

Quorums

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A. Generally; Quorum Requirements

§ 1. In General

Constitutional Requirements and the House Rules

Under the U.S. Constitution, a majority of each House constitutes a quorum to do business, although a smaller number may adjourn from day to day. U.S. Const. art. I § 5. Since the presence of a quorum is a constitutional requirement, and because a no-quorum point of order is the only method available to a Member to enforce that requirement, the Speakers have been reluctant to withhold recognition for a point of order of no quorum when raised in accordance with the rules of the House. Deschler Ch 20 §§ 14.2, 14.3. Quorum requirements for committees, see COMMITTEES.

The Constitution does not define those legislative proceedings that are to constitute “business” for purposes of the quorum requirement. “Business” in this context has become a term of art which, under the House rules and precedents, does not encompass all parliamentary proceedings. For example, neither the prayer, administration of the oath, certain motions incidental to a call of the House, nor an adjournment constitute business requiring a quorum. Deschler Ch 20 § 18 (note 10). Indeed, the House rules specifically prohibit the entertainment of a no-quorum point of order at certain stages of the legislative process, including the stage of debate. See § 3, *infra*. In effect, the House has by adopting such a rule determined that at that stage it is not “conducting business.” 95–1, Sept. 27, 1977, p 31048. And since the adoption of such a rule is viewed by the House as a proper exercise of its rule-making authority under article 1 § 5 of the Constitution, there is no constitutional basis for a point of order of no quorum during debate in the House. 95–1, Sept. 12, 1977, p 28800.

Recent Changes in the House Rules

Beginning with the 93d Congress, sweeping changes were made in the House rules governing the making of point of order of no quorum (§§ 6–10, *infra*), the procedures to be followed in procuring a call of the House (§§ 11–16, *infra*), and the kinds of business that require a quorum (§ 3, *infra*). In 1977, in an effort to curb time-consuming quorum calls, the House adopted a rule precluding no-quorum points of order unless the Speaker has put the pending proposition to a vote. § 6, *infra*.

In the 95th Congress, the House gave the Speaker the discretionary authority, under the rules, to recognize for a motion for a call of the House. See § 12, *infra*. In 1979, the House adopted a rule permitting the House to

proceed with pending business following the establishment of a quorum without the necessity of adopting a motion to dispense with further proceedings under the call. § 20, *infra*.

The quorum rule for the Committee of the Whole was recently changed to permit no-quorum points of order during general debate only at the discretion of the Chair. From the inception of general debate on a measure on a given day until the Chair puts the question on a motion during the five-minute rule, only one point of order that a quorum is not present will inevitably produce a quorum call. During general debate, entertaining such points of order is at the Chair's discretion. If that discretion is not exercised, one no quorum point of order can be made and must be entertained during consideration under the five-minute rule unless a quorum has been established by a vote. § 6, *infra*. And in 1974, the rules were amended to permit "notice" or "short" quorum calls in the Committee of the Whole by authorizing the Chairman to determine that a quorum of the Committee has appeared and is present during a call, and to declare that a quorum is constituted, thereby vacating further proceedings under the call. § 17, *infra*.

Presumptions as to the Presence of a Quorum

A quorum is presumed to be present unless a point of no quorum is entertained and the Chair announces that a quorum is in fact not present or unless the absence of a quorum is disclosed by a vote or by a call of the House. Deschler Ch 20 § 1. Although it is not the duty of the Chair to take cognizance of the absence of a quorum unless otherwise disclosed (6 Cannon § 565), 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. 4 Hinds §§ 2953, 2963; 6 Cannon § 624; Deschler Ch 20 § 1.

§ 2. What Constitutes a Quorum

A quorum of the House is defined as a majority of those Members sworn and living, whose membership has not been terminated by resignation or by House action. 4 Hinds §§ 2889, 2890; 6 Cannon § 638; Deschler Ch 20 § 1; *Manual* § 53. Thus, when the Members, as so defined, number 435, a quorum to do business is 218 Members (assuming no vacancies). When the membership has been reduced by reason of deaths to 432, a quorum to do business is 217 Members. 94–2, June 18, 1976, p 19312.

A quorum in the Committee of the Whole is 100 Members. Rule XXIII clause 2(a). *Manual* § 863.

The quorum required in the House *as in* Committee of the Whole is a quorum of the House and not a quorum of the Committee of the Whole. 6 Cannon § 639.

§ 3. Business Requiring a Quorum; Effect of Quorum Failure

In General

In Jefferson's time, the Chair was not taken until a quorum for business was present. *Manual* § 310. In the early practice, a quorum was required during debate (4 Hinds §§ 2935–2939) and for other routine activities of the House, such as the reading of the Journal (4 Hinds § 2733), the consideration of committee reports (4 Hinds § 2947), and the calling up of measures (4 Hinds § 2943).

Under the modern practice, the Speaker takes the Chair at the hour to which the House has adjourned and there is no requirement that the House proceed immediately to establish a quorum. *Manual* § 310. Although the Speaker has the authority to recognize for a call of the House at any time (§ 12, *infra*), a no-quorum point of order does not lie in the House unless the Speaker has put the pending motion or proposition to a vote. Rule XV clause 6(e); *Manual* § 774c. Accordingly, under this rule, the Chair may not entertain a point of order of no quorum during debate in the House. 97–1, Oct. 1, 1981, pp 22752–67; 98–1, Aug. 2, 1983, p 22234. Other provisions of Rule XV—in clause 6(a)—specifically prohibit the making or entertaining of a point of no quorum at other stages of the legislative process, such as during the offering of prayer or the administration of the oath, but these provisions have been rendered largely obsolete by the broad language of clause 6(e), which prohibits points of order *at any time* unless the Speaker has put a pending question to a vote. See 95–1, Jan. 11, 1977, p 891.

