER: Mr. Speaker, it is an open rule.

MR. GROSS: The Committee on Rules in effect is doing the homework for the Committee on Post Office and Civil Service in that they did not abide by the rules of the House and vote on a clean bill

MR. DEL [M.] CLAWSON [of California]: Mr. Speaker, House Resolution 495 provides a rule with 2 hours of general debate for the consideration of H.R. 8929, Educational and Cultural Postal Amendments. The rule also includes a waiver of clause 27 (e) of rule XI. This rule requires the presence of a quorum when a bill is reported. In this case the committee, with a quorum Present agreed to report a clean bill, but never actually held a meeting offi-

cially reporting out the clean bill. Therefore, the waiver is necessary in order to prevent a point of order against consideration of the bill. . . .

I would suggest to the Members that regardless of their views on this bill itself that this is the kind of precedent we should not be setting and it makes for bad legislation. I think the rule should be defeated and we should let the committee produce a proper vehicle for final consideration and then we will not have any argument about the need for a protected rule. . . .

MR. [DELBERT L.] LATTA [of Ohio]: Mr. Speaker, anyone who has read the committee report is probably wondering how this bill ever got to the place where it is today. Let me say that the vote in the Post Office and Civil Service Committee was a close 13 to 10, and in the Rules Committee it was 7 to 5. I might hastily add I was one of the five who voted not to report this bill. . . .

MR. PEPPER: . . . Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

THE SPEAKER PRO TEMPORE:<sup>(6)</sup> The question is on the resolution.

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

MR. [JAMES M.] HANLEY [of New York]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 188, nays 202, not voting 51, as follows: . . .

So the resolution was rejected.

6. John J. McFall (Calif.).

### *Senate Precedent*

**§ 17.25 A point of order against a report on a bill was sustained on the ground that a quorum was not present at the time the Senate committee voted to report the measure; the Presiding Officer ruled that the bill was therefore still in the custody of the committee and had not been reported to the Senate.**

On July 31, 1963,<sup>(7)</sup> a bill was not considered on the floor because of the absence of a quorum in the committee.

The Senate resumed the consideration of the bill (S. 1703) to amend title V of the Agricultural Act of 1949, as amended, and for other purposes.

MR. [WILLIAM] PROXMIRE [of Wisconsin]: Mr. President, will the Senator from Florida yield for the purpose of my making a point of order?

MR. [SPESSARD L.] HOLLAND [of Florida]: I yield to the distinguished Senator from Wisconsin so that he may make a point of order.

MR. PROXMIRE: Mr. President, I make a point of order that the bill which is now under consideration is not properly before the Senate because, at the time the vote to report the bill was taken in committee, a quorum was not actually present. I have checked this with the clerk of the committee,

7. 109 CONG. REC. 13791, 13792, 88th Cong. 1st Sess.

and it is my understanding that only six Senators answered to their names.

. . .

Mr. President, I ask for a ruling.

THE PRESIDING OFFICER:<sup>(8)</sup> The Chair must inquire of the chairman of the committee as to what the facts are. The Chair is not conversant with the facts, and must depend on the chairman of the committee. . . .

Will the chairman of the committee inform the Chair specifically whether a quorum was present at the time the vote was taken on S. 1703?

MR. [ALLEN J.] ELLENDER [of Louisiana]: At the time?

THE PRESIDING OFFICER: At the time.

MR. ELLENDER: By proxies, yes; but not actually.

MR. [CLAIR] ENGLE [of California]: Mr. President, will the Senator yield?

MR. ELLENDER: I yield.

MR. ENGLE: The committee record shows that a quorum was present. Is that correct?

MR. ELLENDER: That is correct.

MR. ENGLE: No point of no quorum was made at the time the bill was reported.

MR. ELLENDER: That is correct.

MR. ENGLE: The record shows that a quorum was present, and no point of order was made at that particular time, and members drifted in and out. Is that correct? . . .

THE PRESIDING OFFICER: Does the Senator from Wisconsin press his point of order?

MR. PROXMIRE: Yes; I press my point of order. I wish further to point out that it has now been disclosed and

stipulated and agreed upon by the chairman of the committee that a quorum was not present at the time the vote on the bill was taken. It is true that a quorum was present earlier. It is true that a substantive majority was present earlier, but at the time the vote was taken no physical quorum was present in the committee room to vote.

MR. ELLENDER: The records of the committee show that a quorum was present at the meeting.

THE PRESIDING OFFICER: By proxy?

MR. ELLENDER: A quorum was present at the time the meeting began, when the question of a quorum arose.

THE PRESIDING OFFICER: Was a quorum present at the time the vote was taken on S. 1703?

MR. ELLENDER: No.

