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Chapter 43
Quorums

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A. Generally; Quorum Requirements

§ 1. In General

Constitutional Requirements and the House Rules

Under the Constitution, a majority of each House constitutes a quorum to do business, although a smaller number may adjourn from day to day or compel the attendance of absent Members. U.S. Const. art. I, § 5, cl. 1. Because the presence of a quorum is a constitutional requirement, and because a point of order of no quorum is the only method available to a Member to enforce that requirement, the Speaker has 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 further 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 that, under the House rules and precedents, does not encompass all parliamentary proceedings. For example, the prayer, administration of the oath, certain motions incidental to a call of the House, and an adjournment do not constitute business requiring a quorum. Deschler Ch 20 § 18 (note 10). Indeed, rule XX clause 7(a) specifically prohibits the entertainment of a point of order of no quorum unless a question has been put to a vote. See § 3, infra. The House has determined by adopting such a rule that the mere conduct of debate, where the Chair has not put the pending proposition to a vote, is not ''conducting business'' under article I, section 5, clause 1 of the Constitution. Because the adoption of such a rule is viewed by the House as a proper exercise of its rule-making authority under article I, section 5, clause 2 of the Constitution, there is no constitutional basis for a point of order of no quorum during debate in the House. *Manual* § 1029.

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, failure of a quorum to participate in a record vote cannot be ignored. The Chair must announce that fact although it was not objected to from the floor. 4 Hinds §§ 2953, 2963; 6 Cannon §§ 565, 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. *Manual* § 53; 4 Hinds §§ 2889, 2890; 6 Cannon § 638; Deschler Ch 20 § 1; § 5, infra. Thus, when there are no vacancies, a quorum to do business is 218 Members. When the membership has been reduced by reason of death, resignation, expulsion, disqualification, or removal to 432, a quorum to do business is 217 Members. 94–2, June 18, 1976, p 19312. This long-standing practice was codified in the 108th Congress by adoption of rule XX clause 5(c). Clause 5(c) also requires the Speaker to announce the reduced whole number of the House, which is not subject to appeal. In the case of a death, the Speaker may lay before the House such documentation from Federal, State, or local officials as he deems pertinent.

Under rule XVIII clause 6(a), a quorum in the Committee of the Whole is 100 Members. *Manual* § 982. The quorum required in the House as in the 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. Under 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, 621. Although the Speaker has the authority to recognize for a motion for a call of the House at any time, a point of order of no quorum does not lie in the House unless the Speaker has put the pending question to a vote. Rule XX clause 7(a); *Manual* § 1027; § 12, infra. Accordingly, for example, the Chair may not entertain a point of order of no quorum during debate in the House or during the offering of the prayer or the administration of the oath.

The pendency of a unanimous-consent request in the House is not equivalent to the Chair's putting a pending question to a vote and does not permit a point of order of no quorum under rule XX clause 7(a). Deschler-Brown Ch 29 § 23.13.

Business Precluded in Absence of Quorum

The House cannot conduct business after the absence of a quorum has been announced. *Manual* § 55; Deschler Ch 20 §§ 1.5, 10.4. This includes business by unanimous consent. *Manual* § 1025. 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 Cannon § 657; Deschler Ch 20 § 10.4 (note). For example, where the announced absence of a quorum has resulted in a vote by the yeas and nays under rule XX clause 6, the House may not, even by unanimous consent, vacate the vote in order to conduct another voice vote in lieu of the record vote.

When the House authorizes the Speaker under rule XX clause 5 to compel the attendance of absent Members, the Speaker requests the Sergeant-at-Arms to proceed with necessary and efficacious steps to secure a quorum. The Speaker then announces that, pending the establishment of a quorum, no further business, including unanimous-consent requests for recess authority, may be entertained. *Manual* § 1025.

If a quorum does not respond on a call of the House or on a record vote, even the most highly privileged business must terminate. 4 Hinds § 2934; 6 Cannon § 662. The House then has only two alternatives, to wit: 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*. Deschler Ch 20 §§ 10.5–10.7.

