Chapter CCIX.[1]

THE CALL OF THE HOUSE.

1. House may under all circumstances compel the attendance of absent Members. Sections 678–680.
2. Motions in order during a call. Sections 681, 682.
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8. Motions and procedure under later rule. Sections 703–705.
9. Application to vote on seconding a motion. Sections 706–707.

678. When a quorum fails on a yea-and-nay vote the call of the House is automatic under the rule, and the Speaker directs the roll to be called without motion from the floor.

On December 19, 1921,[2] the House was considering a resolution reported by Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, providing for the consideration of the anti-lynching bill. The result of a vote by yeas and nays on ordering the previous question was announced by the Speaker as follows:

> On this vote the yeas are 169, the nays 37, and present 5–211 Members present, not a quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absent Members, and the Chair will issue his warrant to the Sergeant at Arms to bring in the absent Members. The Clerk will call the roll.

Mr. Finis J. Garrett, of Tennessee, inquired[3] if it was a de novo vote or if the number voting would be added to the number voting on the previous roll call.

The Speaker[4] replied that it was an automatic vote, as provided by rule on the failure of a quorum, and was, therefore, a new vote.

679. When a vote by yeas and nays shows no quorum the Chair takes cognizance of the fact, and, unless the House adjourns, orders a call under the rule without suggestion from the floor.

In the absence of the Sergeant at Arms, the duties of his office are discharged by sworn deputies, and the Speaker issues directions as if he were present in person.

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[1] Supplementary to Chapter LXXXVI.

[2] Second session Sixty-seventh Congress, Record, p. 556.

[3] Record, p. 558.

[4] Frederick H. Gillett of Massachusetts, Speaker.

On December 20, 1921,[1] Mr. Andrew J. Volstead, of Minnesota, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the anti-lynching bill.

The question being taken by yeas and nays, the Speaker announced:

On this vote the yeas axe 174, the nays 7, present 2, a total of 183, not a quorum. The Chair takes note of the fact that a quorum is not present. The Doorkeeper win close the doors, the Sergeant at Arms will bring in absent Members, and the Clerk will call the roll.

Mr. Finis J. Garrett, of Tennessee, made the point of order that, under the rule, the Speaker was without authority to order a roll call and direct that absentees be brought in, without action by the House.

The Speaker[2] said:

The Chair overrules the point of order. Section 4 of the rule says:

"Whenever a quorum fails to vote on any question, and a quorum is not present and objection is made for that cause, unless the House shall adjourn there shall be a call of the House, and the Sergeant at Arms shall forthwith proceed to bring in absent Members',—

A quorum has failed to vote, and it is clear that a quorum is not present. It is the duty of the Chair on a roll call to take note of the fact that a quorum does not respond, and the Chair has the right immediately to order another roll call. Of course this whole rule was adopted for the purpose of preventing obstruction. A glance will show whether there is now an attempt at obstruction or not. It is clear that there is, and the Chair has the right, following the purpose of the rule, to take note of the fact that a quorum is not present and for that cause to order a call of the House, and that the doors shall be closed, and that the Sergeant at Arms shall bring in absent Members.

Mr. Garrett raised the further point of order that the Sergeant at Arms was absent and no sworn deputies were in the city, and that it would be necessary for the House to proceed to the selection of a Sergeant at Arms before absentees could be apprehended.

The Speaker held:[3]

The Chair knows that the Sergeant at Arms is at present attending the funeral of a Member of the House, but the Chair does not suppose that necessarily means that the office of the Sergeant at Arms here is vacant or defunct. The Chair thinks that the going away of one individual officer on the duty of the House does not necessarily mean that that whole office is ineffective. The Chair is informed that there is a sworn Deputy Sergeant at Arms here. The Doorkeeper will close the doors, the Sergeant at Arms will bring in absent Members, and the Clerk will call the roll.

680. On the failure of a quorum no business is in order and no motion will be entertained except for a call of the House or to adjourn.

The lack of a quorum being disclosed, in the absence of any motion the Speaker will issue warrants to bring in absent Members.

The Speaker declines to entertain unanimous consent requests in the absence of a quorum.

On February 23, 1921[4] during the consideration of the Post Office appropriation bill with Senate amendments, a quorum failed to respond on a yea-and-nay

[1] Second session Sixty-seventh Congress, Record, p. 602.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Record, p. 603.

[4] Third session Sixty-sixth Congress, Record, p. 3722.

vote on a motion by Mr. Martin B. Madden, of Illinois, to recede and concur in Senate amendment No. 12.

Thereupon Mr. Madden asked unanimous consent that when the House adjourned it adjourn to meet at 11 o'clock the following day.

The Speaker[1] declined to entertain the request in the absence of a quorum.

Mr. Otis Wingo, of Arkansas, proposed that a recess be taken until an hour certain.

The Speaker stated that no motion was in order but for a call of the House or to adjourn, and that in the absence of any motion the Chair would issue warrants to bring in absent Members.

681. A quorum is not required on motions incidental to a call of the House.

A motion directing the Speaker to issue warrant for arrest of absentees may be entertained during proceedings to secure the attendance of a quorum.

The House having agreed to a motion directing the issuance of a warrant for arrest of absentees during proceedings to secure a quorum, the Speaker disregarded the direction and declined to sign the warrant.

An appeal from the decision of the Chair is in order during a call of the House.