The pendency of a unanimous-consent request in the House is not equivalent to the Chair's putting a pending motion or proposition to a vote and does not permit a point of order of no quorum under Rule XV clause 6(e). 95–1, Sept. 16, 1977, p 29602.

Business Precluded in Absence of Quorum

The House cannot conduct business after the absence of a quorum has been announced. Deschler Ch 20 §§ 1.5, 10.4; *Manual* § 55. Even unanimous-consent business is not in order in the announced absence of a quorum. 98–1, July 13, 1983, p 18844. Even the Member who made the point of order of no quorum cannot then withdraw it by unanimous consent, as such a request would constitute business. 4 Hinds §§ 2928–2931; 6 Canon § 657; Deschler Ch 20 § 10.4 (note).

Where the announced absence of a quorum has resulted in a roll call vote under Rule XV clause 4, the House may not, even by unanimous consent, vacate the vote in order to conduct another voice vote in lieu of the roll call vote, since no business, including a unanimous-consent agreement,

is in order in the announced absence of a quorum. 98–1, July 13, 1983, p 18844; 100–2, Feb. 24, 1988, p 2451. The House having authorized the Speaker to compel the attendance of absent Members, the Speaker announced that the Sergeant at Arms would proceed with necessary and efficacious steps, and that pending the establishment of a quorum no further business, including unanimous-consent requests for recess authority, could be entertained. 100–1, Nov. 2, 1987, p 30389.

If a quorum does not respond on a call of the House or on a recorded or yea and nay vote, even the most highly privileged business must terminate. 4 Hinds § 2934; 6 Cannon § 662. The House has only two alternatives: to adjourn, or to continue the proceedings under a pending call of the House until a quorum of record is obtained. Deschler Ch 20 §§ 10.10–10.12. If a call of the House is ordered the House must first secure a quorum before disposing of the pending matter *de novo*. 95–1, Sept. 22, 1977, p 30290.

§ 4. Motions Requiring a Quorum

In General

Putting a motion to a vote falls within the language of clause 6(e) of Rule XV, thereby permitting the Speaker to entertain a no-quorum point of order if the motion is one that requires a quorum for adoption. *Manual* § 774c. Thus, a Member may make a point of order of no quorum when the Speaker has put the question on a motion to suspend the rules. 95–1, Sept. 27, 1977, p 31048. However, where the Speaker postpones further proceedings on a motion to suspend the rules, the question is no longer being put to a vote for purposes of permitting a point of order of no quorum until the question recurs as unfinished business. 95–1, Sept. 26, 1977, p 30948. See also 96–1, Sept. 24, 1979, p 25876.

Motions Incident to a Call of the House

The motion for a call of the House does not require a quorum for adoption. 97–1, Oct. 1, 1981, pp 22752–67. Indeed, Rule XV clause 6(a) prohibits a point of order of no quorum from being made or entertained during the offering, consideration, and disposition of any motion incident to a call of the House (*Manual* § 774c), and this rule has been applied to the motion to order a call of the House (96–1, Nov. 13, 1979, p 32185; 97–1, Oct. 1, 1981, pp 22752–67), and to the motion to dispense with further proceedings under the call (95–2, Mar. 8, 1978, p 6081).

The Motion to Adjourn

A quorum is not required on a simple motion to adjourn. Deschler Ch 20 §§ 8.7, 8.8. But a quorum is required for the adoption of a motion that

when the House adjourns that day it adjourn to a day and time certain. 94–1, June 19, 1975, p 19789; 94–2, June 22, 1976, p 19755. A quorum is required on a resolution providing for adjournment *sine die* (Deschler Ch 20 § 8.9), but not on a motion to adjourn which implements such a resolution (Deschler Ch 20 § 8.10).

While a quorum is not required to adjourn, a point of no quorum on a negative vote on adjournment, if sustained, precipitates a call of the House. 6 Cannon § 700; Deschler Ch 20 § 8.13; *Manual* § 773.

The Motion to Rise

The motion that the Committee of the Whole rise does not require a quorum for adoption but a negative voice vote permits a point of no quorum pending the demand for a recorded vote. See § 6, *infra*.

§ 5. The Count to Determine a Quorum

Counting Those Present Together With Those Voting

Until 1890, the view prevailed in the House that it was necessary for a majority of the Members to vote on a matter submitted to the House in order to satisfy the constitutional requirement for a quorum. Under this practice, the opposition could break a quorum simply by refusing to vote. 4 Hinds § 2977. This was changed in 1890, with the historic ruling by Speaker Reed, later embodied in Rule XV (*Manual* §§ 772, 774b), that Members present in the Chamber but not voting would be counted in determining the presence of a quorum. 4 Hinds § 2895; see also Deschler Ch 20 § 3. This ruling was upheld by the Supreme Court in *United States v Ballin* (144 US 1), the Court declaring that the authority of the House to transact business is “created by the mere presence of a majority,” and that since the Constitution does not prescribe any method for determining the presence of such majority, it is within the competency of the House “to prescribe any method which shall be reasonable certain to ascertain the fact.” Since *Ballin*, the point of order as to the absence of a quorum is that no quorum is present, not that no quorum has voted. 4 Hinds § 2917.

Method of Counting

Speaker Reed also ruled in 1890 that it was the function of the Speaker to determine the presence of a quorum in such manner as he should determine accurate and suitable, by the Chair’s own count or by various other methods. 4 Hinds § 2932. Under the modern rules of the House, the Speaker may direct the use of the electronic system in the Chamber to record the names of the Members voting or present. *Manual* § 774b. In lieu of using the electronic system, the Speaker in his discretion may direct that the pres-

ence of Members be recorded by clerks (*Manual* § 771b) or he may direct that a quorum call be taken by an alphabetical call of the roll. 93–1, Mar. 7, 1973, p 6699. And on numerous occasions Speakers have taken an actual count of the Members to ascertain the presence of a quorum on occasions when the validity of a vote was not an issue. 4 Hinds § 2909. In any case, the Chair’s count of a quorum is conclusive and may not be challenged on appeal. 93–2, July 24, 1974, p 25012; 95–1, Aug. 3, 1977, p 26532.