THE PRESIDING OFFICER: In view of the point of order that has been made, and the rule which necessitates that a ruling be made, the Chair rules that under section 133(d) of the Legislative Reorganization Act of 1946,<sup>(9)</sup> which operates as a rule of the Senate, and provides that: "No measure or recommendation shall be reported from any such committee unless a majority of the committee were actually present," the Chair sustains the point of order.

If the Committee on Agriculture and Forestry reported the bill (S. 1703) in question without a majority of the members being actually present, the action of the committee in ordering the bill to be reported to the Senate was in

8. Claiborne Pell (R.I.).

9. This section appears in 2 USC §190a (d), and Rule XXV clause 5(a), *Senate Manual* §25.5 (1973).

controvention of the above section of the Legislative Reorganization Act, and therefore such action was without authority and void.

Being “actually present” means the member would have had to be present in committee, and a poll does not present a compliance with the rule.

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

THE PRESIDING OFFICER: The Senator from Florida will state it.

MR. HOLLAND: What is the status of the bill following the ruling of the distinguished Presiding Officer?

THE PRESIDING OFFICER: The status of the bill is that legally it has never left the committee.

MR. HOLLAND: The status of the bill is that it is still in the custody of the committee?

THE PRESIDING OFFICER: It is in the custody of the committee.

## § 18. Withdrawal or Withholding of Objections or Points of No Quorum

When a point of no quorum is made, no “business”<sup>(10)</sup> is in

10. “Business” is a term of art which does not encompass all parliamentary proceedings. For example, the prayer, administration of the oath to a Member, receipt of messages from the President and Senate, motions incidental to a call of the House, and the motion to adjourn, which do not require a quorum, are in order after a point of no quorum. See §10, *supra*, for a discussion of the defini-

order. The point may be withdrawn<sup>(11)</sup> or withheld<sup>(12)</sup> until announcement of absence of a quorum, after which the point may not be withdrawn even by unanimous consent.<sup>(13)</sup>

### *In General*

#### § 18.1 Withdrawal of a point of no quorum does not require unanimous consent.

On Nov. 15, 1967,<sup>(14)</sup> during consideration of S. 2388, the Economic Opportunity Amendments of 1967, Chairman John J. Rooney, of New York, commented on an objection to withdrawal of a point of no quorum.

MR. [SAM M.] GIBBONS [of Florida]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. GIBBONS: Mr. Chairman I withdraw the point of order.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I object.

THE CHAIRMAN: Withdrawal of a point of order does not require unani-

tion of business. See also Rule XV clause 6, *House Rules and Manual* §774c (1979).

11. §§ 18.5, 18.6, *infra*.  
 12. §§ 18.10, 18.11 *infra*.  
 13. §§ 18.7–18.9, *infra*.  
 14. 113 CONG REC. 32662, 90th Cong. 1st Sess.

mous consent; so the point of order is withdrawn.

**§ 18.2 Where objection is made to a vote on the ground that a quorum is not present and, pursuant to a special order, the Speaker declares that further proceedings will be put over until the following day, it is too late for another Member to demand tellers on the question, even though the point of no quorum is subsequently withdrawn.**

On May 4, 1966,<sup>(15)</sup> during consideration of H.R. 14745, the appropriations bill for the Department of Health, Education, and Welfare and the Department of Labor for fiscal year 1967, Speaker John W. McCormack, of Massachusetts, ruled on the timeliness of a demand for tellers after postponing consideration.

***Consequences of Withdrawal***

**§ 18.3 Where a point of no quorum is made and withdrawn immediately after a division vote, it is then not too late to demand a teller vote on the pending proposition.**

15. For the proceedings of this date, see § 13.5, *supra*.

On Mar. 8, 1946,<sup>(16)</sup> during consideration of H.R. 5605, the agricultural appropriation bill for 1947, Chairman William M. Whittington, of Mississippi, ordered tellers.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Massachusetts [Mr. Heselton].

The question was taken; and on a division (demanded by Mr. Heselton) there were—ayes 42, noes 28.

MR. [REID F.] MURRAY of Wisconsin: Mr. Chairman, I make a point of order a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. MURRAY of Wisconsin: Mr. Chairman, I withdraw my point of no quorum.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MAHON: Mr. Chairman, is it too late to ask for tellers on this vote?

THE CHAIRMAN: No; it is not too late to ask for tellers.

MR. MAHON: Mr. Chairman, I ask for tellers.

Tellers were ordered, and the chairman appointed as tellers Mr. Mahon and Mr. Heselton.

The committee again divided; and the tellers reported that there were—ayes 30, noes 48.

So the amendment was rejected.

16. 92 CONG. REC. 2084, 79th Cong. 2d Sess.