Instance wherein the House designated a minority employee as Assistant Sergeant at Arms.

On March 18, 1910,[2] Mr. George W. Norris, of Nebraska, offered as privileged, a resolution (H. Res. 502) amending the rules. Mr. John Dalzell, of Pennsylvania, made the point of order that the resolution was not privileged. Pending the Speaker's decision on the point of order, it developed that a quorum was not present and, on motion of Mr. Oscar W. Underwood, of Alabama, a call of the House was ordered. The Sergeant at Arms was long delayed in bringing in absentees, and Mr. Thomas W. Hardwick, of Georgia, moved that:

"The House appoint Mr. Joseph Sinnott as Assistant Sergeant at Arms, with such force as he may employ to assist him, to execute the mandate of this House previously made in this case and force attendance of the absent Members."

The Speaker pro tempore[3] said:

The Chair would call attention to the fact that this is not concerning a call of the House. This is a clear out-and-out proposition to increase the officers of the House. Now, it seems to the Chair that the error of the position assumed by the gentleman from Georgia is that he gives to less than a quorum the power that belongs to a quorum of the House. Now, under the constitutional provision, which was cited, the House enacted section 2 of Rule XV and prescribed the manner in which Members should be compelled to attend upon a call of the House, and specifically provide that it must be by order of a majority of those present; to be sent for and arrested, wherever they may be found, by officers to be appointed by the Sergeant-at-Arms for that purpose. There is no doubt about the power of the House to call to the bar of the House the Sergeant-at-Arms, or to discharge the Sergeant-at-Arms, for that matter, when the House is in

[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-first Congress, Record, p. 3398.

[3] John Dalzell, of Pennsylvania, Speaker pro tempore.

possession of its powers, having a quorum; but it is not in the power of less than a quorum to add to the officers of the House, especially in view of the fact that the rules specifically provide how this power of the House shall be exercised. Now, the Chair would like to suggest to those gentlemen who have been here a number of years, the older Members of the House, that this is no unusual experience. It has always been found impossible, so far as the Chair's recollection goes, to obtain a quorum upon a call of the House at a very late hour, especially after midnight, and the Chair thinks it is not in order to entertain the motion.

From this decision Mr. Hardwick appealed, and, the question being submitted to the House, the decision of the Chair was overruled.

Thereupon Mr. Hardwick moved that a warrant for the arrest of absentees issue in the name of the Speaker and be delivered to the Assistant Sergeant at Arms appointed under the motion just agreed to.

The Speaker pro tempore held that the motion was not in order in the absence of a quorum, and, on appeal, that decision was overruled by the House.

Subsequently, Mr. Albert S. Burleson, of Texas, inquired:

With due respect to the Speaker, I desire to propound this query: Has the Speaker signed the warrants to be intrusted to Joe Sinnott, as ordered by the House?

The Speaker [1] said:

The Speaker has no knowledge of Joe Sinnott, and the Speaker desires to say nothing further until a quorum of the House appears. The Speaker is under the constraint that he is bound by a rule of the House adopted, when it had a quorum; and acting in this ministerial capacity, will be bound by that rule, and not by a request of the gentleman or a request of less than a quorum.

682. With the exception of the motion to adjourn, no motion is in order in the absence of a quorum except in furtherance of the effort to secure a quorum, and since a motion to withhold pay of absentees would not contribute to this result, such motion can not be entertained.

On February 18, 1911,[2] the Committee of the Whole House, engaged in the consideration of bills on the Private Calendar, rose and reported the lack of a quorum. During the ensuing proceedings to secure a quorum, Mr. Thetus W. Sims, of Tennessee, moved:

"That the Sergeant at Arms be instructed to execute the provision of the law requiring the salaries of Members of the House to be deducted for all such days as they are absent, except for sickness of themselves or of members of their family, and that it be executed for this day and the rest of the session."

The Speaker pro tempore [3] ruled:

The Chair desires to rule upon the motion of the gentleman from Tennessee. The House is now without a quorum. We are in the midst of a call of the House. The only motion which can be entertained in the absence of a quorum is the motion to adjourn, or some motion which has for its manifest, plain purpose merely the bringing in of Members, so as to compel attendance and secure a quorum. Such a motion has been adopted, and the order of the House is now in process of execution. The Chair is of opinion that a motion to enforce a penalty against absent Members by deducting something from their salaries at the end of the month would not help to secure a quorum this evening, although it might insure more faithful attendance in future,

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] Third session Sixty-first Congress, Record, p. 2868.

[3] Marlin E. Olmsted, of Pennsylvania, Speaker pro tempore.

and that the motion is of such nature that it can not be entertained at this time, when no quorum is present.

683. A motion for a call of the House is not debatable.

On October 14, 1913,[1] before the Journal had been read, Mr. James R. Mann, of Illinois, made the point of order that a quorum was not present. A quorum not being present, Mr. Oscar W. Underwood, of Alabama, moved a call of the House.

Mr. Mann inquired if the motion was debatable.

The Speaker[2] said:

The Chair would hold, as a matter of ordinary common sense, that it is not debatable. It is one of the those motions that is intended to expedite business like a motion for the previous question. It is on all fours with a motion to table, with a motion for the previous question, and those other motions that are intended to expedite business. It is a summary process.

684. The former practice of presenting Members at the bar during a call of the House is obsolete, and Members now report to the Clerk and are recorded without being formally excused unless brought in under compulsion.