§ 4. Motions Requiring a Quorum

In General

Under rule XX clause 7(a), the putting of a question to a vote triggers the admissibility of a point of order of no quorum, thereby permitting the Speaker to entertain a point of order of no quorum if the motion is one that requires a quorum for adoption. *Manual* § 1027. 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. 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. *Manual* § 1026.

Motions Incident to a Call of the House

The motion for a call of the House, or a motion incidental to a call of the House, does not require a quorum for adoption. *Manual* § 1025;

Deschler Ch 20 § 2.8. Under rule XX clause 7(b), further proceedings are considered dispensed with when a quorum is established pursuant to the call unless the Speaker recognizes for a motion to compel attendance of Members. *Manual* § 1028. For a discussion of motions in order during a call of the House, see *Manual* § 1024.

The Motion to Adjourn

A quorum is not required on an affirmative vote on a simple motion to adjourn. Deschler Ch 20 §§ 8.7, 8.8. However, a point of no quorum on a negative vote on adjournment is in order and, if sustained, precipitates a call of the House. *Manual* § 1025; 6 Cannon § 700; Deschler Ch 20 § 8.13.

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. *Manual* § 913. A quorum also is required on a concurrent resolution providing for adjournment *sine die* but not on a motion to adjourn that implements such a concurrent resolution. Deschler Ch 20 §§ 8.9, 8.10.

The Motion to Rise

A quorum is not required on an affirmative vote on a simple motion that the Committee of the Whole rise (see § 6, infra), but a negative voice vote or division vote permits a point of no quorum pending the demand for a recorded vote. See Deschler Ch 20 § 16.7. A quorum is required on an affirmative vote on a motion to rise and report. 4 Hinds § 2973.

§ 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 that practice the opposition might break a quorum simply by refusing to vote. 4 Hinds § 2977. That practice was changed in 1890 with the historic ruling by Speaker Reed, later embodied in rule XX clause 4(b), that Members present in the Chamber but not voting would be counted in determining the presence of a quorum. *Manual* § 1020; 4 Hinds § 2895; Deschler Ch 20 § 3. This ruling was upheld by the Supreme Court in *United States v. Ballin*, 144 U.S. 1 (1892), the Court declaring that the authority of the House to transact business is ''created by the mere presence of a majority.'' Since 1890, 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.

A quorum may be expressed as a fraction in which the numerator is the number of Members who are present and the denominator is the number

of Members who are extant. As the issue in *Ballin* was Speaker Reed's method of counting the number of Members present, the decision of the Supreme Court addressed the numerator of this fraction. In dictum the Court examined the question ''how shall the presence of a majority be determined?'' and observed that, because 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 reasonably certain to ascertain the fact.'' In 1906, consistent with the dictum in *Ballin*, Speaker Cannon employed the still-current method of counting the number of Members extant. After reviewing the perspectives of his predecessors across the 19th century and with special regard for the considered judgment of the Senate on the same question (Senate rule VI), Speaker Cannon held that once the House is organized for a Congress ''a quorum consists of a majority of those Members chosen, sworn, and living, whose membership has not been terminated by resignation or by the action of the House.'' 4 Hinds § 2890; 6 Cannon § 638.

Under rule XX clause 5(c) (adopted in the 108th Congress), upon the death, resignation, expulsion, disqualification, or removal of a Member, the Speaker announces any adjustment to the whole number of the House. Such an announcement is not subject to appeal. In the case of a death, the Speaker may lay before the House such documentation from Federal, State, or local officials as he deems pertinent. See § 2, supra.

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 rule XX, the Speaker may direct the use of the electronic system in the Chamber to record the names of the Members voting or present. *Manual* § 1014. In lieu of using the electronic system (if, for example, there is a malfunction in the electronic system), the Speaker in his discretion may direct that the presence of Members be recorded by clerks or he may direct that a quorum call be taken by an alphabetical call of the roll. *Manual* §§ 1015, 1019.

