

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

XV clause 4,<sup>(6)</sup> which provides for an “automatic” vote by yeas and nays and for the arrest of absent Members by the Sergeant at Arms. Under this rule the Sergeant at Arms forthwith proceeds to bring in absent Members, whenever a quorum fails to vote, a quorum is not present, and objection is made for that cause. Each Member arrested is brought by the Sergeant at Arms before the House, discharged from arrest, and given an opportunity to vote; his vote is recorded.

Presence of Members may also be secured under Rule XV clause 2(a),<sup>(7)</sup> which, in the absence of a quorum, authorizes 15 Members by majority vote<sup>(8)</sup> to approve a motion to compel the attendance of absent Members and a majority of those present may then order

6. *House Rules and Manual* § 773 (1979).

7. *House Rules and Manual* § 768 (1979). Beginning with the 95th Congress, this clause must be read in conjunction with the new clause 6(e)(2) of this rule, which permits the Speaker to recognize for a motion for a call of the House at any time.

8. See annotation to Rule XV clause 2(a), *House Rules and Manual* §§ 768, 769 (1979); and 4 *Hinds' Precedents* § 2984, which provide that because the call of the House must be ordered by majority vote, a minority of 15 will not suffice.

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 on conditions determined by the House.

The Speaker<sup>(9)</sup> or Speaker pro tempore,<sup>(10)</sup> under authority of the order of the House, signs warrants for arrest of absent Members.

### *In General*

**§ 5.1 During a filibuster by roll calls in the House, the Speaker declined to recognize a Member for a motion that the Sergeant at Arms take whatever action necessary to keep a quorum present in the Chamber for the remainder of the day.**

On Aug. 1, 1946,<sup>(11)</sup> Speaker Sam Rayburn, of Texas, declined to recognize a Member for a motion during the reading of a resolution relating to contempt proceedings against George Marshall.

MR. [WILLIAM C.] COLE of Missouri: Mr. Speaker, a parliamentary inquiry.

9. See Rule I clause 4, *House Rules and Manual* §§ 624, 626 (1979).

10. See § 5.12, *infra*.

11. 92 CONG. REC. 10639, 79th Cong. 2d Sess.

THE SPEAKER: The gentleman will state it.

MR. COLE of Missouri: Mr. Speaker, is it in order to make a motion that the Sergeant at Arms take whatever action is necessary to keep a quorum present in the House Chamber for the remainder of today, any House rules to the contrary notwithstanding? If it is, I would like to make that motion.

THE SPEAKER: The Chair would rather not recognize the gentleman for such motion at this time.

MR. COLE of Missouri: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. COLE of Missouri: Mr. Speaker, when would that motion be in order?

THE SPEAKER: Well, the Chair would like to be the judge of that. Not now. The Clerk will continue reading.

*Parliamentarian's Note:* Under Rule XV clause 2(a), the House may determine conditions upon which arrested absentees and others may be discharged, but only while the call of the House is in process.

**§ 5.2 Where a quorum call is ordered, the doors may be closed and the Sergeant at Arms called upon to notify absent Members.**

On June 5, 1946,<sup>(12)</sup> Speaker Sam Rayburn, of Texas, re-

12. 92 CONG. REC. 6353, 6354, 79th Cong. 2d Sess. Under the modern practice (beginning with the 93d Congress), doors are closed only on order of the Speaker.

sponded to a parliamentary inquiry as to procedure during a call of the House.

MR. [Howard W.] SMITH of Virginia: Mr. Speaker, I move a call of the House.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

THE SPEAKER: The question is on the motion for a call of the House. The question was taken; and on a division (demanded by Mr. Rankin) there were—ayes 81, noes 13.

MR. SMITH of Virginia: 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.

THE SPEAKER: A quorum is not required in this instance.

So the motion was agreed to. . . .

The House has ordered a call of the House. A roll call is in order, and the Clerk will call the roll.

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

THE SPEAKER: The gentleman will state it.

MR. MICHENER: Is this the situation, that a quorum was not present when last reported; that the doors are locked and the Sergeant at Arms is out notifying absent Members?

THE SPEAKER: That is correct. The Clerk will call the roll.

**§ 5.3 Where the House in the absence of a quorum and pursuant to motion had ordered "that those who are**

**not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed,"** the Chair interpreted the motion as requiring the Sergeant at Arms to notify absentees but not as bestowing on him the duty or authority of arresting absentees and bringing them into the Chamber under custody. The Chair stated that the motion had been adopted by, and expressed the will of, the House, and, no timely point of order having been raised against the motion due to lack of a quorum, was binding on the Speaker and other Members.

On Oct. 9, 1968,<sup>(13)</sup> Speaker John W. McCormack, of Massachusetts, responded to a series of parliamentary inquiries relating to a motion to locate absent Members.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move a call of the House.

13. 114 CONG. REC. 30212-14, 90th Cong. 2d Sess. Legislative day of Oct. 8, 1968.

MR. [BROCK] ADAMS [of Washington]: Mr. Speaker, as a part of the motion of a call of the House, I further move under rule II,<sup>(14)</sup> under which a call of the House is in order, that a motion be made for the majority here that those who are not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed.