Form of resolution for directing the Sergeant at Arms to arrest absent Members.

On March 18, 1910,[3] in the course of dilatory proceedings attending the consideration of the resolution (H. Res. 502) to amend the rules, a call of the House was ordered. A quorum failing to respond, Mr. Oscar Underwood, of Alabama, proposed:

Mr. Speaker, I move that the Sergeant at Arms be instructed to arrest absentees and bring them to the bar of the House.

The Speaker[4] said:

The order usually adopted is:

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

The motion was agreed to, and subsequently Mr. Ollie M. James, of Kentucky, inquired:

Is it not the duty of the Sergeant at Arms, under this call, to report to the House as he arrests Members, and to present them at the bar of the House and call the attention of the Speaker to the fact?

The Speaker pro tempore said:

Under the practice of the House under its present rules, Members are not arrested and compelled to come to the bar of the House so as to be excused. They report to the Clerk of the House as they come in, and their presence is noted.

Later Mr. William Hughes, of New Jersey, submitted:

Mr. Speaker, I would like to suggest that the call of the House to-day has proceeded further than the call of the House has ever proceeded in recent times. An order has been made author-

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[1] First session Sixty-third Congress, Record, p. 5653.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-first Congress. Record. p. 3390.

[4] Joseph G. Cannon, of Illinois, Speaker.

izing the Sergeant at Arms to arrest absent Members and bring them before the bar of the House. The Sergeant at Arms is not presenting any Member before the bar of the House. The Clerk continues the call and allows Members when they come in to answer to the roll, and no further proceedings are taken under the call. I ask, What proceedings have been taken under the order? Five Members have come in, but no one has been presented before the bar of the House.

The Speaker pro tempore [1] said:

The Chair will say that the old practice of the House of bringing Members in and having them presented at the bar of the House and being excused was abolished by the adoption of the new rule, which allows Members to come in and vote or answer to their names without being formally excused. The Chair recollects that the old practice was to bring Members in and present them at the bar of the House, and they had to be excused, but under the new practice they are entitled to vote if there be a question pending, and if there be no question pending they are entitled to have their names recorded by the Clerk as they come in, and are not required to be formally excused. The Chair presumes that if a Member comes in under compulsion in custody of the Sergeant at Arms it would probably be necessary that he should be excused.

685. A proposition to arrest Members absent without leave is in order during proceedings to secure a quorum.

On February 17, 1911,[2] a quorum having failed to respond on a call of the House, ordered following a report by the Committee of the Whole House of lack of a quorum for the consideration of the omnibus claims bill, Mr. Oscar W. Underwood, of Alabama, moved that the Sergeant at Arms arrest absentees.

The Speaker pro tempore [3] said:

The gentleman from Alabama moves that the Sergeant at Arms arrest absentees and bring them to the bar of the House. The Chair thinks that motion is in order even in the absence of a quorum, as its manifest purpose is to secure the presence of a quorum. The question is on the notion.

The motion was agreed to, and the Speaker pro tempore announced:

The Sergeant at Arms will be directed to arrest absent Members, as directed by order of the House, and present them at the bar of the House.

Obstruction to consideration of the measure continued, and on February 19,[4] a quorum failed to respond on a call of the House, ordered after the Committee of the Whole in consideration of the same measure had again risen without a quorum. Thereupon, Mr. J. Thomas Heflin, of Alabama, offered the following resolution:

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

The Speaker pro tempore said:

The Chair thinks that motion is in order at this time. The question is on agreeing to the motion offered by the gentleman from Alabama.

The question was taken, and the motion was agreed to.

686. Instance wherein the House ordered the arrest of absentees during proceedings to secure a quorum.

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[1] John Dalzell, of Pennsylvania, Speaker pro tempore.

[2] Third session Sixty-first Congress, Record, p. 2805.

[3] Marlin E. Olmsted. of Pennsylvania. Speaker pro tempore.

[4] Record, p. 2896.

Form of resolution for the arrest of Members absent without leave.

A resolution authorizing the Sergeant at Arms to arrest absentees is not debatable.

A request for unanimous consent is not entertained in the absence of a quorum.

On September 30, 1918,[1] during a filibuster, a quorum failing to answer on a call of the House and later on a motion to adjourn, Mr. Thetus W. Sims, of Tennessee, offered the following resolution:

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

Mr. Joseph G. Cannon, of Illinois, asked to be recognized. The Speaker[2] held that the resolution was not debatable.

Mr. Frank C. Reavis, of Nebraska, asked unanimous consent to address the House for 3 minutes. The Speaker declined to entertain the request, and held that no business was in order except a motion to adjourn or in furtherance of an effort to secure the attendance of a quorum.

687. A motion to require the Sergeant at Arms to report at the bar of the House on progress in securing a quorum is in order during a call of the House.

Interrogation of an officer, required to answer at the bar of the House, must be authorized by motion and is limited to subjects specified in that motion.

Instance in which the Sergeant at Arms was summoned to the bar of the House and required to report progress in the discharge of the duties of his office.

On March 18, 1910,[3] during prolonged delay in securing a quorum under a call of the House, Mr. Ollie M. James, of Kentucky, offered the following motion:

Mr. Speaker, I move that the Sergeant at Arms be called before the bar of the House, that we may ascertain what progress and efforts he has made to obtain a quorum in this House to transact the public business, if any.

