

Chapter LXXXVI.

THE CALL OF THE HOUSE.

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2980. A smaller number than a quorum may adjourn from day to day and compel the attendance of absent Members.

Reference to proceedings in the Senate to compel attendance of absentees. (Footnote.)

The Constitution of the United States provides, in Article I, section 5, that—

A majority of each [House] shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.⁴

¹Questions of privilege during. Section 2545 of Vol. III. Reception of messages in absence of quorum. Section 6600 of Vol. V.

²Doorkeeper arraigned for permitting escape of Member under arrest. Section 291 of Vol. I.

³Warrant issued on order of House. Section 287 of Vol. I.

⁴The House, by sections 2 and 4 of Rule XV (see secs. 2982 and 3041 of this chapter) has provided for compelling attendance of absent Members. The Senate has a rule (sec. 3 of Rule V) which permits a majority of those present to “direct the Sergeant-at-Arms to request, and, when necessary, to compel the attendance of the absent Senators.” On February 24, 1879 (third session Forty-fifth Congress, Record, p. 1856), the Senate was proceeding to order its Sergeant-at-Arms to compel the attendance of absent Senators and use all necessary means for that purpose, when a quorum appeared. On February 23, 1871 (third session Forty-first Congress, Globe, p. 1592), the Senate debated at length its rule for

2981. A call of the House is in order both under the general parliamentary law and the Constitution.—On December 26, 1855,¹ before the election of a Speaker or the adoption of rules, Mr. Emerson Etheridge, of Tennessee, moved that there be a call of the House.

Mr. Thomas S. Bocock, of Virginia, made the point of order that there was no such motion known to the parliamentary law.

The Clerk² said:

According to the parliamentary law, in a call of the House each Member rises in his place as he is called, and the absentees are then the only ones noticed. The Clerk thinks that the motion is also in order under the Constitution of the United States.

On this occasion the motion was withdrawn, but later, on December 26, before the election of Speaker or adoption of rules, a call of the House was ordered and had.

Again, on January 16, 1856³ while the House still continued disorganized, no Speaker having been elected, the Clerk held a motion for a call of the House in order, after the demand for the previous question, on the ground that they were acting, not under the rules of the House but under the parliamentary law, and that the motion for a call of the House was in order both under that law and under the Constitution, which made the motion a privileged question.

2982. The old rule providing for a call of the House.

In the absence of a quorum, fifteen Members, including the Speaker, if there be one, are authorized to compel the attendance of absent Members.

Form of warrant for the arrest of absent Members under the old rule for a call of the House. (Footnote.)

Form and history of section 2 of Rule XV.

Until the adoption of section 4 of Rule XV the⁴ only rule for procuring the attendance of Members was section 2 of Rule XV, which is as follows:

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

securing attendance of absentees. On February 23, 1883 (second session Forty-seventh Congress, Record, pp. 3178–3186), the Senate considered a proposition to compel the attendance of absent Senators, a Cabinet officer at whose house several were dining having denied admission to the officer of the Senate who was sent to “request” the attendance of absentees.

In the Senate it seems to have been held that under the Constitution there is no power to compel the attendance of absentees except at the first meeting of the Senate, and that for subsequent meetings the power must be given by a rule, as in the House. See statement of Senator Fessenden on May 4, 1864. (First session Thirty-eighth Congress, Globe, p. 2089.)

On January 15 and 17, 1877, the Senate, in the course of the revision of its rules, debated at length a rule to compel the attendance of absent Senators, especially with reference to the provision of the Constitution on that subject. (Second session Forty-fourth Congress, Record, pp. 622, 690.)

¹ First session Thirty-fourth Congress, Journal, p. 183; Globe, p. 79.

² John W. Forney, Clerk.

³ Globe, p. 235.

⁴ See sec. 3041 of this chapter.

purpose, and their attendance secured and retained,¹ and the House shall determine upon what condition they shall be discharged. Members who voluntarily appear shall, unless the House otherwise direct, be immediately admitted to the Hall of the House, and they shall report their names to the Clerk to be entered upon the Journal as present.

This rule, which has not been satisfactory when a determined attempt has been made to break a quorum,² is now used in cases where the lack of a quorum is developed in other ways than by a vote, and where a quorum fails on a vote on which no quorum is required. The first form of the rule dates from the First Congress. On April 7, 1789,³ this rule was adopted:

Any fifteen members (including the Speaker, if there be one) shall be authorized to compel the attendance of absent Members.