The number of Members present for the purpose of determining a quorum may be established by a count of the number of Members voting on a pending proposition. 94–1, Oct. 22, 1975, p 33688. But the Chair’s count of those Members standing on a division vote in the House does not demonstrate the absence of a quorum since the Chair in taking such a vote does not count all Members present in the Chamber but only those standing. 95–1, Sept. 27, 1977, p 31048; 96–1, Aug. 1, 1979, pp 22006, 22007.

Recounts

When the Chair is counting to determine if a quorum is present, he may recount the House before announcing the result of his count, acting on the statement of a Member that more Members had entered the Chamber since the first count, and thereby establish a quorum. Deschler Ch 20 § 3.18.

B. Points of Order of No Quorum

§ 6. When in Order; Former and Modern Practice Distinguished In the House

Under the former practice, a point of no quorum was in order in the House at any time, even when a Member had the floor in debate. Deschler Ch 20 § 13.8. The right of the Member to the floor was suspended until a quorum was secured. Deschler Ch 20 § 13.9. A point of no quorum could interrupt the reading of the Journal (Deschler Ch 20 § 13.14), or the reading of a resolution even though the resolution was privileged for consideration (Deschler Ch 20 §§ 13.11, 13.12).

Under the modern practice, the use of no-quorum points of order in the House has been sharply curtailed. In 1974, the House adopted Rule XV clause 6(a), which provides that no-quorum points of order may not be made during the offering of prayer, the administration of the oath, or the reception of messages from the President or the Senate. This rule, based to some extent on earlier precedent, also precludes no-quorum points of order (after a quorum has once been ascertained) during the reading of the Journal, during special orders, and at certain other times. See *Manual* § 774c. Still broader

language restricting the use of the point of order in the House was adopted in 1977, when the House adopted Rule XV clause 6(e), which provides that a no-quorum point of order does not lie “unless the Speaker has put the pending motion or proposition to a vote.” *Manual* § 774c. Under this rule, the Speaker may not entertain a point of order of no quorum in the House when a pending question has not been put to a vote (95–2, May 4, 1978, p 12609), notwithstanding the failure of a quorum to have voted on a prior item of business. 95–1, Sept. 16, 1977, p 29563. The refusal of the Chair to entertain a point of order of no quorum where prohibited by clause 6 is not subject to appeal (95–1, Sept. 16, 1977, p 29594), and the Chair will not entertain a unanimous-consent request to waive its provisions (93–2, Dec. 9, 1974, p 38664).

In Committee of the Whole

A similarly restrictive rule applies to no-quorum points of order in the Committee of the Whole. The applicable rule states that, “after the roll has once been called” to establish a quorum during any given 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. Rule XXIII clause 2(a). *Manual* § 863. A Member may make a no-quorum point of order while the Chair is counting those standing in the Committee to support a demand for a recorded vote and prior to the Chair’s final announcement of the count. At that point, the Chair must immediately begin counting for a quorum, and the request for a recorded vote remains pending following the establishment of a quorum. 97–2, Aug. 5, 1982, pp 19658, 19659.

The restriction of Rule XXIII clause 2 against making a point of order of no quorum “after the roll has once been called to establish a quorum during such day” means on that day during consideration of the pending bill, since the House resolves itself into a new Committee of the Whole on each bill, with a new Chairman. The rule barring no-quorum points of order in the Committee (with certain exceptions) after a quorum has once been established is applicable whether the quorum was established by a regular quorum call or a “short” or vacated quorum call. 95–2, June 8, 1978, p 16778.

Although a no-quorum point of order may be raised during general debate in the Committee of the Whole, the Chairman is given the discretion whether to entertain it. Rule XXIII clause 2(a). This discretionary authority was given to the Chairman by a rules change adopted in 1981. *Manual* § 863.

A no-quorum point of order does not lie in the Committee pending a motion that the Committee rise, since that motion (as distinguished from the motion to rise and report) does not require a quorum for adoption. 4 Hinds §§ 2972, 2975. 92–2, May 31, 1972, p 19353. The fact that the vote whereby the Committee rose does not show a quorum (4 Hinds § 4914) or that a point of no quorum was made without an ascertainment thereof (4 Hinds § 2974), does not prevent reception of the report of the Committee in the House. And the rules preclude the entertainment of a no-quorum point of order during the period after the Committee has risen and before the Chairman has reported the pending bill or resolution back to the House, a quorum having been once established on that day. Rule XV clause 6(c).

§ 7. Objections to Vote Taken in Absence of Quorum

In the House

The rules of the House permit a Member to object to a vote taken in the absence of a quorum. An objection to such a vote under Rule XV clause 4, if timely made, necessarily precipitates a call of the House (unless the House adjourns) and, simultaneously, the yeas and nays on the pending question. *Manual* § 773. The vote on the pending question is taken *de novo*. 4 Hinds § 3052; 6 Cannon § 678. A Member’s objection to a vote permitted under this rule is in order even though another Member has previously made the point of order that a quorum is not present. 97–2, Aug. 18, 1982, p 22037.

The objection to a vote permitted by Rule XV clause 4 applies only to votes on propositions requiring a quorum. Thus, an objection may not be raised under the rule to an affirmative vote on a motion to adjourn (81–1, July 25, 1949, p 10092) or to a vote on a motion incidental to a call of the House (4 Hinds § 2994; 6 Cannon § 681), neither of which require a quorum for adoption (§ 4, *supra*).

For further discussion of the “automatic” vote by the yeas and nays that ensues under Rule XV clause 4, see § 14, *infra*.