The Speaker pro tempore[4] said:

The Chair thinks it would be within the power of the parties present, although not a quorum to ascertain from the Sergeant at Arms what progress he has made. The gentleman from Kentucky moves that the Sergeant at Arms be required to come to the bar of the House and report what progress he has made, if any.

The motion was agreed to, and Mr. Albert S. Burleson, of Texas, moved:

That Mr. Bell, of Georgia, and Mr. Garner, of Texas, be requested to notify the Sergeant at Arms of the action of the House and ask the Sergeant at Arms to report to the House what progress he has made.

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[1] Second session Sixty-fifth Congress, Record, p. 10956.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-first Congress, Record, p. 3393.

[4] John Dalzell, of Pennsylvania, Speaker pro tempore.

The question on agreeing to the motion offered by Mr. Burleson was then taken and, being decided in the affirmative, Mr. Bell and Mr. Garner appeared with the Sergeant at Arms at the bar of the House.

Mr. Bell said:

Mr. Speaker, this is the Sergeant at Arms before the bar of the House.

The Speaker pro tempore directed:

The Chair will request the reading clerk of the House to inform the Sergeant at Arms of the action of the House.

The Clerk read:

The House has directed the Sergeant at Arms to report what progress he has made or what action he has taken, if any, to bring in absent Members.

The Sergeant at Arms reported in detail.

Mr. Gilbert N. Haugen, of Iowa, proposed to further question the Sergeant at Arms, when the Speaker pro tempore ruled:

The Chair thinks any question to be propounded to the Sergeant at Arms must be authorized by the House and not propounded by an individual Member.

Whereupon, Mr. William W. Rucker, of Missouri, moved that Mr. Haugen be permitted to interrogate the Sergeant at Arms.

The motion was agreed to, and Mr. Haugen submitted further interrogatories, which were answered by the Sergeant at Arms.

Mr. James expressed a wish to propound additional questions and, on motion of Mr. Haugen, the House authorized Mr. James to further inquire.

At the conclusion of Mr. James's examination the Sergeant at Arms retired without ceremony.

688. Motions incidental to a call of the House are not debatable.

Under a call of the House warrants for the arrest of Members may be issued by the Speaker pro tempore.

On October 7, 1913,[1] immediately upon the reading and approval of the Journal, Mr. James R. Mann, of Illinois, made the point of order that no quorum was present, and, on motion of Mr. Frank Clark, of Florida, a call of the House was ordered.

A quorum having failed to respond, Mr. Charles L. Bartlett, of Georgia, moved that the Speaker pro tempore issue a warrant for the arrest of Members.

Mr. Mann made the point of order that the Speaker pro tempore was without authority to sign such warrant.

The Speaker pro tempore[2] ruled:

In the opinion of the Chair the Speaker pro tempore has the same authority as the Speaker himself would have in securing a quorum. That matter was raised once in the Forty-fourth Congress, and upon a point of order being made the Speaker pro tempore, Mr. Sunset Cox, of New York, ruled that the Speaker pro tempore had such power.

Mr. Bartlett, as a parliamentary inquiry, asked if the motion was debatable.

The Speaker pro tempore held that it was not debatable.

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[1] First session Sixty-third Congress Record p. 5498.

[2] Swagar Sherley, of Kentucky, Speaker pro tempore.

689. A motion to dispense with further proceedings under a call of the House was not entertained in the absence of a quorum.

The lack of a quorum precludes the consideration of a request for unanimous consent.

On March 18, 1910,[1] a call of the House was ordered pending the Speaker's decision on a point of order against the privilege of a resolution amending the rules.

At the conclusion of the second roll call, the Speaker announced that 35 Members were needed to make a quorum.

Mr. Irvine L. Lenroot, of Wisconsin, moved to dispense with further proceedings under the call of the House.

The Speaker pro tempore[2] held:

Before the motion to dispense with further proceedings under the call can be entertained there must have been disclosed the presence of a quorum on the call of the House. In other words, you can not vacate your call until you have succeeded in getting a quorum. Then upon a motion the further proceedings under the call may be dispensed with without a quorum.

In response to a request by Mr. William A. Ashbrook, of Ohio, for permission to address the House, the Speaker pro tempore ruled:

The Chair would say to the gentleman that unanimous consent can no more be given than can a motion to proceed to any other business.

690. The rule whereby a quorum is obtained and the vote taken on the pending proposition by one roll call.

The process of arresting absent Members under a call of the House. Form and history of section 4 of Rule XV.

Section 4 of Rule XV provides:

Whenever a quorum fails to vote on any question, and a quorum is not present and objection is made for that cause, unless the House shall adjourn there shall be a call of the House, and the Sergeant-at-Arms shall forthwith proceed to bring in absent Members, and the yeas and nays on the pending question shall at the same time be considered as ordered. The Clerk shall call the roll, and each Member as he answers to his name may vote on the pending question, and, after the roll call is completed, each Member arrested shall be brought by the Sergeant-at-Arms before the House, whereupon he shall be noted as present, discharged from arrest, and given an opportunity to vote and his vote shall be recorded. If those voting on the question and those who are present decline to vote shall together make a majority of the House, the Speaker shall declare that a quorum is constituted, and the pending question shall be decided as the majority of those voting shall appear. And thereupon further proceedings under the call shall be considered as dispensed with. At any time after the roll call has been completed, the Speaker may entertain a motion to adjourn, if seconded by a majority of those present, to be ascertained by actual count by the Speaker; and if the House adjourns, all proceedings under this section shall be vacated.