On April 13, 1789,⁴ this rule was adopted:

Upon a call of the House, for which at least one day's notice shall be requisite, the names of the Members shall be called over by the Clerk, and the absentees noted, after which the names of the absentees shall be again called over; the doors shall then be shut, and those for whom no excuses, or insufficient excuses, are made, may, by order of the House, be taken into custody.

This rule seems to have required a vote of the House to arrest absent Members. It was changed on December 14, 1795,⁵ to the form which was retained for many years and which was adopted with little change in the revision of 1880.⁶ On

¹The form of warrant for the arrest of absent Members under this rule is as follows:

— Congress, — session.
Congress of the United States.

IN THE HOUSE OF REPRESENTATIVES.

To — —, *Sergeant-at-Arms of the House of Representatives, or his deputies:*

Whereas the House of Representatives has adopted the following order, viz: [Here follows the order, in form: "*Ordered, That the Sergeant-at-Arms take into custody and bring to the bar of the House such of its Members as are found absent without leave or the House.*"]

And whereas, the following-named Members of the House are absent without its leave, to wit: [Here follows the names of Members.]

Now, therefore, I, — —, Speaker — — of the House of Representatives, by virtue of the power vested in me by the House, hereby command you to execute the said order of the House, by taking into custody and bringing to the bar of the House said above-named Members who are so absent without leave; hereof fail not, and make due return in what manner you execute the same.

In testimony whereof I have hereunto set my hand and caused to be affixed the seal of the House of Representatives of the United States, this the — — day of — —, A. D. 190—.

[SEAL OF THE HOUSE OF REPRESENTATIVES.]

— —, *Speaker.*

Attest:

— —, Clerk.

The Sergeant-at-Arms, having arrested Members under a writ of the House, sometimes makes a written report. See instances on January 8, 1894, and February 22. (2d sess. 53d Cong., *Journal*, pp. 74, 192.)

²Under the practice a vote has been required to dispense with proceedings under this call, and while that vote would be taken the quorum would again vanish. The new rule prevents these tactics. See section 3041 of this chapter.

³First session First Congress, *Journal*, p. 10.

⁴First session First Congress, *Journal*, p. 13.

⁵Third and Fourth Congresses, *Journal*, p. 375 (Gales and Seaton ed.).

⁶Second session Forty-sixth Congress, *Record*, p. 206.

February 14, 1888,¹ the clause relating to Members who voluntarily appear was added, and in 1890 the provision regarding the closing of the doors was so changed that the doors should be closed before instead of after the call.

2983. Under the rule of the House a call of the House may not be ordered by less than fifteen Members.—On May 8, 1844,² the House at 5.35 p. m. took a recess until 7 p. m.

At 7 p. m. the Speaker took the chair and called the Members present to order.

A motion was made by Mr. Richard F. Simpson, of South Carolina, at 7.05 p. m. that the House do adjourn, which was decided in the negative.

Mr. George W. Hopkins, of Virginia, moved a call of the House.

The Speaker³ said that, under the sixty-fifth rule,⁴ less than fifteen Members could not compel the attendance of absent Members; and that number not being present, the motion could not be entertained.

2984. The call of the House must be ordered by a majority vote, and may not be ordered by a minority of fifteen or more.—On August 10, 1894,⁵ Mr. Henry M. Baker, of New Hampshire, moved that there be a call of the House; and the question being taken on division, the yeas were 18 and the nays were 24.

The Speaker pro tempore⁶ announced that the motion was disagreed to.

Mr. John Van Vorhis, of New York, made the point that under Rule XV, clause 2, fifteen or more Members may order a call of the House notwithstanding a majority vote against it.

The Speaker pro tempore overruled the point.

2985. The constitutional power of the House to compel the attendance of absent Members is not confined to cases wherein there is a lack of a quorum.—On April 28, 1892,⁷ on a motion that the House adjourn, there were 17 yeas and 187 nays, a quorum voting. So the House refused to adjourn.

Mr. James H. Blount, of Georgia, then submitted the following:

Whereas there are a large number of Members absent from the House and the public business is delayed, the Sergeant-at-Arms is directed to bring in all absentees; and the proceedings in connection therewith shall be in accordance with Rule XV in cases where a call of the House is ordered; and all leaves of absence are hereby revoked, except for providential cause.