Effect of Postponement

Where a Member objects to a vote on a bill on the ground that a quorum is not present, and further proceedings are postponed by the Chair’s announcement under Rule I clause 5, or by unanimous consent, the Speaker puts the question *de novo* when the bill is again before the House as unfinished business; Members then have the same right to object as when the question was originally put, and may again object at that time to the vote on the same ground. 89–1, Oct. 7, 1965, p 26243. Similarly, where objection

is raised to the failure of a quorum to vote on a motion, and the Speaker postpones the vote on the motion pursuant to the rules, further proceedings are automatically postponed and the question is put *de novo* when that vote recurs as unfinished business. 95–1, Sept. 26, 1977, p 30948; 96–1, Sept. 24, 1979, p 25876; *Manual* § 774a.

§ 8. Timeliness and Diligence in Raising Objections

In General

An objection to a vote because of the absence of a quorum must be timely raised. Such an objection comes too late when the Speaker has announced the result of the vote and a motion to reconsider laid on the table. Deschler Ch 20 §§ 13.23, 13.24; 92–2, May 31, 1972, p 19344. But such objections have been held to be timely and in order when they were made:

- After the Chair announced his opinion that the yeas on a voice vote prevailed but before the House proceeded to other business. Deschler Ch 20 § 13.16.
- After a parliamentary inquiry which immediately followed the announcement of the result of a voice or division vote. 6 Cannon § 698; Deschler Ch 20 § 13.18.
- After a refusal of a yeas and nays vote which followed a division vote. Deschler Ch 20 § 13.19.
- After a sufficient number have risen to order the yeas and nays but prior to the start of the roll call. Deschler Ch 20 § 13.1.

Timeliness in Seeking Recognition

An objection to a voice vote on the ground that a quorum is not present is timely even after the Chair announces the vote if the Member was on his feet seeking recognition at the time the question is put. 103–1, June 29, 1993, p _____. But the Speaker may decline to recognize a Member to object to a vote because of the absence of a quorum where the Member has not shown the proper diligence in seeking recognition. Deschler Ch 20 § 13.26. A Member must be on his feet and actively seeking recognition when the Chair announces the result of the vote in order to raise such an objection. 95–2, Apr. 20, 1978, p 10983. The mere fact that a Member is on his feet does not constitute notice to the Chair that he is seeking recognition to make such an objection. Deschler Ch 20 § 13.2.

§ 9. When Dilatory; Effect of Prior Count

In General

Although the presence of a quorum is a constitutional requirement (§ 1, supra), and the Speaker has on occasion expressed reluctance to hold a no-

quorum point of order dilatory for that reason (Deschler Ch 20 § 14.3), it has long been recognized as within the prerogative of the Chair to refuse to entertain a point of no quorum if he determines that it was made for purposes of delay, and where the presence of a quorum, as evidenced by an immediately preceding vote or quorum call, is apparent. 5 Hinds §§ 5724, 5725; 8 Cannon § 2808; Deschler Ch 20 § 14. Since Rule XV was amended to restrict recognition for points of no quorum, the use of repeated points of order as a dilatory tactic has lost its efficacy.

The Speaker may refuse 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. Deschler Ch 20 § 14.16. This practice was formalized in 1974, when the House adopted Rule XV clause 6(d), which states that, when the presence of a quorum has been ascertained, a further no-quorum point of order may not thereafter be made or entertained until additional business intervenes. *Manual* § 774c. Thus, when the presence of a quorum is disclosed by a roll call taken by electronic device, a further point of order that a quorum is not present may not be made until additional business intervenes. 94–1, Nov. 17, 1975, p 36914.

A similar practice is followed with respect to objections to a vote based on Rule XV clause 4. It is not in order to object to a vote on the grounds that a quorum is not present under this rule if the Chair has determined by a count that a quorum is present and no business has intervened. 97–2, Dec. 17, 1982, p 31951. Likewise, where the result of a division vote in the House demonstrates that a quorum is present, a Member may not object to the vote on the ground that a quorum is not present so as to precipitate an automatic call under Rule XV clause 4, where there has been no intervening business. 96–1, Nov. 16, 1979, p 32861.

Determination by the Speaker

The question of dilatoriness is not necessarily determined by the length of time since ascertainment of a quorum, but by the Speaker's opinion as to whether, under the circumstances, there is an intent to delay the business of the House (8 Cannon § 2804; Deschler Ch 20 § 14), it being apparent that a quorum remains on the floor. But where the presence of a quorum is not apparent or the Chair is uncertain, he will count the House. Deschler Ch 20 § 14.1. Likewise, where a division vote follows a quorum call, the Chair is not bound by the result of the division vote, but may count the House to determine that a quorum is still present. 94–1, Nov. 17, 1975, p 36914.

Effect of Intervening Business

The House rule precluding a further point of no quorum after the presence of a quorum has been ascertained is qualified by the phrase “until additional business intervenes.” Rule XV clause 6(d). It has been held that those precedents indicating that a point of no quorum is dilatory when it immediately follows a vote or a call of the House disclosing the presence of a quorum are not applicable where there is “intervening business” between the establishment of the quorum and the making of the point of no quorum. It has been held that such intervening business prevents the Chair from holding the point of order to be dilatory on its face. Deschler Ch 20 § 14.8. Accordingly, where the Speaker ascertains the presence of a quorum by actual count following a rejected demand for the yeas and nays, and a division vote is then had on the pending question, the division vote is intervening business (see 8 Cannon § 2804), permitting another objection to the lack of a quorum, and the Speaker must again count the House. Deschler Ch 20 § 14. Other intervening business sufficient to prevent a holding that the point of order is dilatory *per se* has included:

- Division votes following a quorum call. 94–1, Nov. 17, 1975, p 36914.
- A division vote following a roll call. 8 Cannon § 2804.
- Unanimous-consent request (Deschler Ch 20 § 14.7), such as for the correction of a roll call (Deschler Ch 20 § 14.8).