Under rule XX clause 4(b), the Chair may count Members who are present and do not vote as follows:

- Members who are visible, including those behind the railing. Deschler Ch 20 § 3.6.
- Members in the process of leaving the Chamber. Deschler Ch 20 § 3.5.
- Himself. Deschler Ch 20 § 3.7.

However, the Chair may not count the following Members:

- Members in the cloakrooms out of sight. Deschler Ch 20 § 3.10.
- Members entering the Chamber after the Chair announces the result of the quorum call. Deschler Ch 20 §§ 3.11–3.13.

In any case, the Chair's count of a quorum is conclusive and may not be challenged on appeal. *Manual* § 629.

The number of Members present for the purpose of determining the absence of a quorum may be established by a count of the number of Members voting on a pending proposition. Deschler Ch 20 § 2.13. However, the Chair's count of those Members standing on a division vote in the House does not demonstrate the absence of a quorum because the Chair, in taking such a vote, does not count all Members present in the Chamber but only those standing. Deschler Ch 20 § 2.18.

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. Such recount may be in response to a statement of a Member that more Members had entered the Chamber since the first count, thereby establishing 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 or the reading of a resolution, even though the resolution was privileged for consideration. Deschler Ch 20 §§ 13.11, 13.12, 13.14.

Under the modern practice, the use of points of order of no quorum in the House has been sharply curtailed. Under rule XX clause 7(a), a point of no quorum is not in order unless a question has been put to a vote, notwithstanding the failure of a quorum to have voted on a prior item of business no longer pending. 95–1, Sept. 16, 1977, p 29563. Therefore, a point of order of no quorum may not be made during the offering of the prayer, the administration of the oath, the reception of messages from the President

or the Senate, the reading of the Journal, or special orders. The refusal of the Chair to entertain a point of order of no quorum where prohibited by clause 7(a) is not subject to appeal. *Manual* § 629. Furthermore, the Chair will not entertain a unanimous-consent request to waive the provisions of rule XX clause 7(a). 93–2, Dec. 9, 1974, p 38664.

In Committee of the Whole

A similarly restrictive rule applies to points of order of no quorum in the Committee of the Whole. Rule XVIII clause 6(b) states that, ''after a quorum has once been established on a day,'' the Chair 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 Chair has put the pending question to a vote. *Manual* § 982. A Member may make a point of order of no quorum while the Chair is counting those standing in the Committee to support a demand for a recorded vote and before 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. *Manual* § 1012. The Chair will resume his count for a recorded vote when the requesting Member withdraws his point of order of no quorum (which is the usual practice).

The restriction of rule XVIII clause 6 against making a point of order of no quorum ''after a quorum has once been established on a day'' means on that day during consideration of the pending bill, because the House resolves itself into a new Committee of the Whole on each bill, with a new Chairman. *Manual* § 982. The rule restricting points of order of no quorum in the Committee after a quorum has once been established is applicable whether the quorum was established by a regular quorum call or a ''short'' quorum call. 95–2, June 8, 1978, p 16778. For a discussion of a regular quorum call and a short quorum call, see § 17, infra.

Although a point of order of no quorum may be raised during general debate in the Committee of the Whole, the Chair is given the discretion to entertain it under rule XVIII clause 6(b). *Manual* § 982.

A point of order of no quorum does not lie in the Committee against the adoption of a motion that the Committee rise, because that motion (as distinguished from the motion to rise and report) does not require a quorum for adoption. Rule XVIII clause 6(d); 4 Hinds §§ 2972, 2975.

§ 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 XX clause 6, if timely made, necessarily precipitates a call of the House (unless the House adjourns) and, simultaneously, a vote by the yeas and nays on the pending question. *Manual* § 1025.

The objection to a vote permitted by rule XX clause 6 applies only to votes on questions requiring a quorum. Thus, an objection may not be raised under the rule to an affirmative vote on a motion to adjourn or to a vote on a motion incidental to a call of the House, neither of which requires a quorum for adoption. 4 Hinds § 2994; 6 Cannon § 681; Deschler Ch 20 § 2.