Mr. Christopher A. Bergen, of New Jersey, and Mr. Nelson Dingley, of Maine, respectively, submitted the questions of order:

Whether pursuant to clause 2 of Rule XV⁸ the resolution just submitted by Mr. Blount was in order, the absence of a quorum not having been disclosed; and it is competent for the House to order

¹It seems evident that in the early days the call was sometimes resorted to for the purpose of bringing in Members even when the point of no quorum had not been made. See instance on April 15, 1830, First session Twenty-first Congress, Journal, p. 537; Debates, p. 804. Indeed, on May 18, 1830, such an object was avowed by the mover, who said he wanted a full House for the decision of the pending question. (1st sess. 21st Cong., Debates, p. 1037.)

²First session Twenty-eighth Congress, Journal, p. 885.

³John W. Jones, of Virginia, Speaker.

⁴Now section 2 of Rule XV. (See sec. 2982 of this chapter.)

⁵Second session Fifty-third Congress, Journal, p. 559; Record, p. 8409.

⁶Elijah V. Brookshire, of Indiana, Speaker pro tempore.

⁷First session Fifty-second Congress, Journal, pp. 166, 167; Record, p. 3758.

⁸See sec. 2982.

the arrest of absent Members until there has been a call of the House under the rule, disclosing the names of the absentees.

The Speaker¹ replied that the majority of the House has the right, under the Constitution, to transact business, and it has the right to compel the attendance of absent Members. But inasmuch as the Constitution provides that less than a quorum can not transact business, unless there was a special exception in the Constitution permitting less than a majority to send for absentees, less than a majority could not do it. The expression of the idea that less than a majority can send for absent Members does not exclude the idea that a majority can transact business and can require the attendance of all Members of the House in order to do so.²

2986. On May 31, 1892,³ the Committee of the Whole House on the state of the Union found itself without a quorum, and the roll was called under the rule. The committee then rose and the Chairman reported the names of the absentees.

It appearing that a quorum was present, the Speaker announced that the committee would resume its sitting, which it did.

Immediately, on motion made, the committee rose, and Mr. John A. Buchanan, of Virginia, reported that the committee having had under consideration the bill (H. R. 8224) had come to no resolution thereon.

Mr. John S. Henderson, of North Carolina, moved that there be a call of the House.

Mr. Julius C. Burrows, of Michigan, submitted the question of order whether, a quorum being present, it is in order to move a call of the House.

The Speaker¹ decided that the motion for a call of the House is in order although a quorum is shown to be present.

2987. On April 25, 1892,⁴ the House voted by yeas, and nays on a motion made by Mr. Thomas B. Reed, of Maine, to lay on the table a resolution relating to alleged unparliamentary language used in a speech printed in the Congressional Record by Mr. Joseph H. Walker, of Massachusetts. A quorum failing to vote, a call of the House was ordered.

A quorum having been secured, Mr. James D. Richardson, of Tennessee, offered a resolution 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. Charles A. Boutelle, of Maine, submitted the question of order, whether, under the rules of the House and under constitutional provisions, it is competent for the House to send for and compel the attendance of absent Members except in cases where it is developed that no quorum is present.

The Speaker¹ held that the House had the right to have every Member present; that if but one or two Members were absent it could send for them if it should desire.

¹ Charles F. Crisp, of Georgia, Speaker.

² See also footnote to section 2982 of this chapter.

³ First session Fifty-second Congress, Journal, p. 206;- Record, pp. 4881, 4882.

⁴ First session Fifty-second Congress, Journal, p. 160; Record, pp. 3632, 3633.

2988. It is always in order, the failure of a quorum being shown, to proceed to secure the attendance of absent Members.

When a vote by yeas and nays shows no quorum, the House must take cognizance of the fact.

The lack of a quorum being disclosed, two motions only are in order—for a call of the House or to adjourn.

On April 4, 1888,¹ dilatory proceedings were going on in the House over the question of the refunding of the direct tax of 1861. There had been a call of the House, which had developed the presence of a quorum, and then, a motion to dispense with further proceedings under the call being made, it was agreed to by 122 yeas to 38 nays.

Mr. William C. Oates, of Alabama, then moved to reconsider the vote by which further proceedings under the call were dispensed with.

The question being taken by yeas and nays, the motion to reconsider was decided in the negative, 130 nays to 28 yeas.

The Speaker announced that there was not a quorum, whereupon Mr. Clifton R. Breckinridge, of Arkansas, moved that there be a call of the House.

Mr. Samuel Dibble, of South Carolina, made a point of order as follows:

That the House having suspended proceedings under the call, and having refused to reconsider that vote, it would not be in order to renew the motion for a call of the House.