THE SPEAKER: The question is on the motion offered by the gentleman from Washington [Mr. Adams].

The motion was agreed to. . . .

MR. [ELFORD A.] CEDERBERG [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman from Michigan will state his parliamentary inquiry.

MR. CEDERBERG: Mr. Speaker, yesterday my wife underwent major surgery and she is in the hospital at the present time. I have been going back and forth to the hospital to see her. I have missed several quorum calls during this period of time.

Do I have to get unanimous consent from this body to return back to the hospital when I would probably be going back within the next hour or two?

THE SPEAKER: The Chair will state to the gentleman from Michigan that if the gentleman will consult with the Speaker, certainly, we are all sorry to

14. *Parliamentarian's Note*: The provisions referred to appear in Rule XV clause 2(a), *House Rules and Manual* § 768 (1979).

hear about the condition of the gentleman's dear wife and the Speaker will recognize that first things come first and that one belongs with his loved ones.

MR. CEDERBERG: I thank the Speaker.

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman from South Carolina will state his parliamentary inquiry.

MR. RIVERS: Mr. Speaker, we have taken the unusual step of sending for absent Members. Even though a quorum is present, my parliamentary inquiry is this: In construing the motion pursuant to the rules of the House, will the absent Members be merely notified or will they be sent for by a marshal or will they be placed under arrest or how will they be returned?

THE SPEAKER: The Chair will state to the gentleman from South Carolina that they will be notified by the Sergeant at Arms.

MR. RIVERS: Will they come in on their own or will someone in authority bring them in?

THE SPEAKER: The Chair has announced that they will be notified by the Sergeant at Arms. Certainly, there is no wording contained in the motion to bring about the attempted custody of any Member.

MR. [JAMES G.] FULTON of Pennsylvania: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman from Pennsylvania will state his parliamentary inquiry.

MR. FULTON of Pennsylvania: Mr. Speaker, in our Pennsylvania delega-

tion we have one Member, Mr. John Saylor, who has leave of absence from this Chamber for 2 days and who is at the present time on board a naval ship.

Does this motion apply to a person with such a leave of absence?

THE SPEAKER: The gentleman is making a serious inquiry about Members away on important duty.

The Chair will state that the motion calls for the notification and the sending for Members. The Chair construes that as meaning to notify the Members to return. The Chair has already in response to another parliamentary inquiry propounded by the gentleman from South Carolina clearly stated that it does not call for bringing them back in custody.

MR. FULTON of Pennsylvania: One further parliamentary inquiry on the enforcement of the motion: Is it not within the full discretion of the Chair as to what methods and means shall be used to notify or to arrest or to bring in Members and that that full discretion still lies within the Chair? So, unless there is an order by the Chair as to the method, the motion simply represents a notification to the Members to return because insofar as I know the Chair has made no ruling as to the arrest or as to bringing the Members back in custody.

THE SPEAKER: The gentleman is the only one who has used the word "arrest." The Chair used the word "custody." The Chair does not construe that that is a part of the motion, and the Chair has construed that motion to mean that it is the sense of the majority of the House that the Sergeant at Arms do come up with the Members that are not present and to do every-

thing he can within the limitation of the motion to assure their presence.

***Procedures Available When a Quorum Fails to Appear on a Call of the House or on Automatic Vote by Yeas and Nays***

**§ 5.4 If a quorum fails to develop on an automatic vote by yeas and nays under Rule XV clause 4<sup>(15)</sup> the House may decide to adjourn, or, in the absence of such motion, the Speaker may sign warrants for the Sergeant at Arms to bring in absentees.**

On Oct. 18, 1966,<sup>(16)</sup> Speaker John W. McCormack, of Massachusetts, stated the procedures available when a quorum does not appear.

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?

15. See *House Rules and Manual* §773 (1979).

16. 111 CONG. REC. 27513, 89th Cong. 2d Sess.

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.

**§ 5.5 Where a quorum fails to develop following a motion for a call of the House, the House has only two alternatives: a motion to adjourn or a motion to instruct the Sergeant at Arms to secure the attendance of absentees.**

On Oct. 14, 1969,<sup>(17)</sup> Speaker John W. McCormack, of Massachusetts, answered inquiries regarding procedural alternatives available when a quorum fails to appear. Those proceedings are reported elsewhere in this chapter.<sup>(18)</sup>

**§ 5.6 If a quorum fails to materialize on a call of the House under Rule XV clause 2(a),<sup>(19)</sup> a motion to arrest absentees and bring them into the Chamber is in order.**

17. 115 CONG. REC. 30054, 30055, 91st Cong. 1st Sess.

18. See § 10.12, *infra*.

19. See *House Rules and Manual* §768 (1979).

On the legislative day of Oct. 8, 1968,<sup>(20)</sup> Speaker John W. McCormack, of Massachusetts, answered an inquiry regarding a possible motion to arrest absentees.