This rule was adopted on January 23, 1896.[3] In its original form it included a provision that it should not apply to sessions on Friday nights.

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[1] Second session Sixty-first Congress, Record, p. 3394.

[2] John Dalzell, of Pennsylvania, Speaker pro tempore.

[3] First session Fifty-fourth Congress, Record, pp. 923–938; see section 3041 of this work.

This provision was rendered obsolete by the adoption March 8, 1900,[1] of the standing order modifying section 2 of Rule XXVI by making in order the consideration of private pension bills on the second and fourth Fridays in each month instead of on Friday evening sessions as formerly. This standing order was readopted by each succeeding Congress until superseded by the adoption of section 6 of Rule XXIV in the revision of 1911.

691. When lack of a quorum develops while the House is dividing, the call of the House is automatic under the rule and no motion is required.

On January 26, 1916,[2] Mr. James F. Byrnes, of South Carolina, moved that the House adjourn. On a division, the yeas were 29, nays 169, and Mr. Byrnes made a point of no quorum.

Mr. Edward Keating, of Colorado, moved a call of the House.

Mr. Charles R. Crisp, of Georgia, made the point of order that the House was dividing and under the rule no motion was necessary.

The Speaker[3] sustained the point of order and directed that the doors be closed, absentees brought in, and the roll called.

692. The rule providing for an automatic call of the House does not apply unless the House is dividing and, if the point of no quorum is made before the question is put, may not be invoked.

On June 28, 1913,[4] the House was considering the bill (H.R. 32) providing an additional circuit judge for the eastern district of Pennsylvania.

Mr. Henry D. Clayton, of Alabama, moved that the House concur in Senate amendment No. 1.

The Speaker[3] stated the motion but before he could put the question was interrupted by a discussion of preferential motions, during which Mr. Frank W. Mondell, of Wyoming, made the point of no quorum.

On motion of Mr. Clayton, a call of the House was ordered.

Mr. A. Mitchell Palmer, of Pennsylvania, made the point of order that, under the rule, the vote was on the pending motion to concur.

The Speaker said:

> No; the gentleman from Pennsylvania is mistaken as to his facts. What happened is this, that the Chair started to put the question, but never did put the question, because as soon as he rose and stated that the question was on the motion of the gentleman from Alabama, Mr. Clayton, to concur in this amendments he got no further, and then the gentleman from Alabama rose and asked something about unanimous consent that debate close. That is the condition it was in, and there is no question about what the call of the House is on. The call of the House is to ascertain whether we can muster a quorum.

693. On May 21, 1917,[5] Mr. Claude Kitchin, of North Carolina, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the war revenue bill.

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[1] First session Fifty-sixth Congress, Journal, p. 329; see section 3281 of this work.

[2] First session Sixty-fourth Congress, Record, p. 1606.

[3] Champ Clark, of Missouri, Speaker.

[4] First session Sixty-third Congress, Record, p. 2288.

[5] First session Sixty-fifth Congress, Record, p. 2661.

The Speaker[1] announced the motion but had not put the question, when Mr. Simeon D. Fess, of Ohio, made a point of no quorum.

Mr. Kitchin moved a call of the House.

Mr. John N. Garner, of Texas, made the point of order that, under the rule, a call of the House was automatic.

The Speaker held that the House was not dividing, and put the question on ordering a call of the House.

694. A quorum has not failed to vote until both the yeas and nays have been taken, and a call of the House is not ordered until this stage is reached.

On January 30, 1920,[2] Mr. James W. Good, of Iowa, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the deficiency appropriation bill.

The Speaker[3] said:

The gentleman from Iowa moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the deficiency bill. As many as are in favor of the motion will say aye.

The ayes responded, but before the noes could be taken Mr. William S. Vare, of Pennsylvania, made the point of order that a quorum was not present.

A quorum not being present, the Speaker directed a call of the House, under the rule, when Mr. Joseph Walsh, of Massachusetts, submitted that the House was not dividing and the rule could not apply until both the yeas and nays had been taken.

The Speaker said:

The rule does not say anything about dividing, although that is the phrase used. The rule says whenever a quorum fails to vote on any question and a quorum is not present. The Chair thinks that under that, technically, he would have to decide that a vote had been taken and that a quorum did not vote. If the point of no quorum is made before the vote is taken, strictly the Chair could not decide that a quorum had not voted. The Chair therefore rules that this is not an automatic call.

695. In order to invoke the rule for an automatic call of the House, the absence of a quorum must be demonstrated.

On May 26, 1921,[4] following the approval of the Journal, the Speaker announced:

When the House adjourned last evening the previous question had been ordered on the deficiency bill, and a separate vote has been demanded on certain amendments. The Clerk will report the first amendment on which a separate vote is demanded.

Mr. Blanton submitted, as a parliamentary inquiry, that a division was had on the first pending amendment and the point of no quorum was made on that division prior to adjournment on the preceding day and, therefore, under the rule, an automatic call of the House was indicated.

