

on the timeliness of a point of no quorum raised after a message was received but before it was read.⁽⁶⁾

MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

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

A call of the House was ordered.

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

THE SPEAKER: On this rollcall 334 Members have answered to their names, a quorum.

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

THE SPEAKER: The Chair lays before the House the following message from the President of the United States:

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

THE SPEAKER: A rollcall just disclosed the presence of a quorum.

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

THE SPEAKER: The Chair advises the gentleman that a quorum has just

been established and no business has transpired.

MR. JACOBS: At the moment I make a point of order that a quorum is not present.

THE SPEAKER: The gentleman's point of order is out of order.

§ 15. Proceedings Pending Call of House in Absence of Quorum

Because the point of no quorum is not debatable,⁽⁷⁾ no Member may be heard on it and subsequent remarks should not be included in the *Congressional Record*.⁽⁸⁾ However, the Speaker may entertain points of order which relate to the pending call of the House.⁽⁹⁾ Although the Chair may decline to recognize a Member for a parliamentary inquiry when a point of no quorum has been made,⁽¹⁰⁾ or absence of a quorum has been announced⁽¹¹⁾ he has entertained inquiries during a roll call vote to explain procedures available if a quorum fails to appear,⁽¹²⁾ or to clarify the nature of the pending question.⁽¹³⁾

6. See supplements to this edition for discussion of provisions in Rule XV clause 6 added by the 93d Congress on Apr. 9, 1974, to the effect that a point of no quorum may not be made or entertained during the reception of any message from the President or the Senate.

7. §§ 15.1, 15.2, *infra*.

8. § 15.2, *infra*.

9. § 15.3, *infra*.

10. § 15.4, *infra*.

11. § 15.5, *infra*.

12. § 15.6, *infra*.

13. § 15.7, *infra*.

*In General; Debate***§ 15.1 The point of order that a quorum is not present is not debatable.**

On Apr. 24, 1956,⁽¹⁾ Speaker Sam Rayburn, of Texas, ruled on a request to be heard on a point of no quorum.

MR. [William M.] COLMER [of Mississippi]: Mr. Speaker, the gentleman is making a very sound statement here and I make the point of order that a quorum is not present.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, may I be heard on the point of order?

THE SPEAKER: The point of order that a quorum is not present is not debatable.

§ 15.2 Because a point of order that a quorum is not present is not debatable, remarks by the proponent after the point is raised should not be included in the Record.

On Apr. 15, 1940,⁽²⁾ Speaker pro tempore Sam Rayburn, of Texas, answered a parliamentary inquiry, as follows:

MR. [JOHN] TABER [of New York]: Mr. Speaker—

THE SPEAKER PRO TEMPORE: For what purpose does the gentleman from New York rise?

1. 102 CONG. REC. 6891, 84th Cong. 2d Sess.
2. 86 CONG. REC. 4517, 76th Cong. 3d Sess.

MR. TABER: A question of the privileges of the House and of the Record.

THE SPEAKER PRO TEMPORE: The gentleman from New York.

MR. TABER: Mr. Speaker, a little while ago the gentleman from Mississippi [Mr. Rankin] made a point of order that no quorum was present, and thereafter he said:

You are not going to raid the veterans of the World War and pass these other pension bills and run over the House that way. I make the point of order there is no quorum present.

Now, the gentleman was not recognized for that purpose; and then thereafter the gentleman from Mississippi further stated:

And there will be a quorum and a vote on every other bill from now on today.

The gentleman was not recognized for that purpose, and that should not be in the Record. I make the point of order that that language should not be contained in the Record.

THE SPEAKER PRO TEMPORE: The gentleman from New York makes the point of order that certain remarks made in the House should not be included in the Record. The Chair is prepared to rule.

Under the rules of the House, remarks should only be included in the Record that are made in order. After a point of order is made, which is not debatable, any further remarks should not be included in the Record. Therefore the Chair rules that any remarks that may have been made after the point of order that a quorum was not present was made should not be included in the Record.

*Points of Order***§ 15.3 While a parliamentary inquiry is normally not entertained by the Chair in the absence of a quorum, the Chair may recognize a Member on an inquiry or on a point of order which relates to the pending call of the House.**

On Oct. 8, 1958,⁽³⁾ Speaker John W. McCormack, of Massachusetts, entertained a point of order.

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

THE SPEAKER PRO TEMPORE:⁽⁴⁾ The Chair will count.