MR. [ROMAN C.] PUCINSKI [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. PUCINSKI: Mr. Speaker, we have had, in the last 12 hours, 23 quorum calls. My parliamentary inquiry is this: In the event that a quorum does not respond on one of these quorum calls, is it then in order to make a motion to arrest the absent Members and bring them down here?

THE SPEAKER: Such a motion would be in order if a quorum is not present.

**§ 5.7 The Speaker indicated that if a motion to adjourn made during a quorum call failed and a quorum failed to appear, a motion to instruct the Sergeant at Arms to bring in absentees would be in order.**

On Oct. 14, 1969,<sup>(1)</sup> when less than a quorum had appeared, Speaker John W. McCormack, of Massachusetts, answered inquiries regarding the proper time to instruct the Sergeant at Arms to bring in absentees.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I would prefer not to

20. 114 CONG. REC. 30101, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

1. 115 CONG. REC. 30055, 91st Cong. 1st Sess.

make this motion at this time, but in view of the parliamentary situation, I move that the House do now adjourn.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, on that I demand the yeas and nays.

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. GERALD R. FORD: Mr. Speaker, if the motion to adjourn does not prevail, and a quorum is not present what is the situation then?

THE SPEAKER: The Chair will state that the House would continue to proceed under the call of the House to establish a quorum.

MR. GERALD R. FORD: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. GERALD R. FORD: Mr. Speaker, does that entail another quorum call at that point?

THE SPEAKER: The Chair will state that we would be continuing under the previous call, the call that was in existence prior to the motion to adjourn.

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

Mr. Speaker, would it be in order at that point to move that the Speaker instruct the Sergeant at Arms to bring in Members who are absent?

THE SPEAKER: The Chair will state that if the House fails to adjourn, a motion to that effect would be in order.

**§ 5.8 If a quorum fails to answer on a call of the House under Rule XV clause 2(a),<sup>(2)</sup>**

2. See *House Rules and Manual* §768 (1979).

**(1) the Sergeant at Arms may be directed by the Speaker to locate absentees and inform them that a quorum call is in progress or (2) a majority of those present [a minimum of 15 is required under the rule] and voting in the affirmative may order the Sergeant at Arms to compel the attendance of absentees.**

On the legislative day of Oct. 8, 1968,<sup>(3)</sup> Speaker John W. McCormack, of Massachusetts, stated procedures necessary to direct the Sergeant at Arms to locate absentees and compel attendance.

MR. [BROCK] ADAMS [of Washington]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman from Washington will state his parliamentary inquiry.

MR. ADAMS: Mr. Speaker, in the event a quorum is not present is it the situation under rule XV of the House that the first alternative that applies is that the Speaker of the House may sit during such period of time as the Sergeant at Arms shall search the premises in the nearby area on the request of the Speaker in order to provide a quorum? Is that the first situation that applies in the event a quorum is not present?

THE SPEAKER: The statement as generally made by the gentleman is correct.

3. 114 CONG. REC. 30210, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

MR. ADAMS: Now, Mr. Speaker, the second alternative is this: In the event that a quorum is not present after the efforts of the Speaker to obtain Members from the nearby areas and through whatever means he wishes to pursue while he is sitting in the chair and the call is proceeding that the next alternative then is a motion supported by 15 Members of the House to have a warrant issued for attendance in the House and after that warrant is issued and this motion is passed and the doors are locked and Members are brought to the floor, then under the instructions of the Speaker they may be detained on the floor throughout the quorum and remain present for the transaction of business? Is that the second alternative, Mr. Speaker?

THE SPEAKER: The Chair does not wish to take this matter into consideration in the nature of an alternative, but the Chair would state that such procedures are carried out requiring the presence of Members. Is that what the gentleman has in mind?

MR. ADAMS: Would it be in order at that time for a motion of that type to be made?

THE SPEAKER: That would depend upon the action of the House.

MR. ADAMS: I am asking, Mr. Speaker, if such a motion by 15 Members would be in order at that time.

THE SPEAKER: The Chair has difficulty in following the gentleman when he says "a motion by 15 Members."

MR. ADAMS: I refer The Speaker to part 2 of rule XV which reads as follows:

In the absence of a quorum, fifteen Members, including The Speaker, if there is one—

THE SPEAKER: There is one now.

MR. ADAMS: I appreciate that fact, Mr. Speaker, but in the event that you wished—

shall be authorized to compel the attendance of absent Members, and in all calls of the House the doors shall be closed, the names of the Members shall be called by the Clerk, and the absentees noted; and those for whom no sufficient excuse is made may, by order of a majority of those present, be sent for and arrested, wherever they may be found, by officers to be appointed by the Sergeant-at-Arms for that purpose, and their attendance secured and retained; and the House shall determine upon what condition they shall be discharged.

Mr. Speaker, that is my inquiry in the event that this should continue and a quorum should not be present, if that is important.

THE SPEAKER: The Chair will state that such action could only be taken by a majority of the Members present and voting.

The Chair will state further in reply to the inquiry of the gentleman from Washington that the gentleman has made reference to 15 Members, and that situation does not apply at this time.

MR. ADAMS: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. ADAMS: In other words, Mr. Speaker, a motion then by a Member present to carry out this procedure would be sufficient if a quorum were not present, under the circumstances as they exist in the House?