It has been held that the mere receipt of a message is not “intervening business” such as to prevent the Speaker from holding a no-quorum point of order dilatory. Deschler Ch 20 § 14.11.

§ 10. Withdrawal of Point of Order

A point of order that a quorum is not present may be withdrawn, provided the absence of a quorum has not been announced by the Chair; and such withdrawal does not require unanimous consent. Deschler Ch 20 § 18.5; 91–1, Nov. 6, 1969, p 33255. Where a Member has objected to a vote on a motion to suspend the rules on the ground that a quorum is not present, and the Speaker has announced that further proceedings on the motion would be postponed but has not announced the absence of a quorum, that Member may withdraw his point of no quorum and unanimous consent is not required. 93–2, Dec. 9, 1974, p 38608.

A point of no quorum may not be withdrawn after the absence of a quorum has been announced by the Chair (4 Hinds § 2928–2930; 6 Cannon § 657; Deschler Ch 20 § 18) even where the Member making the point of order attempted to withdraw it but was not observed by the Chair. 103–1, June 10, 1993, p _____. The point may not then be withdrawn even by unan-

imous consent, since the House may not conduct business, including the disposition of unanimous-consent requests, in the announced absence of a quorum. 95–1, Sept. 21, 1977, p 30083. The same rule is followed in the Committee of the Whole. Deschler Ch 20 § 18.6; 95–2, July 12, 1978, p 20569.

A point of no quorum may not be reserved or withheld after the Chair has announced that a quorum is not present, no business being in order until a quorum is established. Deschler Ch 20 §§ 18.10, 18.11.

C. Quorum Calls

§ 11. In General

In the House

A motion for a call of the House is recognized under general parliamentary law and under the U.S. Constitution. 4 Hinds § 2981. The Constitution authorizes a number smaller than a quorum to compel the attendance of absent Members. U.S. Const. art. I § 5.

House Rule XV authorizes three separate procedures for a call of the House. They are:

- The call of the House that ensues under clause 6(e)(2), adopted in 1977; that clause permits the Speaker in his discretion to recognize for a motion for call of the House at any time. See § 12, *infra*.
- The call of the House which is used in the absence of a quorum to compel the attendance of absent Members under clause 2(a); this call is initiated by at least 15 Members and is ordered on motion. See § 13, *infra*. The call under this clause is sometimes referred to as the “old” form of the call, clause 2(a) having been first adopted in 1789.
- The call of the House that is mandated by clause 4 whenever objection is raised to a vote taken in the absence of a quorum. *Manual* § 774b. This call is sometimes referred to as an “automatic” call, since it proceeds by operation of the rule and does not require a motion. See § 14, *infra*.

The rule enabling 15 Members to initiate a motion for a call of the House under clause 2(a) dates from the earliest Congresses, and for many years was the only rule for procuring the attendance of Members. 4 Hinds § 2982. The automatic call of the House under clause 4, having been provided for by rule in 1896, is described as the call of the House in the newer form; it superseded the old form of the call except in cases in which the absence of a quorum is established by some means other than a vote. 4 Hinds § 3041. The call of the House on motion under clause 2(a) is in order

when no question is pending (4 Hinds § 2990), whereas the automatic call under clause 4 ensues while the House is voting. *Manual* § 773.

In Committee of the Whole

The provisions of clauses 2(a), 4, and 6(e) of Rule XV, relating to quorum calls in the House do not apply in Committee of the Whole. Accordingly, although a point of order that a quorum is not present will lie in the Committee of the Whole when a question is put (see § 6, *supra*), a Member may not object to a vote in the Committee on the ground that a quorum is not present. 93–2, July 10, 1974, p 22667; 94–2, Apr. 6, 1976, p 9553. In Committee of the Whole the quorum call and the vote occur seriatim and not simultaneously as they do in the House under Rule XV clause 4. The requirement of and the procedures for obtaining a quorum in Committee of the Whole are found in Rule XXIII clause 2(a).

§ 12. The Motion for a Call

A motion for a call of the House is permitted under Rule XV by clause 6(e)(2), which gives the Speaker the discretion to recognize for such a motion. Under this clause, it “shall always be in order for a Member to move a call of the House when recognized for that purpose by the Speaker.” *Manual* § 774c. Such a motion is in order notwithstanding language in the same rule that a no-quorum point of order may not be entertained unless the Speaker has put a pending motion to a vote. Rule XV clause 6(e)(1). *Manual* § 774c. Under this rule, the Speaker may at any time in his discretion recognize a Member of his choice to make the motion. 95–1, Jan. 19, 1977, p 1719. The Speaker may extend recognition for such a motion even though the House is not voting, as when he recognizes for such a motion during the consideration of a veto message. 95–2, Oct. 5, 1978, p 38503. The motion is privileged if entertained by the Chair in his discretion, and may be entertained after another Member has been recognized but before he has begun his remarks. 95–2, Apr. 20, 1978, p 10983. The motion may also be entertained after the previous question has been ordered on a proposition but before the Chair has put the question thereon. 95–2, Oct. 14, 1978, p 38378. The motion is not debatable. 8 Cannon §§ 683, 688.

If the motion is rejected, the House proceeds with business. 96–2, June 27, 1980, p 17369. But if the motion is adopted by a roll call vote, and a quorum is established thereby, a call of the House must proceed unless rescinded by unanimous consent.