One hundred sixty-seven Members are present, not a quorum.

MR. [JOHN H.] DENT [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: A parliamentary inquiry cannot be asked at this time.

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

A call of the House was ordered.

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

MR. DENT: Mr. Speaker, a point of order, which relates to the call of the roll.

3. 114 CONG. REC. 30093, 90th Cong. 2d Sess.

4. Wilbur D. Mills (Ark.).

THE SPEAKER: The House will be in order. The Clerk will proceed with the call of the roll.

MR. DENT: Mr. Speaker, the point of order relates to the proper calling of the roll.

THE SPEAKER: The gentleman will state his point of order.

MR. DENT: The point of order is the doors were ordered closed, and the doors to the outside of the Chamber are open in the cloakrooms.

THE SPEAKER: The Chair has given instructions to close all doors and allow no Members out.

Parliamentarian's Note: The Speaker ordered the doors locked during roll call Nos. 382 and 383. When this remedy did not prove effective, since Members continued to leave the Chamber immediately after the calls were dispensed with, he did not continue to enforce the rule.

*Parliamentary Inquiries***§ 15.4 The Chair has declined to recognize a Member to propound a parliamentary inquiry when a point of no quorum has been made unless it is withdrawn.**

On July 23, 1942,⁽⁵⁾ Speaker Sam Rayburn, of Texas, refused to recognize a Member.

MR. [WRIGHT] PATMAN [of Texas]: Mr. Speaker, I make the point of order that a quorum is not present.

5. 88 CONG. REC. 6540, 77th Cong. 2d Sess.

MR. [ADOLPH J.] SABATH [of Illinois]: Mr. Speaker, may I ask unanimous consent that we call up a resolution?

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

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The Chair doubts the authority of the Chair to recognize the gentleman to propound a parliamentary inquiry when a point of order is made, unless the gentleman from Texas withholds it.

Parliamentarian's Note: The Chair may, in his discretion, entertain parliamentary inquiries pending his announcement of his count for a quorum, but after the absence of a quorum has been disclosed, the Chair then only responds to inquiries relating to the call of the House.

§ 15.5 The Chair refuses to recognize a Member for a parliamentary inquiry after the absence of a quorum has been announced.

On June 3, 1964,⁽⁶⁾ Speaker pro tempore Carl Albert, of Oklahoma, refused to recognize a Member for a parliamentary inquiry.⁽⁷⁾

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, I make the point of order that a quorum is not present.

6. 110 CONG. REC. 12521, 88th Cong. 2d Sess.

7. See also 110 CONG. REC. 7353-55, 88th Cong. 2d Sess., Apr. 9, 1964.

THE SPEAKER PRO TEMPORE: The Chair will count. [After counting.] There are 159 Members present; not a quorum.

MR. [HALE] BOGGS [of Louisiana]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

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

THE SPEAKER PRO TEMPORE: No parliamentary inquiry can be made.

MR. JONES of Missouri: I can make a parliamentary inquiry; certainly.

THE SPEAKER PRO TEMPORE: A quorum is not present. A call of the House has been ordered. The gentleman cannot make his parliamentary inquiry in the absence of a quorum.

The Clerk will call the roll.

§ 15.6 The Speaker recognized Members to propound parliamentary inquiries during a roll call vote, a quorum as yet not having responded, but made it clear that such recognition was not to be considered a precedent.

On Oct. 18, 1966,⁽⁸⁾ during a roll call vote on House Resolution 1062, relating to the refusal of Jeremiah Stamler to testify before the Committee on Un-American Activities, Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries before the result of the vote was announced.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, I object to the

8. 112 CONG. REC. 27512, 27513, 89th Cong. 2d Sess.

vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

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

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

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

MR. [SIDNEY R.] YATES [of Illinois] (interrupting the rollcall): Regular order. . . .

MR. [JOHN H.] DENT [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. DENT: Am I correct that if we do not have a quorum present on the vote, tomorrow the first order of business will be a vote on the same question?

THE SPEAKER: Exactly.

MR. DENT: Then I would advise those Members who are hiding to come out and vote.

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

THE SPEAKER: The gentleman will state his parliamentary inquiry.

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

THE SPEAKER: The Chair will state, in response to the inquiry, that if a

quorum is not present one of two alternatives remain; one, to adjourn the House, and the other, to instruct the Sergeant at Arms.