THE SPEAKER: The Chair will state that it would take a majority of the Members if there were only 15 present.

MR. ADAMS: If a motion is made in the body as it sits now, that motion could be made by any individual Member, and if a majority of those present in the Chamber were to vote in favor of that motion, then the procedure would start at that point?

That is my parliamentary inquiry.

THE SPEAKER: The Chair will state that has already been stated by the Chair, it requires a majority of the Members present if such a motion were to be made. It would require a majority of the Members present, and voting thereon.

*Parliamentarian's Note:* The Speaker misstated the requirement for 15 Members' ordering the attendance of absentees in the situation where only 15 Members were on the floor. The precedents indicate that there must be at least 15 affirmative votes to order the attendance of absentees. See 4 Hinds' Precedents §§ 2983, 2984.

**§ 5.9 Under Rule XV clause 2(a),<sup>(4)</sup> a motion that the Sergeant at Arms procure the attendance of absentees is in order and unless directed by such a motion, the Sergeant at Arms has no authority to compel attendance.**

On the legislative day of Oct. 8, 1968,<sup>(5)</sup> Speaker John W. McCor-

4. See *House Rules and Manual* § 768 (1979).

5. 114 CONG. REC. 30212, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

mack, of Massachusetts, stated procedures for procuring attendance of absent Members.

THE SPEAKER: On this rollcall, 220 Members have answered to their names, a quorum. If there is no objection, further proceedings under the call will be dispensed with.

MR. [BROCK] ADAMS [of Washington]: Mr. Speaker, reserving the right to object, under the reservation of the right to object, I want to inquire whether, if objection is made to dispensing with the call, under rule XV, paragraph 2, the automatic effect of that is that the Members shall be called by the Clerk and the absentees noted, and those for whom no sufficient excuse is made may, by the order of the majority present, be sent for and arrested wherever they may be found?

I am inquiring as part of my reservation, whether or not a quorum may be present, if proceedings under the call are not dispensed with, that thereafter the Speaker has the power for those who are absent from the body tonight, to have them first contacted to be brought here and, if they do not appear, to have the Sergeant at Arms go and obtain them, without any further proceeding?

THE SPEAKER: . . . It would require a motion or resolution to be concurred in by a majority of the House.

*Parliamentarian's Note:* See 4 Hinds' Precedents §§2983, 2984. To compel the attendance of absentees under this rule, there must be 15 affirmative votes, and those voting to compel attendance must be in the majority. (Thus, a

15-14 vote, or a 15-0 vote, would be sufficient.)

**§ 5.10 Although the Speaker possesses authority to issue a warrant of arrest for absent Members under an automatic roll call under Rule XV clause 4, he usually does not do so without action of the House during other proceedings incident to calls of the House under Rule XV clause 2(a).**

On July 29, 1946,<sup>(6)</sup> in response to a parliamentary inquiry, following the failure of a quorum to vote on a yea and nay vote ordered under Rule XV clause 4, Speaker Sam Rayburn, of Texas, made a ruling regarding issuance of arrest warrants.

MR. [JOHN E.] RANKIN [of Mississippi]: Let us get this business straightened out. If this motion were voted down it would be the duty of the Speaker to issue writs of arrests for absent Members and have them brought to the floor of the House until every Member of the House was brought back or until further proceedings were dispensed with.

THE SPEAKER: The Chair could issue a warrant because this is an automatic roll call. Usually the Chair does not do that without action of the House specifying that it be done.<sup>(7)</sup>

6. 92 CONG. REC. 10410, 79th Cong. 2d Sess.

7. *Parliamentarian's Note:* Rule I clause 4 [see *House Rules and Man-*

**§ 5.11 A motion for the arrest of absentees is in the form of an order to the Sergeant at Arms.**

On May 14, 1930,<sup>(8)</sup> a Member, Percy E. Quin, of Mississippi, offered the following motion:

MR. QUIN: Mr. Speaker, I move that the Speaker instruct the Sergeant at Arms to bring in the absent Members.

THE SPEAKER PRO TEMPORE:<sup>(9)</sup> The gentleman from Mississippi offers a motion, which the Clerk will report:

The Clerk read as follows:

Mr. Quin presents the following motion:

*Ordered,* That the Sergeant at Arms take into custody and bring to

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*ual* §624 (1979)] provides that the Speaker "shall sign all . . . warrants. . . ." See 1 Hinds' Precedents §287 which holds that the Speaker has authority to issue a warrant of arrest only by order of the House. However, the order in that case involved the arrest of the Clerk of the House as distinguished from arrest of Members during an automatic call of the House. Under Rule XV clause 4 [see *House Rules and Manual* §773 (1979)] the House has adopted a standing rule ordering the Sergeant at Arms to bring in absent Members during the yeas and nays vote. (But to actually make an arrest under this rule the Sergeant at Arms must have in his possession a warrant signed by the Speaker.)

8. 72 CONG. REC. 8962, 71st Cong. 2d Sess.  
9. John Q. Tilson (Conn.).

the bar of the House such Members as are absent without leave.