The Speaker² ruled:

The Chair understands that, according to the practice and the rules of the House, when the roll call discloses the fact that no quorum is present, but two motions are in order—for a call of the House and to adjourn. The Chair does not think it required a quorum to determine the last vote taken, but the roll call disclosed the fact that no quorum is present. * * * When a vote is taken by yeas and nays that shows no quorum to be present, the House must take cognizance of the fact. * * * The Chair does not see how the House can, when the record of a vote shows that no quorum is present, transact any other business except to proceed to a call of the House or to adjourn. The proceedings to which the gentleman refers are also different from these. There the House had just refused to order a call. * * * The Chair thinks that it is always and necessarily in the power of the House to compel the attendance of its absent Members for the transaction of the public business. The last vote discloses the fact that no quorum is present, which fact the Chair thinks may be disclosed a dozen times during a legislative day, and yet it must be always in the power of the House, in the event of the absence of a quorum, to enforce the attendance of its Members. To deprive the House of that power would destroy its functions as a legislative body.

2989. There may be a call of the House with a Speaker pro tempore in the chair.—On April 3, 1876,³ during a call of the House, it was ordered, on motion of Mr. Samuel J. Randall, of Pennsylvania, that the Sergeant-at-Arms take into custody and bring to the bar of the House such of its Members as were absent without leave.

Mr. George F. Hoar, of Massachusetts, made the point of order that there could be no call of the House unless there be a Speaker in the chair.

The Speaker pro tempore⁴ overruled the point of order.

¹First session Fiftieth Congress, Record, pp. 2718, 2719.

²John G. Carlisle, of Kentucky, Speaker.

³First session Forty-fourth Congress, Journal, p. 740; Record, p. 2172.

⁴Samuel S. Cox, of New York, Speaker pro tempore.

Mr. Hoar having appealed, the appeal was laid on the table.

2990. A call of the House, ordered when no question is pending, is taken in the old form.—On January 28, 1901,¹ Mr. Joseph W. Babcock, of Wisconsin, called up the motion to reconsider the vote whereby the House recommitted the bill (H. R. 13660) relating to the Washington Gaslight Company, and for other purposes, and Mr. William P. Hepburn, of Iowa, made the point that there was no quorum present.

The Chair, having counted, announced 92 Members present—not a quorum.

Mr. Babcock, as a parliamentary inquiry, asked whether the question would be taken on the motion to reconsider at the same time with the call of the House.

The Speaker pro tempore² said:

The gentleman from Wisconsin stated his purpose to call up the motion to reconsider. The point was made by the gentleman from Iowa that a quorum was not present for the transaction of business. There was no motion then pending before the House, and therefore this call of the House is a call under the ordinary form.

2991. During proceedings under a call of the House the roll call may be repeated on order of those present.—On February 21, 1893,³ during a call of the House, Mr. William D. Bynum, of Indiana, moved that there be a call of the roll to ascertain who of the Members were present and who were absent.

Mr. John M. Allen, of Mississippi, made the point of order that said motion was not in order.

The Speaker pro tempore⁴ overruled the point of order.

The said motion of Mr. Bynum was then agreed to.

2992. On a call of the House the roll call may not be interrupted by a motion to dispense with further proceedings under the call.—On February 21, 1882,⁵ a quorum having failed to vote, and a call of the House having been ordered, Mr. William H. Calkins, of Indiana, moved that the House adjourn.

This motion was disagreed to.

The Clerk thereupon proceeded to call the roll of Members, and called the first two names thereon, when Mr. George M. Robeson, of New Jersey, moved that the House adjourn.

The Speaker⁶ held the motion to be not in order, on the ground that it was not in order to interrupt a roll call.

Then Mr. Robeson moved to dispense with further proceedings under the call.

The Speaker said:

You can not interrupt a roll call by such a motion.

2993. There is no rule or practice requiring a recapitulation of the names of those who appear on a call of the House after their names have been called.—On August 26, 1891,⁷ the House had ordered a call of the House and the roll call had been completed.

¹ Second session Fifty-sixth Congress, Record, p. 1577.

² William H. Moody, of Massachusetts, Speaker pro tempore.

³ Second session Fifty-second Congress, Journal, p. 107; Record, p. 1990.

⁴ Joseph W. Bailey, of Texas, Speaker pro tempore.

⁵ First session Forty-seventh Congress, Journal, p. 641; Record, p. 1366.

⁶ J. Warren Keifer, of Ohio, Speaker.