**§ 18.4 Objection to a voice vote for lack of a quorum having been withdrawn and demand then being made for a division, an objection to the division vote for lack of a quorum is in order and, if a quorum is not present, the roll call is automatic.**

On Feb. 5, 1957,<sup>(17)</sup> Speaker Sam Rayburn, of Texas, entertained an objection to a division vote.

THE SPEAKER: The Clerk will report the amendment on which a separate vote is demanded.

The Clerk read as follows:

Amendment offered by Mr. Lanham: Page 5, line 7, after "\$275,000,000", strike out the colon and insert "Provided, That not more than \$15,728,000 of this amount may be used for State and local administration."

MRS. [EDITH S.] GREEN of Oregon: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

THE SPEAKER: The question is on the amendment.

The question was taken and the Speaker announced that the "ayes" had it.

MRS. GREEN of Oregon: Mr. Speaker, I object to the vote on the ground a quorum is not present.

THE SPEAKER: The Chair will count.

MRS. GREEN of Oregon: Mr. Speaker, I withdraw the point of order and ask for a division.

The question was taken; and on a division (demanded by Mrs. Green of Oregon) there were—ayes 118, noes 46.

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

MR. H. CARL ANDERSEN [of Minnesota]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. H. CARL ANDERSEN: The point of order is that that request has already been made in reference to this vote, and the gentlewoman withdrew it.

THE SPEAKER: The objection to the voice vote on the grounds that a quorum was not present was withdrawn. The objection to the vote by division, on the grounds that a quorum is not present, is in order.

Evidently a quorum is not present.

***When Withdrawal Is Permitted***

**§ 18.5 A point of order that a quorum is not present may be withdrawn, providing the absence of a quorum has not been announced by the Chair; such withdrawal does not require unanimous consent.**

On Apr. 11, 1962,<sup>(1)</sup> Speaker pro tempore W. Homer Thornberry, of Texas, ruled on whether unanimous consent is required for withdrawal.

MR. [JAMES B.] UTT [of California]: I have yielded once to the gentleman from Ohio already.

17. 103 CONG. REC. 1553, 85th Cong. 1st Sess.

1. 108 CONG. REC. 6379, 6380, 87th Cong. 2d Sess.

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

THE SPEAKER PRO TEMPORE: The Chair will count.

MR. HAYS: Mr. Speaker, out of deference to the Speaker, whom I have known for 14 years as the majority leader previously, I will withdraw the point of order. But I will say I will make another one, if necessary.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: Does the gentleman from California [Mr. Utt] yield to the gentleman from Iowa [Mr. Gross] for a parliamentary inquiry?

MR. UTT: Mr. Speaker, I yield to the gentleman from Iowa for the purpose of making a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. GROSS: Mr. Speaker, does it require unanimous consent to withdraw a request for a quorum call?

THE SPEAKER PRO TEMPORE: It does not, the Chair will state to the gentleman from Iowa.

**§ 18.6 In the Committee of the Whole, a point of order that a quorum is not present may be withdrawn before the absence of a quorum is ascertained, and unanimous consent is not required.**

On Sept. 4, 1969,<sup>(2)</sup> during consideration of H.R. 12085, extending the Clean Air Act, a point of no quorum was withdrawn.

(By unanimous consent, Mr. Koch was allowed to speak out of order.)

2. 115 CONG. REC. 24372, 24373, 91st Cong. 1st Sess.

MR. [EDWARD I.] KOCH [of New York]: Mr. Chairman, I believe that the speaker who just spoke——

MR. [CHARLES E.] CHAMBERLAIN [of Michigan]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:<sup>(3)</sup> The Chair will count.

MR. CHAMBERLAIN (during the counting): Mr. Chairman, I withdraw my point of order.

MR. [JOE D.] WAGGONER [Jr., of Louisiana]: Mr. Chairman, a parliamentary inquiry.

Would it not be necessary under the rules of the House for the gentleman to ask unanimous consent to withdraw his point of order?

THE CHAIRMAN: The point of order can be withdrawn without the consent of the Committee of the Whole unanimously.

The gentleman from New York is recognized.

***When Withdrawal Is Not Permitted***

**§ 18.7 Where the Chair after counting announces that a quorum is not present, a Member may not, even by unanimous consent, withdraw his point of no quorum, to permit the House to continue with its business without having first obtained a quorum.**

On Dec. 18, 1937,<sup>(4)</sup> Speaker William B. Bankhead, of Ala-

3. Cornelius E. Gallagher (N.J.).

4. 82 CONG. REC. 1846, 75th Cong. 2d Sess.

bama, ruled on the procedure after announcement of absence of a quorum.

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Speaker, I suggest the absence of a quorum.