**§ 5.12 The Speaker pro tempore, pursuant to a motion adopted by the House that the Sergeant at Arms take absent Members into custody, signs warrants for the arrest of absent Members.**

On May 14, 1930,<sup>(10)</sup> the Speaker pro tempore, John Q. Tilson, of Connecticut, announced that he had signed warrants for the arrest of absent Members.

The Clerk read as follows:

Mr. [PERCY E.] QUIN [of Mississippi] presents the following motion:

*Ordered,* That the Sergeant at Arms take into custody . . . such Members as are absent without leave.

THE SPEAKER PRO TEMPORE: The question is on the motion of the gentleman from Mississippi.

The question was taken; and on a division (demanded by Mr. Stafford) there were 78 yeas and 55 noes.

MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Mr. Speaker, I demand the yeas and nays.

THE SPEAKER PRO TEMPORE: The gentleman from Wisconsin demands the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 122, nays 74, answered "present" 4, not voting 227, as follows . . .

10. 72 CONG. REC. 8962, 71st Cong. 2d Sess.

THE SPEAKER PRO TEMPORE: The Chair announces the fact that he has signed the warrants to arrest the absent Members.

***Procedure Available Following Refusal to Dispense With Further Proceedings***

**§ 5.13 Where a motion to dispense with further proceedings under a call for a quorum is rejected, the Members present remain in the Chamber until the Sergeant at Arms brings in enough Members to make a quorum or make the full membership.**

On July 29, 1946,<sup>(11)</sup> a motion to dispense with further proceedings under the call was rejected.

Mr. Rankin and Mr. Marcantonio moved 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:<sup>(12)</sup> On this roll call 240 Members have answered to their names, a quorum.

If there is no objection, further proceedings under the call will be dispensed with.

MR. [FRANK E.] HOOK [of Michigan]: Mr. Speaker, I object.

MR. [WILLIAM C.] COLE of Missouri: Mr. Speaker, I object.

11. 92 CONG. REC. 10409, 79th Cong. 2d Sess.

12. Sam Rayburn (Tex.).

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I move that further proceedings under the call be dispensed with. . . .

MR. COLE of Missouri: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. COLE of Missouri: Should this motion be voted down and should further proceedings under the call be not dispensed with will the Chair please state the procedure to be followed then?

THE SPEAKER: We stay here until the Sergeant at Arms brings in enough Members to make a quorum or to make the full membership.

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

THE SPEAKER: The gentleman will state it.

MR. MICHENER: Would it not be the fact that if this motion were voted down the House would find itself in a room that is supposed to be locked and the Sergeant-at-Arms would be presumed to be out notifying absentees?

THE SPEAKER: The gentleman is correct.

*Parliamentarian's Note:* The Sergeant at Arms would not have the authority to arrest Members unless ordered by a majority of those voting; but he has inherent authority to notify absentees that they are needed to make a quorum.

***Procedure Available Following Refusal to Adjourn***

**§ 5.14 The failure of a quorum to respond on a roll call vote**

**(decided in the negative) on a motion to adjourn being conducted under Rule XV clause 4,<sup>(13)</sup> would require the Sergeant at Arms to arrest absent Members without further order of the House.**

On Apr. 15, 1970,<sup>(14)</sup> the Speaker pro tempore, Charles M. Price, of Illinois, explained the procedure for arresting absent Members.

MR. [FLETCHER] THOMPSON of Georgia: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.

MR. THOMPSON of Georgia: Mr. Speaker, if there is no quorum present, and there is a negative vote, what is the action of the Chair?

THE SPEAKER PRO TEMPORE: The Chair will state that the action of the Chair is to wait until a quorum appears.

MR. THOMPSON of Georgia: If no quorum appears, then what?

THE SPEAKER PRO TEMPORE: The Chair will state that if a quorum does not appear, then the House operates under the automatic rule that they would bring the Members in.

MR. THOMPSON of Georgia: Is a motion in order to go out and arrest the Members and bring them in?

THE SPEAKER PRO TEMPORE: Under the rule, the Sergeant at Arms would bring the Members in.

13. See *House Rules and Manual* §773 (1979).

14. 116 CONG. REC. 11941, 91st Cong. 2d Sess.

*Parliamentarian's Note:* See §5.10, *Supra*, where the Speaker indicated that under an automatic vote by yeas and nays, the Chair must still sign warrants.

### ***Senate Precedents***

The following precedents are carried as examples of Senate procedures in securing a quorum.

#### **§ 5.15 The Senate directed its Sergeant at Arms to request attendance of absent Senators and, failing to obtain a quorum by this method, directed him to compel attendance of absentees.**

On Nov. 14, 1942,<sup>(15)</sup> the Senate Sergeant at Arms was directed to compel the attendance of absent Senators.

THE VICE PRESIDENT:<sup>(16)</sup> The Clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names: . . .

THE PRESIDING OFFICER:<sup>(17)</sup> Twenty-seven Senators having answered to their names, there is not a quorum present. The clerk will call the names of the absent Senators.

The Chief Clerk called the names of the absent Senators.