The Speaker[3] said:

The reason why there would be an automatic call is that there is no quorum present. Because there was no quorum at the time it would not follow that there was no quorum now. The question is on agreeing to the amendment.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-sixth Congress, Record, p. 2255.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] First session Sixty-seventh Congress, Record, p. 1796.

696. Lack of a quorum developing while a demand for the yeas and nays was pending, the demand for yeas and nays, is disregarded and the vote is taken under the rule.

On June 1, 1921,[1] Mr. Marvin Jones, of Texas, moved to recommit the bill (H. R. 6567) relating to the consolidation of telephone companies to the Committee on Interstate and Foreign Commerce, with instructions.

Mr. Paul B. Johnson, of Mississippi, demanded the yeas and nays and, pending that demand, made the point that a quorum was not present.

The Speaker pro tempore, having ascertained and announced that a quorum was not present, put the question on ordering the yeas and nays.

Mr. Otis Wingo, of Arkansas, made the point of order that the House was dividing and, under the rule, the vote recurred on the pending motion to recommit.

The Speaker pro tempore[2] said:

The Chair will state the parliamentary status. The House divided on the motion to recommit. The Chair announced that the vote showed that the motion was lost. The gentleman from Mississippi thereupon demanded that the vote be taken by the yeas and nays, and pending that made the point of no quorum. The Chair desires to follow the long line of practice of the House, realizing that it is in the interest of expedition in roll calls to vote automatically on the question on which the House was dividing at the time the point of no quorum was made. The Chair therefore reverses the decision which he made a moment ago and holds that the vote will be taken automatically on the motion to recommit. The Door-keeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. The question is on the motion to recommit.

697. A roll call recurs under the rule on failure of a quorum on a viva voce vote.

On March 8, 1922,[3] when the question was taken by viva voce vote on the final passage of the bill (H.R. 4382) to apply the reclamation law to drainage districts, Mr. James R. Mann, of Illinois, inquired if a point of no quorum, made before a division was demanded on the question, would precipitate an automatic roll call under the rule.

The Speaker[4] said:

That is a point which the Chair has never settled. The Chair thinks it would come.

Mr. Little, of Kansas, said:

Then, Mr. Speaker, I shall not ask for a division, but I make the point of order that there is no quorum present.

Thereupon the Speaker directed a call of the House under the rule.

698. A Member who had risen and was demanding recognition is not precluded from making the point of no quorum by the fact that the Speaker had in the meantime declared the result and recognized him for a parliamentary inquiry.

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[1] First session Sixty-seventh Congress, Record, p. 1994.

[2] William H. Stafford, of Wisconsin, Speaker pro tempore.

[3] Second session, Sixty-seventh Congress, Record, p. 3585.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

On June 14, 1922,[1] Mr. Louis T. McFadden, of Pennsylvania, moved the previous question on the bill (H.R. 11939) relating to State taxation of national banks, and all amendments thereto, to final passage.

The previous question was ordered, whereupon Mr. Edward Voigt, of Wisconsin, who had been demanding recognition, inquired if the action of the House in ordering the previous question prevented debate on pending amendments. On being told that it did, Mr. Voigt made the point of no quorum on the vote ordering the previous question.

Mr. Joseph Walsh, of Massachusetts, made the point of order that after the result of the vote had been declared and a parliamentary inquiry had intervened the point of no quorum came too late and the rule for an automatic call of the House did not apply.

The Speaker[2] said:

The gentleman from Wisconsin was on his feet. The Chair thinks that he would have a right to claim that the previous question had not been ordered; that he would have a right to demand a division. Very frequently the Chair states the result of a vote and then a gentleman rises, and the Chair never insists that the vote has been completed. It seems to the Chair to be fair play to the House to hold that the gentleman had a right to demand a division and a roll call on the question. It is clear that there is no quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will bring in absentees, and the Clerk will call the roll. The question is on ordering the previous question.

699. The Speaker may, without suggestion from the floor, take note of the failure of a quorum to vote on the pending question, and on his own initiative direct a call of the House under the rule.

On April 7, 1908,[3] Mr. Washington Gardner, of Michigan, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the District appropriation bill.

On division the yeas were 100 and the nays were 75.

Mr. Charles L. Bartlett, of Georgia, made a point of no quorum and immediately withdrew it before ascertainment by the Speaker.

Whereupon the Speaker[4] said:

The Chair will make the point of order, and take notice that there is no quorum present. The doors will be closed, the Sergeant at Arms will notify absent Members, the yeas and nays are ordered under the rule. The Clerk will call the roll.

700. 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 under the rule.

On August 25, 1919,[5] on a motion to adjourn, the House voted in the negative, yeas 38, nays, 58.

Mr. Thomas L. Blanton, of Texas, made the point that a quorum had not voted.

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[1] Second session, Sixty-seventh Congress, Record, p. 8736.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixtieth Congress, Record, p. 4482.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] First session Sixty-sixth Congress, Record, p. 4306.

Mr. Claude Kitchin, of North Carolina, made the point of order that a quorum was not required on the motion to adjourn.

The Speaker[1] held:

The Chair thinks that the sequence of events was this: The gentleman from Texas moved to adjourn. The House voted down the motion to adjourn, and the Chair so put it. Then the gentleman made a point of no quorum.