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

The Chair might state that recognizing Members for parliamentary inquiries at this stage is not to be considered as a precedent in the future.

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

THE SPEAKER: The gentleman will state his parliamentary inquiry.

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

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

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

MR. HALL: I thank the Speaker.

MR. [LESLIE C.] ARENDS [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. ARENDS: If it should happen that a quorum does not develop tonight, the unfinished business tomorrow would be the retaking of this same vote?

THE SPEAKER: Exactly. That would be the first order of business.

§ 15.7 Following completion of the first call of the roll, the Speaker responded to parliamentary inquiries and clarified the nature and effect of the question upon which the House was then voting.

On Oct. 12, 1962,⁽⁹⁾ Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries.

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

The Chair will count.

Evidently a quorum is not present.

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

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

(After completion of first call of the roll:)

MR. [WILLIAM H.] AVERY [of Kansas]: Mr. Speaker—

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

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

THE SPEAKER: The gentleman will state it.

MR. AVERY: What motion is the House presently voting on?

THE SPEAKER: The Chair will state that the parliamentary inquiry is very pertinent. The Chair will state in response that the House is voting on a motion which was made by the gentleman from Missouri [Mr. Cannon] to recede and concur in a Senate amendment, with an amendment.

MR. [CLARENCE] CANNON. Mr. Speaker, my motion was for the previous question.

THE SPEAKER: The House is voting on a motion made by the gentleman from Missouri to recede and concur in the Senate amendment, with an amendment.

That is the motion pending at the present time.

The Clerk will proceed to call the roll of those Members who failed to answer on the first rollcall.

(The Clerk resumed calling the roll.)

MR. [WILLIAM C.] CRAMER [of Florida]: (interrupting call of the roll): Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. CRAMER: Mr. Speaker, do I understand the parliamentary situation to be that the motion now being voted upon is a motion to recede and concur in a Senate amendment with an amendment, and a vote "no" is a vote for \$205,000 for the Florida Cross-State Barge Canal planning, and a vote of "aye" is against it?

THE SPEAKER: The Chair has already stated that the parliamentary inquiry is correct in response to the inquiry of the gentleman from Kansas [Mr. Avery]. The Chair is confident that Members know what they are voting upon.

9. 108 CONG. REC. 23433, 87th Cong. 2d Sess.

(The Clerk resumed calling the roll.)

§ 16. In the Committee of the Whole

In the Committee of the Whole a point of order that a quorum is not present is in order, but an objection to a vote on the ground that a quorum is not present is not in order.⁽¹⁰⁾ A recorded vote in the Committee of the Whole may be ordered by 25 or more Members.⁽¹¹⁾

Provisions of the rules relating to quorum requirements in the Committee of the Whole adopted in the 93d Congress on Apr. 9, 1974, will be discussed in detail in supplements to this edition. Briefly, these provisions authorize the Chairman of the Committee of the Whole, at any time during a quorum call, to declare that a quorum is constituted when he determines that a quorum is present. Proceedings under the call, in such instances, are considered vacated. The new rule also incorporates the preexisting precedents to the effect that a quorum is not required in the Committee

of the Whole for agreement to a motion that the Committee rise. Furthermore, it is stated that a point of order that a quorum is not present may not be made or entertained after the presence of a quorum is once ascertained during the period after a Committee of the Whole has risen after completing consideration of a bill or resolution and before the Chairman has reported the measure back to the House.

Rule XXIII clause 2 was also amended in the 95th⁽¹²⁾ and 96th⁽¹³⁾ Congresses to limit the right to make a point of no quorum during general debate in Committee of the Whole. Under the later practice, a point of no quorum is a matter of right each day only once during five-minute debate, and then again only when a question is put on an amendment or motion. In the 97th⁽¹⁾ Congress, the rule was further amended to allow the Chairman the discretion whether or not to entertain a point of order of no quorum during general debate only.

10. § 16.1 and § 16.4, *infra*.

11. See Rule XXIII clause 2(b), *House Rules and Manual* (1979).

See also § 7, *supra*, for a discussion of the call in the Committee.

12. H. Res. 5, 123 CONG. REC. 53-70, 95th Cong. 1st Sess., Jan. 4, 1977.

13. H. Res. 5, 125 CONG. REC. —, 96th Cong. 1st Sess., Jan. 15, 1979.

1. H. Res. 5, 127 CONG. REC. —, 97th Cong. 1st Sess., Jan. 5, 1981.