Mr. Thomas of Oklahoma, Mr. Lee, Mr. Langer, and Mr. Kilgore entered

15. 88 CONG. REC. 8838, 8839, 77th Cong. 2d Sess.

16. Henry A. Wallace (Iowa).

17. Joseph Rosier (W. Va.).

the Chamber, and answered to their names.

THE PRESIDING OFFICER: Thirty-one Senators having answered to their names, there is not a quorum present.

MR. [ALBEN W.] BARKLEY [of Kentucky]: I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

After some delay, Mr. George, Mr. Gerry, Mr. Willis, Mr. Bridges, Mr. Murdock, Mr. Danaher, Mr. Gurney, Mr. Maloney, Mr. Schwartz, Mr. Ball, Mr. Taft, Mr. Lucas, and Mr. O'Mahoney entered the Chamber and answered to their names.

MR. BARKLEY: Mr. President, under the previous motion made by me to direct the Sergeant at Arms to request the attendance of absent Senators, 44 Senators have appeared, 5 short of a quorum. I now move that the Sergeant at Arms be directed to compel the attendance of absent Senators.

The motion was agreed to.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

**§ 5.16 The Senate Sergeant at Arms is authorized to report to that body when he has carried out its orders to compel attendance of absent Senators.**

On Nov. 14, 1942,<sup>(18)</sup> the Sergeant at Arms reported to the

<sup>18</sup>. 88 CONG. REC. 8838, 8839, 77th Cong. 2d Sess.

**Senate after carrying out orders to compel attendance.**

MR. [ALBEN W.] BARKLEY [of Kentucky]: Mr. President, under the previous motion made by me to direct the Sergeant at Arms to request the attendance of absent Senators, 44 Senators have appeared, 5 short of a quorum. I now move that the Sergeant at Arms be directed to compel the attendance of absent Senators.

The motion was agreed to.

THE PRESIDING OFFICER [Joseph Rosier, of West Virginia]: The Sergeant at Arms will execute the order of the Senate. . . .

After some delay.

MR. BARKLEY: Mr. President, I ask that the Sergeant at Arms make a report to the Senate upon the effort he has made to compel the attendance of Senators.

THE PRESIDING OFFICER [Theodore F. Green, of Rhode Island]: The Sergeant at Arms will make his report.

THE SERGEANT AT ARMS (Chesley W. Jurney): Senator Aiken is out of Washington.

MR. [TOM T.] CONNALLY [of Texas]: A parliamentary inquiry.

THE PRESIDING OFFICER: The Senator will state it.

MR. CONNALLY: Under what rule is this kind of proceeding authorized? I do not remember such a thing ever happening.

THE PRESIDING OFFICER: Does the Senator from Texas make objection?

MR. CONNALLY: I do.

THE PRESIDING OFFICER: The objection is overruled. The Sergeant at Arms will proceed.

MR. CONNALLY: That is a very efficient answer to a parliamentary in-

quiry. I am trying to ascertain the authority for the proceeding.

THE PRESIDING OFFICER: It is authorized under rule V, paragraph 3. The Sergeant at Arms will proceed.

MR. CONNALLY: I understand there is ample precedent for ordering Senators brought into the Chamber, but it does not necessarily follow the Sergeant at Arms can be brought in and testify and make a speech. No one else can make a speech at this time, and why should the Sergeant at Arms be permitted to do so?

THE PRESIDING OFFICER: Under the rule, debate is out of order, and the Sergeant at Arms will proceed with his report.

THE SERGEANT AT ARMS: Senator Aiken is out of town.

Senator Austin is out of town. . . .

Senator Doxy is in Washington, but cannot be located either at his office or his residence. . . .

Senator Maybank is in Washington, but cannot be located either at his office or his residence. . . .

MR. BARKLEY: Mr. President, there seems to have taken place an exodus from the Senate equal to the exodus of the Children of Israel from Egypt; but there is a sufficient number of Senators in town to make a quorum. I therefore move that the Vice President be authorized and directed to issue warrants of arrest for absent Senators, and that the Sergeant at Arms be instructed to execute such warrants of arrest upon absent Senators.

MR. CONNALLY: Mr. President, will the Senator yield for a question?

MR. BARKLEY: I yield.

MR. CONNALLY: I wish to ask if the execution of the warrants would re-

quire the Sergeant at Arms to go to the home States of Senators.

THE PRESIDING OFFICER: The motion is not debatable.

MR. CONNALLY: I am propounding a parliamentary inquiry, and the Senator yielded. He is making a motion.

MR. BARKLEY: Of course, when the Sergeant at Arms produces a sufficient number to make a quorum, which is five—and there are more than that many Senators in Washington, as reported by the Sergeant at Arms—it is not expected that warrants of arrest will be sent to the home States of those who are absent.

THE PRESIDING OFFICER: If the motion is so phrased as to exclude them, the warrants will not be sent to the home States; otherwise they would have to be.

MR. BARKLEY: The motion I made would include all absent Senators, but the practical application of it would be limited to those who are in the city.

THE PRESIDING OFFICER: The motion is limited to them?

