

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

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

THE PRESIDING OFFICER: The Chair has so held.

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

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

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

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

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

Cross Reference

Voting, Ch. 30, *infra*.

Collateral Reference

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

In General

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

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

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

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

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

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

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

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

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

THE SPEAKER: Evidently a quorum is not present.

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

A call of the House was ordered.

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

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

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

Parliamentarian's Note: Rule XV clause 1,⁽⁸⁾ authorizes the Chair to direct the alphabetical

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

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

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

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

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

MR. [JOHN W.] WYDLER [of New York]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

9. *Id.* at § 774b.

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

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

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

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

THE SPEAKER: Evidently a quorum is not present.

The electronic voting device apparently is not operating properly.

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

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

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

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

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

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

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

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

A call of the House was ordered.

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

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

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

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

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

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

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

A call of the House was ordered.

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

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

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

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

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

The yeas and nays were ordered.

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

So the motion to adjourn was rejected.

The result of the vote was amended as above recorded.

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

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

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

§ 5. Securing Attendance; Arrests

The attendance of absent Members may be secured under Rule