For further discussion of the ''automatic'' vote by the yeas and nays that ensues under rule XX clause 6, see § 14, infra.

Effect of Postponement

When a Member objects to a vote on the ground that a quorum is not present, and further proceedings are postponed under rule XX clause 8 or by unanimous consent, the Speaker puts the question *de novo* when the measure is again before the House as unfinished business. Members then have the same right to object on that ground as when the question was originally put. Deschler Ch 21 § 3.18. When further proceedings are postponed, the Speaker announces that the point of order that a quorum is not present is considered as withdrawn because the point of order is no longer in order (a question not being pending after the Speaker's announcement of postponement). *Manual* § 1026. In the Committee of the Whole, when proceedings resume on a request for a recorded vote on an amendment postponed under rule XVIII clause 6(g), the voice vote is acknowledged and the request is announced as pending. At this time, a point of order of no quorum may be made.

§ 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 has been laid on

the table. Deschler Ch 20 §§ 13.23, 13.24. However, such objections have been held to be timely and in order when they were made:

- After the Chair announced his opinion that the noes on a voice vote prevailed but before the House proceeded to other business. Deschler Ch 20 § 13.16.
- After a parliamentary inquiry that 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 demand for the yeas and nays following a division vote. Deschler Ch 20 § 13.19.
- After a sufficient number have risen to order the yeas and nays but before the start of the vote. 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 was put. Deschler Ch 20 § 13.1. However, 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. In order to raise such an objection, a Member must be on his feet and actively seeking recognition when the Chair announces the result of the vote. Deschler Ch 20 § 13.25. 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, and the Speaker has on occasion expressed reluctance to hold a point of order of no quorum dilatory for that reason, 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 the sole purpose of delay 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 XVIII and rule XX were amended to restrict recognition for points of no quorum, the use of repeated points of order as a dilatory tactic has lost its efficacy. Under rule XVIII clause 6 and rule XX clause 7(a), the Chair may not entertain a point of no quorum unless a question has been put to a vote.

§ 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. A point of order of no quorum is considered withdrawn where the Chair exercises any postponement authority under rule XVIII clause 6(g) or rule XX clause 8. *Manual* §§ 984, 1026.

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 12481). The point may not then be withdrawn even by unanimous consent, because the House may not conduct business, including the disposition of unanimous-consent requests, in the announced absence of a quorum. Deschler Ch 20 § 18.7. The same rule is followed in the Committee of the Whole. Deschler Ch 20 § 18.6.

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 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.

Rule XX authorizes three separate procedures for a call of the House. They are as follows:

- The call of the House under clause 6 whenever objection is raised to a vote taken in the absence of a quorum. *Manual* § 1025. This call is sometimes referred to as an ''automatic'' call because it proceeds by operation of the rule and does not require a motion. See § 14, infra.
- The call of the House under clause 7(b), which permits the Speaker in his discretion to recognize for a motion for acall of the House at any time. See § 12, infra.

- The call of the House under clause 5 that is used in the absence of a quorum to compel the attendance of absent Members. The Speaker may recognize for that motion, which must be adopted by a majority comprising at least 15 Members. See § 13, infra. The call under this clause is sometimes referred to as the ''old'' form of the call, clause 5 having been first adopted in 1789.

Rule XX clause 5, enabling 15 Members to order a call of the House, 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 6, having been provided for by rule in 1896, is described as the call of the House in the new form. It supersedes 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 5 or clause 7(b) is in order at the Chair's discretion. On the other hand, the automatic call under clause 6 ensues while the House is voting. *Manual* §§ 1021–1025; 4 Hinds § 2990. Indeed, clause 5 should be read in light of clause 7(a), which prohibits the Speaker from entertaining a point of no quorum unless a question has been put to a vote , and clause 7(b), which gives the Speaker discretion to recognize for a call of the House at any time. *Manual* §§ 1027, 1028.