MR. BARKLEY: I am willing to limit the motion to those who are reported to be in the city of Washington, in the District of Columbia, for the day.

THE PRESIDING OFFICER: The question is on agreeing to the motion of the Senator from Kentucky.

The motion was agreed to.

THE PRESIDING OFFICER: The order of the Senate will be executed.

At 2 o'clock and 8 minutes p.m., Mr. Herring entered the Chamber and answered to his name.

At 2 o'clock and 10 minutes p.m. Mr. Bunker entered the Chamber and answered to his name.

MR. CONNALLY: Mr. President—

THE PRESIDING OFFICER [Joseph C. O'Mahoney, of Wyoming]: The Senator from Texas.

MR. CONNALLY: I rise to a question of privilege of the Senate.

THE PRESIDING OFFICER: The Chair is advised that a quorum of the Senate has not yet responded to the call of the roll. In that state of affairs, no debate is in order.

MR. CONNALLY: Mr. President, a further parliamentary inquiry. What the Chair said may be true, but I understand some things are being done, or are about to be done, in the name of the Senate, which the Senate has never authorized, and which pertain to the high privileges of the Senate. I understand that the Sergeant at Arms, under the direction of the majority leader, or someone here, is assuming the authority to deputize, or appoint as a deputy, one of the Senate custodians, with instructions to break down Senators' doors, enter their offices, and drag them out. The Senate has not ordered any such action as that, and I want to say to the Senate, or whoever authorized it, that if such person broke into my office, he would not be able to break into the office of anyone else for at least 24 hours. I simply want the Senate and the country to know the kind of tactics which are being forced upon Senators in this Chamber. It is a perfect outrage. It is in line with the unconstitutional, the unwarranted, and the absolutely outrageous action of a group in the Senate.

At 2 o'clock and 45 minutes p.m., Mr. Aiken entered the Chamber and answered to his name.

At 3 o'clock and 19 minutes p.m., Mr. Maybank entered the Chamber and answered to his name.

At 3 o'clock and 40 minutes p.m., Mr. McKellar entered the Chamber and answered to his name.

THE PRESIDING OFFICER [Berkeley L. Bunker, of Nevada]: Forty-nine Senators having answered to their names, a quorum is present.

*Parliamentarian's Note:* In other instances, the report of the Sergeant at Arms has been submitted to the Presiding Officer in writing and read to the Senate. See Senate Procedure (S. Doc. 97-2), Riddick, p. 180.

**§ 5.17 The Senate Sergeant at Arms was directed to request the attendance of Senators when a quorum failed to appear on a quorum call.**

On Apr. 26, 1958,<sup>(19)</sup> the Senate directed the Sergeant at Arms to request the attendance of absent Senators.<sup>(1)</sup>

THE PRESIDING OFFICER:<sup>(2)</sup> Is there further morning business?

MR. [LYNDON B.] JOHNSON [of Texas]: Mr. President, I suggest the absence of a quorum.

THE PRESIDING OFFICER: The clerk will call the roll.

19. 104 CONG. REC. 7394, 7395, 85th Cong. 2d Sess.

1. See also, for example, 110 CONG. REC. 10579, 88th Cong. 2d Sess., May 11, 1964; 11, CONG. REC. 4754, 4755, 88th Cong. 2d Sess., Mar. 9, 1964; and 108 CONG. REC. 14952, 14953, 87th Cong. 2d Sess., July 28, 1962.

2. Herman E. Talmadge (Ga.).

The Chief Clerk called the roll, and the following Senators answered to their names: . . .

THE PRESIDING OFFICER: A quorum is not present.

MR. [WILLIAM F.] KNOWLAND [of California]: Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

**§ 5.18 A quorum call in the Senate failed to produce a quorum until the Sergeant at Arms was directed to request attendance of absent Members.**

On Apr. 22, 1965,<sup>(3)</sup> the following proceedings took place:

MR. [ALLEN J.] ELLENDER [of Louisiana]: Mr. President, I suggest the absence of a quorum.

THE PRESIDING OFFICER:<sup>(4)</sup> The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names: . . .

THE PRESIDING OFFICER: A quorum is not present.

MR. [PHILIP A.] HART [of Michigan]: Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

THE PRESIDING OFFICER:<sup>(5)</sup> The question is on agreeing to the motion of the Senator from Michigan.

3. 111 CONG. REC. 8299, 89th Cong. 1st Sess.

4. Fred Harris (Okla.).

5. Walter F. Mondale (Minn.).

The motion was agreed to.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

The Presiding Officer subsequently declared a quorum to be present.

**§ 5.19 The Presiding Officer described the procedure for requesting or compelling the attendance of absent Senators.**

On May 18, 1950,<sup>(6)</sup> the Presiding Officer, Matthew M. Neely, of West Virginia, explained the procedure for obtaining attendance of absent Senators.

MR. [BRIEN] MCMAHON [of Connecticut]: I suggest the absence of a quorum.

THE PRESIDING OFFICER: The clerk will call the roll. . . .

A quorum is not present.