§ 13. The Call to Compel Attendance of Absent Members

In General

The rules of the House authorize a call to compel the attendance of absent Members when the call is ordered by at least 15 Members (including the Speaker). Rule XV clause 2(a). The motion may not be demanded by less than 15 affirmative votes, and without that number present, the motion for the call is not entertained. 4 Hinds § 2983. The motion requires a majority vote for adoption, and a minority of 15 (or more) favoring the call is not sufficient. 4 Hinds § 2984. The motion must yield to a motion to adjourn, if one is made, for an adjournment motion takes precedence over a call of the House. 8 Cannon § 2642.

If a majority votes to compel attendance under this rule, absentees are notified. *Manual* § 768. 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 the Sergeant at Arms. § 19, *infra*. Members who appear voluntarily are admitted to the Hall and report their names to the Clerk to be entered on the Journal as present. *Manual* § 768.

When a call of the House is ordered under this rule, the Speaker in his discretion directs the taking of the call by electronic device (*Manual* § 774b) or, by a call of the roll (*Manual* § 765).

§ 14. The Mandated Call

In General

Under Rule XV clause 4, a call of the House ensues whenever a quorum fails to vote on any question which requires a quorum, if in fact a quorum is not present and objection to the vote is made for that reason, assuming that the House does not adjourn. The rule provides for a call of the House and states that the yeas and nays “shall at the same time be considered as ordered.” *Manual* § 773. The call of the House under this clause is sometimes referred to as the “automatic call” because it is mandated under the conditions specified by the rule. 6 Cannon § 695. A yea and nay vote on the pending question is also mandated by clause 4.

Under this rule, the Speaker has the discretion to conduct the call by electronic device or to order a call of the roll by the Clerk. 93–1, May 16, 1973, p 15860; *Manual* § 773. When the roll is called by the Clerk, the roll is called twice, and those appearing after their names are called may vote. 4 Hinds § 3052. The Speaker may count the House to determine whether a quorum is present. If his count discloses a quorum, the Speaker declares that a quorum is constituted (Rule XV clause 4) and is not required to an-

nounce his actual count. 97–1, Sept. 30, 1981, p 22456. The call of the House under this rule serves a dual purpose—(1) that of showing the number of Members present for the purpose of making a quorum, and (2) that of allowing the Members to vote on the pending question. 4 Hinds § 3045.

Members who do not respond to the call are subject to arrest by the Sergeant at Arms. See § 19, *infra*. Members brought in by the Sergeant at Arms are noted as present, 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 make a majority of the House. *Manual* § 773. Such a declaration dispenses with further proceedings. See § 20, *infra*. The pending question is then decided by a majority vote of those who have appeared if a quorum responds. *Manual* § 773.

Invoking the Call

The automatic call of the House under Rule XV clause 4 may be invoked by a Member who rises following the announcement of a vote to state:

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

If no Member rises to object that a recorded vote or yea or nay vote discloses that a quorum is not present, the Speaker, on his own initiative, declares the absence of a quorum, thereby invoking the automatic call. Deschler Ch 20 § 2.

Application to Particular Votes

The automatic call of the House that ensues under Rule XV clause 4 when a quorum fails to vote is applicable whether the House is voting *viva voce* (6 Cannon § 697), by division (6 Cannon § 691), by tellers (4 Hinds § 3053), or by the yeas and nays (6 Cannon § 703), but does not apply when the House is voting on some question which does not require a quorum, such as a motion incidental to a call of the House. 4 Hinds § 2994; 6 Cannon § 681.

§ 15. Use of Electronic Equipment

In General

The Speaker is authorized to use the electronic equipment in the Chamber to record those voting or present on any quorum call. See Rule XV clause 5. *Manual* § 774b. The use of this equipment is not mandatory. The Speaker has the discretion, for example, to 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. Deschler Ch 20 § 4.2. The Speaker also has the discretion, under Rule XV, to direct that the quorum call be taken by clerk-tellers under clause 2(b) or by an alphabetical call of the roll under clause 1, rather than by electronic device. Deschler Ch 20 § 4.1.

Response Time

On a call of the House conducted by electronic device, the Members have “not less than” 15 minutes to respond. Rule XV clause 5(a). *Manual* § 774b. After the 15 minutes have expired, the Chair may allow additional time for Members to respond before announcing the result. Deschler Ch 20 § 4.3.

§ 16. Names Published or Recorded on a Call

The names of those Members who respond to a quorum call are entered in the Journal and published in the *Congressional Record*. Rule XV clause 5(a). *Manual* § 774b. When the call is taken by clerks, the clerks record the names of those present and note the names of absentees. *Manual* § 771b. And Members responding to a quorum call ordered on motion under Rule XV clause 2(a) must see that their presence is recorded in the appropriate manner to be entered on the Journal. *Manual* § 768. When an automatic call of the House ensues under Rule XV clause 4, Members brought in by the Sergeant at Arms are noted as present. *Manual* § 773.

Under Rule XV clause 3, any Member may demand that the names of those Members not voting be noted by the Clerk and recorded in the Journal, and that they be reported to the Speaker along with the names of those Members voting, in determining the presence of a quorum. *Manual* § 772. The Speaker may direct the Clerk to note the names of Members under this rule even on a vote on a question for which no quorum is necessary. 8 Canon § 3152.

§ 17. Quorum Calls in Committee of the Whole

Regular and “Notice” Quorum Calls Distinguished

Quorum calls in the Committee of the Whole—to secure the presence of at least 100 Members—are governed by the provisions of Rule XXIII clause 2(a). That rule permits two kinds of quorum calls in the Committee: (1) a “regular” quorum call and (2) a “notice” or “short” quorum call. *Manual* § 863.

A “regular” quorum call is initiated under the first two sentences of Rule XXIII clause 2(a). That language sets forth the circumstances under

which the Chairman is to invoke the procedures normally available to the Speaker for quorum calls in the House under the applicable provisions of Rule XV. As noted above, Rule XV clause 5 allows at least 15 minutes for Members to respond, and requires the publication of the names of those Members voting or answering present (*Manual* § 774b). Generally, see §§ 15, 16, *supra*.