Now, the only question is whether that point of no quorum was made on the division or subsequent to that. The Chair is inclined to think it was made on the division, and that the vote would come on the motion to adjourn. Obviously no quorum is present, and it is an automatic call of the House. As many as are in favor of the motion to adjourn will, when their names are called, answer "yea"; those opposed will answer "nay." The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

701. If a quorum fails to vote on the pending question and objection is made, an automatic roll call is still required after a motion to adjourn has been offered and rejected by a quorum vote.

On June 3, 1926,[2] Mr. Louis C. Cramton, of Michigan, offered a motion to reconsider the vote by which the House had passed the bill (H.R. 11329) for relief of certain counties in the States of Oregon and Washington.

Mr. Nicholas J. Sinnott, of Oregon, moved to lay the motion on the table, and the question being taken, Mr. John C. Schafer, of Wisconsin, objected to the vote on the ground that a quorum was not present.

Pending the automatic roll call, under the rule, Mr. Martin B. Madden, of Illinois, made a motion to adjourn.

The vote being taken the Speaker announced that the motion was rejected by a vote of 45 yeas and 271 nays, and a quorum was present.

Mr. Cramton submitted that notwithstanding the development of a quorum on the motion to adjourn, the vote recurred under the rule on the original motion pending at the time the motion to adjourn was made.

The Speaker[3] acquiesced and said:

The question is on the motion of the gentleman from Oregon to lay the motion of the gentleman from Michigan to reconsider on the table, upon which there is an automatic call.

The Chair does not think that the development of a quorum on a subsequent vote would avoid a call of the House.

The question is on the motion of the gentleman from Oregon to lay the motion to reconsider on the table. A quorum not having developed at that time, the automatic call must be had.

702. Under the rule for a call of the House, the Speaker issues warrants for arrest of absentees without further authorization from the House.

On July 26, 1921,[4] during dilatory proceedings attending the consideration of the resolution (H. Res. 151) to pay expenses of the Committee on Reorganization from the contingent fund, a quorum failed to vote on ordering the previous question on the resolution.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-ninth Congress, Record, p. 10633.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] First session Sixty-seventh Congress, Record, p. 4328.

The Speaker[1] announced that he had issued his warrant for the arrest of absent Members.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the Speaker was not authorized to issue such warrant of his own initiative and the Speaker had never at any time issued his warrant for arrest of Members except by authority of a resolution passed by the House.

The Speaker overruled the point of order and held that under the rule the Speaker was empowered to issue his warrant on an automatic call of the House without further authorization and cited an opinion[2] to that effect rendered by Mr. Speaker Cannon in the Fifty-ninth Congress.

703. Interpretation and discussion of the rule providing for an automatic call of the House on the failure of a quorum to vote.

The rule providing an automatic roll call on the failure of a quorum to vote applies to votes by yeas and nays as well as to those taken by tellers, division, or viva voce, but not on motions incidental to lack of a quorum.

The Speaker orders the doors closed only when a call of the House is in progress.

On February 14, 1917,[3] the House finding itself without a quorum during the consideration of the joint resolution (H. J. Res. 335) for the appointment of a Board of Managers for the National Home for Disabled Volunteer Soldiers, Mr. Ashton C. Shallenberger, of Nebraska, moved a call of the House, and on that motion demanded the yeas and nays.

The yeas and nays, were ordered, and the Speaker, in putting the question, said:

The question is on ordering a call of the House. The Doorkeeper will look the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

Mr. James R. Mann, of Illinois, said:

I make the point of order that it is not in order to order the doors to be closed until a call of the House has been ordered. The rule is not applicable to the case. That is the new rule, that when objection is made that no quorum votes and no quorum is present there shall be a call of the House and so forth. That is not the rule under which we are operating at present. There is demanded a roll call, but not on the point of no quorum. I simply called attention to the fact that the Speaker ordered the doors closed. I do not think it is in order to order the doors closed until a call of the House has been ordered.

The Speaker[4] sustained the point of order that the doors should be closed only on a call of the House.

Mr. John N. Garner, of Texas, took issue with Mr. Mann's assumption that the rule providing for an automatic call of the House did not apply, and made the point of order that a quorum having failed to vote on the pending question it was the duty of the Speaker to direct a call of the House.

Mr. Garner said:

The Chair himself raised the objection that there was not a quorum present. The Chair himself has objected, and that comes within the rule and requires an automatic roll call.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Section 3043 of this work.

[3] Second session Sixty-fourth congress, Record, p. 3314.

[4] Champ Clark, of Missouri, Speaker.

In reply, Mr. Charles R. Crisp, of Georgia, said:

Mr. Speaker, I must agree that the gentleman from Illinois, Mr. Mann, is correct in the position which he takes in this matter. When I addressed the Chair a moment ago it was for the purpose of calling attention to the fact that when the yeas and nays disclosed the absence of a quorum the Speaker must take cognizance of it, and nothing could be done. Now, it seems to me this matter is very plain. Under the rules there are two provisions for a call of the House. Under the old rules there was only one provision for a call, and that was the provision that 15 Members in the absence of a quorum could send out and bring in a quorum. The House has since adopted a rule known as the automatic call, and, in my opinion, that means that when the House is dividing by a viva voce vote or by tellers or otherwise, except by yeas and nays, and the want of a quorum is disclosed, and the point is made, then the automatic call applies, and the Speaker should order the doors closed and direct the Sergeant at Arms to notify the absentees and order the yeas and nays on the question.