In Committee of the Whole

The provisions of rule XX clauses 5, 6, and 7, 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, a Member may not object to a vote in the Committee on the ground that a quorum is not present. Deschler Ch 20 § 16.1; § 6, supra. In the Committee of the Whole, the quorum call and the vote occur seriatim and not simultaneously as they do in the House under rule XX clause 6. The requirement of, and the procedures for, obtaining a quorum in Committee of the Whole are found in rule XVIII clause 6.

§ 12. The Motion for a Call

Under rule XX clause 7(b), a motion for a call of the House is permitted at any time subject to clause 7(c). Clause 7(c) precludes such motion after the previous question has been ordered unless the Speaker determines by actual count that a quorum is not present. A motion for a call of the House is in order notwithstanding language in rule XX clause 7(a) that a point of order of no quorum may not be entertained unless the Speaker has put a pending question to a vote. *Manual* §§ 1027–1029. Under this rule,

the Speaker may at any time in his discretion recognize a Member to offer the motion. Thus, the Speaker may refuse recognition. *Manual* § 1029. The motion is privileged if entertained by the Chair. It may be entertained after another Member has been recognized but before he has begun his remarks. Deschler-Brown Ch 29 § 23.15. When a Member is under recognition for debate, another Member may be recognized to move a call of the House only if yielded to for that purpose. 105–2, July 23, 1998, p ____. The motion is not debatable. 6 Cannon §§ 683, 688.

If the motion is rejected, the House proceeds with business. Deschler-Brown Ch 29 § 20.20. However, if the motion is adopted by a record vote, and a quorum is established thereby, a call of the House must proceed unless rescinded by unanimous consent. 94–1, Oct. 22, 1975, p 33688.

§ 13. The Call to Compel Attendance of Absent Members

In General

Rule XX clause 5 authorizes a motion for a call to compel the attendance of absent Members when the call is ordered by at least 15 Members (including the Speaker). Recognition for the motion is within the Speaker's discretion, and the motion may not be adopted by fewer than 15 affirmative votes. Unless that number is 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.

If a majority votes to compel attendance under this rule, absentees are notified. *Manual* § 1021. 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* § 1021.

When a call of the House is ordered under this rule, the Speaker may direct the taking of the call by electronic device or by a call of the roll. *Manual* §§ 1014, 1015. A motion to adjourn takes precedence over a call of the House. 8 Cannon § 2642.

Under the modern practice, clause 5 is seldom used. It should be read in light of rule XX clause 7(a), which precludes a point of order of no quorum except when the Chair has put a question to a vote, and clause 7(b), which gives the Speaker discretion to recognize for a call of the House at any time. *Manual* §§ 1027, 1028.

§ 14. The Automatic Call

In General

Under rule XX clause 6, a call of the House ensues whenever a quorum fails to vote on any question that requires a quorum (assuming that the House does not adjourn), if in fact a quorum is not present and objection to the vote is made for that reason. The rule provides for a call of the House and states that the yeas and nays on the pending question ''shall at the same time be considered as ordered.'' *Manual* § 1025. 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. Deschler Ch 20 § 2; 6 Cannon § 695.

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. *Manual* § 1025; Deschler Ch 20 § 4.2. 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, pursuant to rule XX clause 6, that a quorum is constituted; and he is not required to announce his actual count. *Manual* § 1025.

Although arrest of Members is rare in modern practice, Members who do not respond to the call are subject to arrest by the Sergeant-at-Arms. See § 19, infra.

The Speaker is authorized to declare that a quorum is constituted if those voting on the question, together with those who are present, make up a majority of the House. *Manual* § 1025. Such a declaration dispenses with further proceedings. See § 20, infra. The pending question is then decided by a majority of those voting, a quorum being present. *Manual* § 1025.

Invoking the Call

The automatic call of the House under rule XX clause 6 may be invoked by a Member who rises following the announcement of the result of a vote to state:

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

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

The automatic call does not apply when the House is voting on some question that does not require a quorum, such as a motion incidental to a

call of the House or a motion to adjourn decided in the affirmative. *Manual* § 1025; 4 Hinds § 2994; 6 Cannon § 681.