MR. [HUBERT H.] HUMPHREY [of Minnesota]: I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

THE PRESIDING OFFICER: The provision of the rule is that a majority of Senators present may direct the Sergeant at Arms to request, and when necessary, to compel the attendance of absent Senators. Does the Senator from Minnesota make that motion?

MR. HUMPHREY: I make that motion, Mr. President.

The motion was agreed to.

6. 96 CONG. REC. 7204, 81st Cong. 2d Sess.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

**§ 5.20 In the absence of a quorum, a motion that the Sergeant at Arms arrest the absentees and bring them before the bar of the Senate is in order.**

On the calendar day of July 28, 1962,<sup>(7)</sup> the Senate Sergeant at Arms was directed to request the attendance of absent Senators.<sup>(8)</sup>

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Vice President.

. . .

CALL OF THE HOUSE

THE VICE PRESIDENT:<sup>(9)</sup> The Senate having taken a recess last night in the absence of a quorum, no business can be transacted until a quorum is present.

The clerk will therefore call the roll for the purpose of developing a quorum.

7. 108 CONG. REC. 14952, 14953, 87th Cong. 2d Sess., July 30, 1962. [Because no Record was printed for July 28, proceedings for that day appear on July 30.]

8. *Parliamentarian's Note*: The Senate remained in session for over 10 hours but conducted no business because a quorum could not be maintained on the floor. The first of the two quorum calls held on this date began at 10:00 a.m. and ended at 2:52 p.m. The second call began at 2:58 and ended at 8:10 p.m.

9. Lyndon B. Johnson (Tex.).

The legislative clerk called the roll; and the following Senators answered to their names: . . .

THE VICE PRESIDENT: A quorum is not present.

MR. [HUBERT H.] HUMPHREY [of Minnesota]: Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

THE VICE PRESIDENT: The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to.

THE VICE PRESIDENT: The Sergeant at Arms is instructed to execute the order of the Senate. . . .

MR. HUMPHREY: Mr. President, a parliamentary inquiry: Is a quorum present?

THE VICE PRESIDENT: No.

MR. HUMPHREY: Mr. President, is the only procedure left to the acting majority leader to invoke the rule of arrest?

THE VICE PRESIDENT: That would be a matter for the judgment of the leadership. Such a motion would be in order.

**§ 5.21 The motion to compel attendance of absent Senators is not debatable.**

On May 11, 1964,<sup>(10)</sup> a motion to request attendance and two motions to compel attendance were made before a quorum appeared.

MR. [Wayne L.] MORSE [of Oregon]: Mr. President, I move that the Ser-

10. 110 CONG. REC. 10579, 88th Cong. 2d Sess.

geant at Arms be directed to compel the attendance of absent Senators.

THE PRESIDING OFFICER:<sup>(11)</sup> The question is on agreeing to the motion of the Senator from Oregon.

MR. [GEORGE A.] SMATHERS [of Florida]: Mr. President, a parliamentary inquiry.

THE PRESIDING OFFICER: The Senator will state it.

MR. SMATHERS: Is the motion debatable?

THE PRESIDING OFFICER: No debate is in order.

## § 6. Closing or Locking the Doors

The rules of the House formerly provided for closing the doors to the Chamber to prohibit Members from leaving until a quorum was reached. The current provision, Rule XV clause 2(b), as amended in 1972,<sup>(12)</sup> states that on a call of the House, "the doors shall not be closed except when so ordered by the Speaker." It is within the Chair's discretion whether the doors are to be closed.

An unusual illustration of the application of the rules relating to calls of the House occurred on Oct. 8, 1968. On that day, the House was scheduled to debate

House Resolution 1315, to provide for consideration of Senate Joint Resolution 175, a measure suspending for the 1968 campaign the equal-time requirements of section 315 of the Communications Act of 1934, for nominees for the offices of President and Vice President.<sup>(13)</sup> The first roll call (No. 375) took place immediately after the prayer.<sup>(14)</sup> After completion of this roll call, a full reading of the Journal was demanded."<sup>(15)</sup> Following three and one-half hours of roll call votes and quorum calls which interrupted reading of the Journal, Speaker John W. McCormack, of Massachusetts, after it was indicated that the Chair had authority to order the Doorkeeper to close or lock the doors,<sup>(16)</sup> issued such an order during the progress of quorum calls.<sup>(17)</sup>

The reading of the Journal was interrupted by 33 calls of the

11. William Proxmire (Wis.).

12. H. Res. 1123, 92d Cong. 2d Sess., Oct. 13, 1972, 118 CONG. REC. 36012.

13. 114 CONG. REC. 30217, 90th Cong. 2d Sess., Oct. 9, 1968 (Calendar Day).

14. 114 CONG. REC. 30089, 30090, 90th Cong. 2d Sess., Oct. 8, 1968.

15. 114 CONG. REC. 30090, 90th Cong. 2d Sess., Oct. 8, 1968.

16. See § 6.2, *infra*. See also § 6.1, *infra*, in which Speaker Sam Rayburn (Tex.), while stating that the Speaker has authority to order the doors closed, said he would not order doors locked unless so directed by the House.

17. See § 6.3, *infra*.