A “notice” or “short” quorum call is permitted under the last two sentences of Rule XXIII clause 2(a), as adopted in 1974. That provision permits the Chairman, at any time during a call, subject to his prior announcement, to determine that a quorum is present and to so declare. Proceedings under the call are then considered vacated, and the Committee resumes its business. *Manual* § 863. This provision permits the Chairman to announce in advance, at the time the absence of a quorum is ascertained, that he will vacate proceedings when a quorum appears. It also enables the Chairman to convert to a regular quorum call in the event that a quorum does not appear. 93–2, May 13, 1974, p 14148. The Chair need not convert to a regular quorum call precisely at the expiration of 15 minutes if 100 Members have not responded on a “notice” quorum call but may continue to exercise his discretion to vacate proceedings at any time during the entire period permitted for the conduct of the call by clause 5, Rule XV. See 93–2, July 17, 1974, p 23673.

When in Order

The first time that a Committee of the Whole finds itself without a quorum on any given day, the Chairman must invoke one of the quorum-call procedures that are available to him under the rules. (See Rule XXIII clause 2(a), and the Rule XV procedures referred to therein.) Thereafter, quorum calls are permitted during five-minute debate only when the Chairman has put a pending motion or proposition to a vote. And points of no-quorum during general debate are permitted only at the discretion of the Chairman. *Manual* § 863.

Method of Taking

Before installation of the electronic system in the Chamber, quorum calls in the Committee of the Whole were effected by a call of the roll. 4 Hinds § 2966. Under the modern practice, quorum calls are taken by electronic device, but the Chairman has the discretion to effect the call by an alphabetical call of the roll or by clerk-tellers. See Rule XXIII clause 2(a), which incorporates by reference clauses 1, 2(b), and 5, of Rule XV. Thus, the Chairman may direct that a “notice” quorum call be conducted pursuant to the provisions of Rule XV clause 2(b)—by depositing quorum tally cards

with clerk-tellers—in lieu of conducting the call by electronic device or a call of the roll. 98–1, July 13, 1983, p 18844.

The so-called automatic call authorized by Rule XV clause 4 in the House is not permitted in the Committee of the Whole. See Deschler Ch 20 § 7.

Reports as to Absentees

The Committee of the Whole rises and the Chairman reports the names of absentees to the House only in the event that a quorum fails to respond to the quorum call under Rule XXIII clause 2. The 96th Congress amended that rule 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. 96–1, Jan. 15, 1979, p 8. Under the former practice, when the Committee of the Whole found itself without a quorum, the Committee would rise following the quorum call, the Chairman would report to the Speaker that he had caused the roll to be called to establish the presence of a quorum, names of the absentees would be spread on the Journal, and the House would then automatically resolve back into the Committee. 91–1, Apr. 21, 1969, p 9705.

§ 18. Motions in Order During the Call

Generally

With the exception of the motion to adjourn, no motion is in order during a call of the House except those in furtherance of the effort to secure a quorum. 6 Cannon § 682. Motions held not in order include:

- Motions to recess. 4 Hinds §§ 2995, 2996.
- Motions to dispense with further proceedings under the call. 4 Hinds § 2992.
- Motions to excuse Members from voting. 4 Hinds § 3007.
- Motions relating to deductions from the pay of Members. 4 Hinds § 3011.

Motions which are intended to secure a quorum and which are therefore in order during the call of the House include:

- Motions that the Speaker issue warrants for the arrest of absent Members. 6 Cannon § 681.
- Motions that the Sergeant at Arms take absent Members into custody. 4 Hinds § 3029; 6 Cannon § 685.
- Motions to require the Sergeant at Arms to report progress in securing a quorum. 6 Cannon § 687.

§ 19

HOUSE PRACTICE

- Motions for the previous question on a proposition incident to a call of the House. 5 Hinds § 5458.
- Motions to reconsider a vote incident to a call of the House. 5 Hinds §§ 5607, 5608.

Motions to Adjourn

The motion to adjourn takes precedence over a call of the House. Deschler Ch 20 §§ 8.14, 8.15. And 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. Deschler Ch 20 § 8. However, the motion to adjourn is not entertained after the call of the House has been ordered nor is it entertained during the call. Deschler Ch 20 §§ 8.22, 8.23. If the call is taken by roll call, the motion to adjourn again becomes in order after the conclusion of the second call of the roll if a quorum has not been established. Deschler Ch 20 § 8.19.

The rule which authorizes automatic votes by the yeas and nays (Rule XV clause 4) permits the House to adjourn in the absence of a quorum and prior to a call of the House. This same rule permits the Speaker to entertain a motion to adjourn after the call has been completed, if the motion has been seconded by a majority of those present, to be ascertained by actual count of the Speaker. *Manual* § 773.

§ 19. Securing Attendance; Arrests

Under Rule XV Clause 4

The attendance of absent Members may be secured under Rule XV clause 4, which makes provision for the automatic vote by the yeas and nays. Under this rule, the Sergeant at Arms “shall forthwith” proceed to bring in absent Members, whenever a quorum fails to vote, a quorum is not present, and objection is made for that reason. A Member who is arrested is brought by the Sergeant at Arms before the House and permitted to vote. *Manual* § 773. Compulsory attendance or arrest has been rare in the modern practice.