§ 15. Use of Electronic Equipment

In General

The Speaker is authorized under rule XX clause 2(a) to use the electronic equipment in the Chamber to record those voting on or present for any quorum call. *Manual* § 1014. The use of this equipment is not mandatory. The Speaker has discretion, for example, to direct the Clerk to call the roll 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 XX to direct that the quorum call be taken by clerk tellers under clause 4 or by an alphabetical call of the roll under clause 3, rather than by electronic device. Deschler Ch 20 § 4.1. These alternatives are normally used when the electronic system is inoperable. Rule XX clause 2(b).

Response Time

On a call of the House conducted by electronic device, the Members have not less than 15 minutes to respond. Rule XX clause 2; *Manual* § 1014. 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.

At the beginning of a new Congress, the Speaker has inserted in the *Congressional Record* his announcement that, in order to expedite the conduct of votes by electronic device, the cloakrooms were directed not to forward to the Chair individual requests to hold a vote or quorum call open. The Speaker has also announced that each occupant of the Chair would have his full support in striving to close each electronic vote or quorum call at the earliest opportunity and that Members should not rely on signals relayed from outside the Chamber to assume that votes or quorum calls will be held open until they arrive. At the same time, the Chair will not close a vote or quorum while a Member is in the well attempting to vote. At the beginning of the 108th Congress, the Speaker instituted a new practice of reminding Members when two minutes remain on the clock. *Manual* § 1014.

§ 16. Names Published and Recorded on a Call

Under rule XX clause 2(a), the names of those Members who respond to a quorum call are entered in the Journal and published in the *Congressional Record*. *Manual* § 1014. When the call is taken by clerks, the clerks record the names of those present and note the names of absentees. *Manual*

§ 1019. Members responding to a quorum call ordered on motion under rule XX clause 5 must report their names to the Clerk to be entered on the Journal. *Manual* § 1021. When an automatic call of the House ensues under rule XX clause 6, Members brought in by the Sergeant-at-Arms are noted as present. *Manual* § 1025.

Under rule XX clause 4(b), any Member may demand, or the Speaker may require, that the names of those Members not voting be noted by the Clerk, recorded in the Journal, and reported to the Speaker, along with the names of those Members voting, in determining the presence of a quorum. *Manual* § 1020. The Speaker may direct the Clerk to note the names of Members under this rule even on a vote for which no quorum is necessary. 8 Cannon § 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 XVIII clause 6. That rule permits two kinds of quorum calls in the Committee, to wit: a ''regular'' quorum call and a ''notice'' or ''short'' quorum call. *Manual* § 982.

A ''regular'' quorum call is initiated under rule XVIII clause 6(a). That rule sets forth the circumstances under which the Chair is to invoke the procedures normally available to the Speaker for quorum calls in the House under the applicable provisions of rule XX. Specifically, rule XX clause 2(a) allows at least 15 minutes for Members to respond and requires the publication of the names of those Members answering present. *Manual* § 1014; generally, see §§ 15, 16, supra.

A ''notice'' or ''short'' quorum call is permitted under rule XVIII clause 6(c). That provision permits the Chair, at any time during a call, subject to his prior announcement, to determine and declare that a quorum is present. Proceedings under the call are then considered vacated, and the Committee resumes its business. This provision permits the Chair 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 Chair to convert to a regular quorum call in the event that a quorum does not appear. The Chair need not convert to a regular quorum call precisely at the expiration of 15 minutes if a quorum (100 Members) has 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 rule XX clause 2(a). *Manual* § 982.

When in Order

Under rule XVIII clause 6(a), the first time that a Committee of the Whole finds itself without a quorum on a day, the Chair must invoke one of the quorum call procedures that are available to him under rule XX. Thereafter, quorum calls are permitted only during proceedings under the five-minute rule when the Chair has put a pending question to a vote. A point of order of no quorum during general debate is permitted only at the discretion of the Chair. *Manual* § 982.