⁷ First session Fifty-first Congress, Journal, p. 991; Record, p. 9184.

The Speaker pro tempore¹ having stated that the proceedings disclosed the presence of 178 members, more than a quorum,

Mr. William E. Mason, of Illinois, asked for the reading of the names of those noted by the Clerk as having appeared after their names were called.

The Speaker pro tempore overruled the request on the ground that there was no rule or practice requiring or authorizing the reading at the present time of such list, which, being kept by a sworn officer of the House, was supposed to be a true and accurate one.

2994. A quorum is not required on motions incidental to a call of the House.—On August 26, 1890,² a motion having been made to dispense with all further proceedings under the call, it resulted, on a roll call, yeas 127, nays 21.

Mr. William E. Mason, of Illinois, made the point of order that no quorum was present.

The Speaker pro tempore¹ overruled the said point of order on the ground that a quorum was not required on any motion or proposition touching a call of the House.

2995. A motion for a recess is not in order during a call of the House.—On April 27, 1840,³ the House having under consideration the diplomatic appropriation bill, a quorum failed and a call of the House was in progress. During this call a motion was made that the House take a recess until 11 o'clock a. m. on Tuesday, the 28th instant of April.

A question was raised whether, pending a call, it is in order to take a recess.

The Speaker⁴ decided that it was not in order to take a recess pending a call, unless it were by unanimous consent of those present.

From this decision Mr. Joel Holleman, of Virginia, appealed; and, on the question being put, the decision of the Chair was affirmed.

2996. On February 18, 1884,⁵ during proceedings relating to a bill to pension soldiers of the Mexican war, a quorum failed. A call of the House was made, the Sergeant-at-Arms was instructed to arrest absent Members, and the doors were closed.

Pending this Mr. Goldsmith W. Hewitt, of Alabama, move that the House take a recess until 11 o'clock next day.

Mr. Frank Hiscock, of New York, made the point of order that the motion was not in order during a call of the House.

The Speaker⁶ sustained the point of order on the ground stated, and the motion was not entertained.

2997. Under the old rule for a call of the House motions to excuse Members are in order while the roll is being called for excuses.—On April 12, 1894,⁷ during proceedings under a call of the House, the roll being called for

¹ Lewis E. Payson, of Illinois, Speaker pro tempore.

² First session Fifty-first Congress, Journal, p. 991; Record, p. 9183.

³ First session Twenty-sixth Congress, Journal, p. 843; Record, p. 361.

⁴ Robert M. T. Hunter, of Virginia, Speaker.

⁵ First session Forty-eighth Congress, Journal, p. 618.

⁶ John G. Carlisle, of Kentucky, Speaker.

⁷ Second session Fifty-third Congress, Journal, pp. 326, 327; Record, p. 3703.

excuses, Mr. John H. Gear, of Iowa, moved that Mr. John A. T. Hull, of Iowa, be excused. A demand for the yeas and nays having been made on the question of excusing Mr. Hull, Mr. William M. Springer, of Illinois, made the point that the call of the absentees could not be interrupted by a motion to excuse and a roll call thereon.

After debate, the Speaker pro tempore¹ held that the call of the absentees was simply for the presentation of excuses pursuant to the rule; that it had been customary as a matter of convenience, to call such absentees in the alphabetical order of their names; and that the motion to excuse Mr. Hull must therefore be entertained.

2998. Under the old rule for a call of the House a motion to adjourn is in order in the midst of a call of the roll for excuses.—On January 6, 1894,² during a call of the House, as the roll was being called for excuses, when the name of Mr. George D. Perkins, of Iowa, was called, Mr. John A. T. Hull, of Iowa, moved that Mr. Perkins be excused from attendance, and the question being put it was decided in the affirmative, yeas 133, nays 117.

Mr. Thomas B. Reed, of Maine, thereupon moved that the House adjourn.

Mr. Benton McMillin, of Tennessee, submitted the question whether there was not an uncompleted roll call pending when the vote was taken on excusing Mr. Perkins and whether a motion to adjourn was in order until such incomplete roll call should be concluded.

The Speaker³ held as follows:

The rule provides that when a call of the House is ordered the roll shall be called, that the doors shall then be closed, and that the House may, by order, send for those Members for whom no sufficient excuse is offered. As a matter of practice it has been the custom, instead of having a number of gentlemen rising at the same time to offer excuses, to call the roll for excuses; but that is not a call of the roll in any such sense as when the roll is called for a vote. When the name of the gentleman from Iowa [Mr. Perkins] was reached, unanimous consent was asked that he be excused; that was objected to, and a motion to excuse him was made and submitted to the House, and that motion has been disposed of. The gentleman from Maine [Mr. Reed] now moves that the House adjourn. That motion, the Chair thinks, is in order pending a call of the roll for excuses.