Under the conditions specified by this rule, the Sergeant at Arms is required to detain those who are present and to bring in absentees (4 Hinds §§ 3045–3048), and it is not necessary that he be specifically authorized to do so by a motion (Deschler Ch 20 § 5.14) or by a resolution adopted by those present (4 Hinds § 3049). But to actually make an arrest under this rule, the Sergeant at Arms must have in his possession a warrant signed by the Speaker. Deschler Ch 20 § 5.10 (note). Although the Speaker possesses full authority to issue a warrant of arrest for absent Members under this rule

(6 Cannon §§ 680, 702) he usually does not do so without House authorization (Deschler Ch 20 § 5.10). The warrant takes the following form (from 4 Hinds § 3041):

To _____, Sergeant at Arms of the House of Representatives, or his deputies:

Whereas Rule XV clause 4 of the House of Representatives provides as follows: _____

And whereas the conditions specified in said rule have arisen, and the following-named Members of the House are absent, to wit: _____

Now, therefore, by virtue of the power vested in me by the House, I hereby command you to execute the said order of the House, by taking into custody and bringing to the bar of the House said above-named Members; and make due return in what manner you execute the same.

[Sealed, signed by the Speaker, and attested by the Clerk]

When arrested, Members are (1) arraigned at the bar, (2) discharged from arrest, (3) questioned by the Speaker as to whether or not they wish to vote, and (4) permitted to vote. See 4 Hinds § 3044.

Under Rule XV Clause 2(a)

The use of the office of the Sergeant at Arms to procure the presence of Members in the Chamber is also permitted by Rule XV clause 2(a), which, as previously noted (§ 13, *supra*) authorizes 15 Members to initiate a motion to compel the attendance of absent Members. Under the rule, a majority of those present may order 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 under conditions determined by the House. *Manual* § 768. Those present may prescribe a fine as the condition on which an arrested Member may be discharged. 4 Hinds § 3013.

Under this rule, in the absence of a quorum in the House, a motion (or other proposition) to arrest absentees and bring them into the Chamber is in order. 4 Hinds § 3018; Deschler Ch 20 § 5.6. To compel the attendance of absentees by arrest under this rule, the motion:

- Must be supported by 15 affirmative votes, and those voting to compel attendance must be in the majority. Deschler Ch 20 § 5.9 (note).
- Is in order after a single calling of the roll. 4 Hinds § 3015.
- Is in order during proceedings to secure a quorum. 6 Cannon § 685.
- Is not debatable. 6 Cannon § 686.
- May not order the arraignment of absent Members at a future meeting of the House. 4 Hinds §§ 3032–3034.

The motion for the arrest of absentees is in the form of an order to the Sergeant at Arms, as follows [from Deschler Ch 20 § 5.11]:

Ordered, That the Sergeant at Arms take into custody and bring to the bar of the House such Members as are absent without leave.

Unless directed by an appropriate motion, the Sergeant at Arms, under Rule XV clause 2(a), has no authority to compel the attendance of absent Members. Deschler Ch 20 § 5.9. A motion which merely states that those who are not present are to be “sent for” and “returned,” and not allowed to leave until the completion of certain business, has been interpreted as requiring the Sergeant at Arms to notify absentees but not as bestowing on him the authority to arrest them and bring them into the Chamber under custody. Deschler Ch 20 § 5.3.

After agreement to the appropriate motion, warrants for the arrest of absent Members are signed by the Speaker or Speaker pro tempore. Deschler Ch 20 § 5. Leave for a committee to sit during sessions does not release its Members from liability to arrest. 4 Hinds § 3020.

Closing or Locking the Chamber Doors

Although it was Jefferson’s view that as a matter “[o]f right, the door ought not to be shut” (*Manual* § 380), the House rules have from time to time given the Speaker the authority to order the closing of the Chamber doors in connection with securing a quorum. Deschler Ch 20 § 6. The current rule, adopted in 1972, states that “. . . the doors shall not be closed except when so ordered by the Speaker” pursuant to a quorum call. Rule XV clause 2(b). *Manual* § 771b. The precursor of this rule gave the Speaker the discretion, in securing a quorum, to order the doors closed or even locked. Deschler Ch 20 § 6.2 (note). Speaker McCormack in 1968 ordered the doors to the Chamber closed and locked during a call of the House pursuant to the rule, and instructed the Doorkeeper to let no Members leave the Hall. Deschler Ch 20 § 6.3.

The Speaker has no authority to order the doors to the Chamber locked except during a call of the House. Deschler Ch 20 § 6.4. In 1919, Speaker Gillett, after putting the question on ordering a call of the House, directed the Doorkeeper to lock the Chamber doors, but then sustained a point of order that the doors should be closed only on a call of the House. 6 Cannon § 703. But in one instance the doors were locked “until disposition of the pending business”—the reading of the Journal; this action was taken pursuant to House order rather than by order of the Speaker. Deschler Ch 20 § 6.5.

§ 20. Dispensing With Further Proceedings

Under the former practice, after a quorum had responded on a call of the House, it was necessary to move to dispense with further proceedings under the call before the House could proceed with pending business. See 4 Hinds § 3039. In 1979, the House amended Rule XV clause 6(e)(2) to eliminate the motion to dispense with further proceedings under a call of the House following establishment of a quorum, unless the Speaker recognizes for an appropriate motion. *Manual* § 774c. Under this rule, when a quorum has been established pursuant to a call of the House, the Speaker ordinarily simply announces that further proceedings under the call are dispensed with. See 96-1, Feb. 28, 1979, pp 3467, 3468. However, the Speaker still has the discretion to recognize for a motion to that effect under Rule XV clause 6(e).

It has been held that the motion to dispense with further proceedings pursuant to a call is:

- Not entertained until a quorum responds on the call. 6 Cannon § 689.
- Not preferential to a motion to adjourn. 8 Cannon §§ 2643, 2644; Deschler Ch 20 § 9.4.
- Not subject to challenge on a point of order of no quorum. Deschler Ch 20 §§ 9.12, 9.13.
- Not debatable, amendable, or subject to the motion to table. Deschler Ch 20 § 9.1; 91-2, Dec. 18, 1970, p 42504.
- In order in the absence of a quorum, and so does not force an automatic call under Rule XV clause 4. Deschler Ch 20 §§ 9.15, 9.16.