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 Chair has the discretion to effect the call by an alphabetical call of the roll or by clerk tellers. Rule XVIII clause 6(a), which incorporates by reference rule XX clauses 2, 3, and 4(a). Thus, the Chair may direct that a ''notice'' quorum call be conducted pursuant to the provisions of rule XX clause 4(a)—by depositing quorum tally cards with clerk tellers—in lieu of conducting the call by electronic device or a call of the roll. Deschler-Brown Ch 30 § 31.9.

The so-called automatic call authorized by rule XX clause 6 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 Chair reports the names of absentees to the House only in the event that a quorum fails to respond to the quorum call under rule XVIII clause 6.

§ 18. Motions in Order During the Call

Generally

With the exception of the motion to adjourn, the only motions in order during a call of the House are those in furtherance of the effort to secure a quorum. 6 Cannon § 682. Motions held not in order include:

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

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

- Motion that the Speaker issue warrants for the arrest of absent Members. 6 Cannon § 681.
- Motion that the Sergeant-at-Arms take absent Members into custody. 4 Hinds § 3029; 6 Cannon § 685.
- Motion that the Sergeant-at-Arms report progress in securing a quorum. 6 Cannon § 687.
- Motion for the previous question on a proposition incident to a call of the House. 5 Hinds § 5458.
- Motion 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. The vote on the motion is taken before the call of the House, even when the motion for the call was offered but not finally agreed to before 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. Deschler Ch 20 §§ 8.22, 8.23. The motion to adjourn may not be entertained during the call. However, 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.

Rule XX clause 6, which authorizes automatic votes by the yeas and nays, permits the House to adjourn in the absence of a quorum and before a call of the House. Clause 6(c) gives the Speaker discertion to recognize a motion to adjourn after the vote has been completed but before the result has been announced if the motion has been seconded by a majority of those present, to be ascertained by actual count of the Speaker. *Manual* § 1025.

§ 19. Securing Attendance; Arrests

Under Rule XX Clause 6

The attendance of absent Members may be secured under rule XX clause 6, which provides for the automatic vote by the yeas and nays. Under this rule, the Sergeant-at-Arms ''shall proceed forthwith'' 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* § 1025. 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. 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). However, to 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 (4 Hinds § 3041):

> To _____, Sergeant-at-Arms of the House of Representatives, or his deputies:
>
> Whereas rule XX clause 6 of the House of Representatives provides as follows: _____
>
> 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. 4 Hinds § 3044.

Under Rule XX Clause 5

The use of the Office of the Sergeant-at-Arms to procure the presence of Members in the Chamber also is permitted by rule XX clause 5, which authorizes the Speaker to recognize a motion, which requires 15 Members to adopt, to compel the attendance of absent Members. § 13, supra. Under the rule, a majority of those present, numbering at least 15 Members, 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* §§ 1021, 1023. 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 (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 XX clause 5, has no authority to compel the attendance of absent Members. Deschler Ch 20 § 5.9. A motion that 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. In that case, no timely point of order was raised against the motion due to lack of a quorum. Therefore, the motion was held to be binding on the Speaker and other Members. 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.

Under the modern practice, clause 5 is seldom used. It should be read in light of rule XX clause 7(a), which precludes a point of order of no quorum except when the Chair has put a question to a vote, and clause 7(b), which gives the Speaker discretion to recognize for a call of the House at any time. *Manual* §§ 1027, 1028.

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,'' 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. *Manual* § 380; Deschler Ch 20 § 6. Rule XX clause 4, adopted in 1972, states that ''the doors may not be closed except when ordered by the Speaker'' pursuant to a quorum call. *Manual* § 1019. 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).

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. However, in one instance the doors were locked ''until disposition of the pending business'' (the reading of the Journal). This action was taken by order of the House rather than by order of the Speaker. Deschler Ch 20 § 6.5. In 1968, Speaker McCormack 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.

§ 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. Under the modern practice, rule XX clause 7(b) eliminates the motion to dispense with further proceedings under a call of the House following establishment of a quorum. *Manual* § 1028. 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 unless the Speaker in his discretion recognizes for a motion to compel the attendance of Members under rule XX clause 5(b).