THE SPEAKER: The gentleman from Michigan makes the point of order that there is not a quorum present. The Chair will count. [After counting.] One hundred and fifty-six Members are present, not a quorum.

MR. RABAUT: Mr. Speaker, I will withdraw the motion.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, a point of order. The Speaker has announced that a quorum is not present. The gentleman from Michigan cannot withdraw the point of order. The Speaker has announced that there is no quorum present. Business cannot be conducted after the Speaker has announced there is no quorum present.

THE SPEAKER: The Chair will hold that a point of order having been made that there was no quorum present, and the Chair having counted and announced that there was no quorum present, a constitutional question is raised. No quorum is present, as was announced by the Chair.

MR. [HENRY B.] STEAGALL [of Alabama]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

*Parliamentarian's Note:* A unanimous-consent request is business of the House, which cannot be conducted in the proven absence of a quorum.

**§ 18.8 In the House, the absence of a quorum being an-**

**nounced, it is too late to withdraw a point of order that there is no quorum present.**

On May 23, 1939,<sup>(5)</sup> Speaker William B. Bankhead, of Alabama, ruled on the timeliness of a withdrawal of a point of no quorum.

MR. [EDWARD E.] COX [of Georgia]: Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. Woodrum].

MR. [CHARLES R.] CLASON [of Massachusetts]: Mr. Speaker, I make the point or order there is not a quorum present.

THE SPEAKER: The gentleman from Massachusetts makes the point of order that there is no quorum present. The Chair will count. [After counting.] Two hundred and thirteen Members are present, not a quorum.

Mr. Clason and Mr. [Clifton A.] Woodrum of Virginia rose.

MR. CLASON: Mr. Speaker, I withdraw the point of order in view of the large number that are present.

THE SPEAKER: Under the circumstances, the Chair is not authorized to recognize the gentleman inasmuch as the Chair had already announced no quorum present. A constitutional question is raised.

**§ 18.9 In the Committee of the Whole, it is too late to withdraw a point of no quorum after the Chair has counted**

5. 84 CONG. REC. 6004, 76th Cong. 1st Sess.

**and announced that a quorum is not present.**

On Mar. 24, 1948,<sup>(6)</sup> Chairman Francis H. Case, of South Dakota, responded to an attempt to withdraw a point of no quorum.

THE CHAIRMAN: The Chair will present that question to the Committee. The question is, Shall the gentleman be permitted to proceed with the reading of the letter?

The question was taken, and the Chair announced that the motion was agreed to.

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, I make the point of order that a quorum is not present.

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

MR. MARCANTONIO: Mr. Chairman, I withdraw the point of order. I just want to show that courtesy can be extended in this House.

THE CHAIRMAN: The Chair has already announced the count.

The Clerk will call the roll.

***Withholding***

**§ 18.10 A point of no quorum may not be reserved (withheld) after the Chair has announced that a quorum is not present.**

On Mar. 14, 1938,<sup>(7)</sup> Speaker William B. Bankhead, of Ala-

6. 94 CONG. REC. 3436, 80th Cong. 2d Sess.

7. 83 CONG. REC. 3319, 75th Cong. 3d Sess.

bama, ruled on the timeliness of withholding a point of no quorum.

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently there is not a quorum present.

MR. RAYBURN: Mr. Speaker, I withhold the point of order for the moment, as I understand there are some Members who wish to extend their remarks. I must announce, however, that for today I shall feel called upon to object to anyone having any time before going into the Committee of the Whole.

THE SPEAKER: The Chair is reluctantly obliged to hold, having announced that there was no quorum present, that the point of order may not be withheld. It raises a constitutional question. The rule will have to be observed.

MR. RAYBURN: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

**§ 18.11 A point of no quorum may not be withheld after the absence of a quorum has been announced by the Chair; and no business is in order until a quorum is established.**

On Sept. 7, 1959,<sup>(8)</sup> Speaker Sam Rayburn, of Texas, did not permit a point of no quorum to be withheld.

MR. [ARMISTEAD I.] SELDEN [Jr., of Alabama]: Mr. Speaker, I ask unani-

8. 105 CONG. REC. 18442, 18443, 86th Cong. 1st Sess.

mous consent that it may be in order to consider under the general rules of the House the bill (H.R. 9069) to provide standards for the issuance of passports, and for other purposes; that general debate continue for not to exceed 1 hour, one-half to be controlled by myself and one-half controlled by the ranking minority member of the Committee on Foreign Affairs.

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

There was no objection. . . .

MR. [CHARLES O.] PORTER [of Oregon]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Speaker, will the gentleman withhold his point of order until a consent request can be acted upon?

THE SPEAKER: It is too late to do anything. He held the floor and the Chair declared that a quorum was not present. The only thing that can take place now is a call of the House.

MR. McCORMACK: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

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