In response to an inquiry by Mr. Garner as to the distinction in the application of the rule on the failure of a quorum on a vote by tellers or viva voce and on a yea and nay vote, Mr. Crisp continued:

I think there is a difference. I think the yea and nay is the last method of taking a vote on any question that may come before the House, and it is the best way of ascertaining a quorum. I think the intent of the House when they adopted the rule was that if on viva voce, rising vote, or on tellers there was not a quorum, instead of having to order a call of the House, the automatic rule should apply and the yeas and nays be ordered on the pending question.

The Speaker rendered no formal decision, as the roll call was already in progress.

Subsequently, addressing the House by unanimous consent, Mr. Crisp said:

Mr. Speaker, earlier in the evening, when the parliamentary question arose as to whether an automatic call of the House obtained, I took the position that the automatic call did not apply and agreed with the position taken by the learned gentleman from Illinois. I want to say now that, so far as I had ever seen any precedent in this House on the subject, or any practical application of the rule, the position we then took was correct. But upon investigation I find that the gentleman from Texas was correct and that I was wrong—that the automatic call did apply—and when I am wrong and convinced I have no hesitancy in saying so. I desire to call the attention of the Speaker to two precedents on this question.

Mr. Crisp then cited precedents [1] sustaining this contention, and concluded:

Under these decisions, if they are followed, it is obvious when we take a vote by yeas and nays on a motion to order the previous question on the passage of a bill and amendments and a quorum failing to vote, then the automatic rule applies, and a call of the House follows, and Members brought in by the Sergeant at Arms or who come in voluntarily should be permitted to cast their vote on ordering the previous question on the bill and amendments to passage. I felt, Mr. Speaker, that it was due the Chair and due the House and due myself when I learned I was in error to frankly say so. I thank the House.

This revised opinion, however, seems to overlook the fact that the motion for a call of the House was pending incidental to lack of a quorum, and therefore the rule providing for an automatic roll call was not applicable.

704. On July 26, 1921,[2] a quorum failed to vote by yeas and nays on ordering the previous question on the resolution (H. Res. 151) to pay half the expense of the Committee on Reorganization from the contingent fund.

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[1] Sections 3045 and 3052 of this work; first session Fifty-fourth Congress, Record, p. 6330.

[2] First session Sixty-seventh Congress, Record, p. 4327.

The Speaker directed a call of the House under the rule, when Mr. Finis J. Garrett, of Tennessee, submitted a parliamentary inquiry as to the integrity of the proceedings.

The Speaker[1] said:

It is the same as a division. When a quorum fails to appear on a division an automatic roll call follows. Speaker Clark made this same ruling. The clerk will call the roll.

705. During a call of the House a motion to adjourn is seconded by a majority ascertained "by actual count by the Speaker," and tellers may not be demanded.

On July 26, 1921,[2] during a call of the House precipitated by the failure of a quorum to vote on ordering the previous question on a resolution for the payment of expenses of a joint committee from the contingent fund, Mr. Tom Connally, of Texas, moved to adjourn.

The Speaker[1] said:

The question is, Does a majority of those present second him? As many as desire to second the motion to adjourn will rise and be counted. [After counting.] Fifty-three gentlemen have risen in the affirmative. Those opposed will rise and be counted. [After counting.] One hundred and fourteen gentlemen have risen in the negative.

Mr. Finis J. Garrett, of Tennessee, demanded tellers.

The Speaker ruled:

The rule says the second is to be ascertained by actual count by the Speaker; therefore tellers can not be demanded.

706. On August 1, 1921[3] a quorum failed to vote on a motion by Mr. Julius Kahn, of California, to suspend the rules and pass the bill (S. 1385) maintaining the corps of cadets at West Point at maximum strength.

Mr. Alben W. Barkley, of Kentucky, moved that the House adjourn.

The Speaker pro tempore[4] said:

That motion is in order, but in this case it must be seconded by a majority of the Members present, and that must be determined by a count by the Chair. Those in favor of seconding the motion to adjourn will rise and stand until counted.

707. On the failure of a quorum in a vote by tellers on seconding the old motion[5] to discharge a committee the Chair directed a call of the House under the rule.

On January 15, 1912,[6] a quorum failing to appear on a vote by tellers on seconding a motion to discharge the Committee on Invalid Pensions from the further consideration of the bill (H. R. 60) to increase the pensions of widows, minor children, etc., Mr. Oscar W. Underwood, of Alabama, moved a call of the House.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-seventh Congress, Record, p. 4328.

[3] First session Sixty-seventh Congress, Record, p. 4504.

[4] Horace M. Towner, of Iowa, Speaker pro tempore.

[5] This section has been superseded by section 4 of Rule XXVII.

[6] Second session Sixty-second Congress, Record, p. 954.

Mr. James R. Mann, of Illinois, made the point of order that a call of the House was automatic under the rule, and the motion was not in order.

The Speaker pro tempore [1] said:

The Chair had an idea that possibly this situation would arise, and consequently has been looking the matter up before the question of a point of no quorum was made, and of course availed itself of the assistance of the aid to the Chair on these parliamentary matters by consulting the Clerk at the Speaker's table. From all the Chair was able to gather before and since the point was made the Chair thinks that this is a vote within the meaning of the automatic rule and that section 4 applies. The Chair holds the automatic rule applies, and the doors will be closed.

[1] Thetus W. Sims, of Tennessee, Speaker pro tempore.