2999. While the names of absentees are being called for excuses on a call of the House neither a motion to excuse nor an incidental appeal is debatable.—On July 28, 1892⁴ during a call of the House, while the absentees were being called for excuses, the name of Mr. Clarke Lewis, of Mississippi, was called. Mr. Joseph Wheeler, of Alabama, moved that he be excused from attendance, and demanded the right to debate his motion.

The Speaker pro tempore⁵ held that debate was not in order on this motion at this time, and that the roll was being called for the presentation of excuses only.

Mr. Wheeler appealed from the decision of the Chair, and proposed to discuss the appeal.

The Speaker pro tempore said:

It is not debatable. The house is now proceeding under a call.

¹ James D. Richardson, of Tennessee, Speaker pro tempore.

² Second session Fifty-third Congress, Journal, pp. 68, 69; Record, p. 512.

³ Charles F. Crisp, of Georgia, Speaker.

⁴ First session Fifty-second Congress, Journal, p. 342; Record, p. 6904.

⁵ Alexander M. Dockery, of Missouri, Speaker pro tempore.

The question then being put on the appeal, the decision of the Chair was sustained.

3000. During a call of the House less than a quorum may excuse a Member from attendance.—On February 6, 1893,¹ during a call of the House, Mr. John T. Heard, of Missouri, moved that Mr. Robert W. Fyan, of Missouri, be excused from attendance.

And the question being put thereon, and no quorum voting,

Mr. C. B. Kilgore, of Texas, made the point that a quorum was necessary to decide said motion.

The Speaker pro tempore² overruled the point of order, holding that a quorum was not required to excuse a Member from attendance pending a call of the House.

Mr. Kilgore appealed from the decision, and the question being put, "Shall the decision of the Chair stand as the judgment of the House?" it was decided in the affirmative.

3001. On January 8, 1897,³ during a call of the House, several Members were arrested and brought to the bar of the House, where the Speaker pro tempore demanded of them severally what excuses they had to offer.

Mr. Fred A. Woodard, of North Carolina, having responded that he had no excuse, save that he had not thought his presence would be needed, Mr. John A. T. Hull, of Iowa, moved that he be excused.

Mr. Henry M. Baker, of New Hampshire, rising to a parliamentary inquiry, asked:

Can the House excuse a Member when it finds itself without a quorum?

The Speaker pro tempore⁴ said:

The House has a right to do anything in the matter of procuring the attendance of a quorum, and this is a step in that direction. The gentleman is excused.

3002. While less than a quorum may excuse a Member from attendance at the time, they may not grant a leave of absence.—On April 12, 1894,⁵ during a call of the House the Clerk was calling the names of absentees for the presentation of excuses. When the name of Mr. John A. T. Hull, of Iowa, was called Mr. John H. Gear, of Iowa, moved that he be excused for three days.

Mr. T. C. Catchings, of Mississippi, made the point that the failure of a quorum being disclosed, it was not in order to move to excuse a Member for more than one day, as provided in clause 2, Rule XV,⁶ and that the excuse contemplated in the rule was an excuse for absence and not a leave of absence.

The Speaker pro tempore⁷ sustained the point of order, and held that less than a quorum was not empowered to grant the leave of absence implied in the motion of Mr. Gear.

¹ Second session Fifty-second Congress, Journal, p. 77; Record, p. 1259.

² Alexander M. Dockery, of Missouri, Speaker pro tempore.

³ Second session Fifty-fourth Congress, Record, p. 606.

⁴ Sereno E. Payne, of New York, Speaker pro tempore.

⁵ Second session Fifty-third Congress, Journal, pp. 326, 327.

⁶ See sec. 2982.

⁷ James D. Richardson, of Tennessee, Speaker pro tempore.

3003. A resolution revoking leaves of absence, being a proceeding to compel the attendance of absent Members, does not require a quorum for its adoption.—On February 18, 1884,¹ the House having under consideration a bill granting pensions to certain soldiers of the Mexican war, a quorum having failed, but the House having refused to adjourn,

Mr. Albert S. Willis, of Kentucky, submitted the following resolution, which was read, considered, and agreed to (the yeas being 59 and the nays 22):

Resolved, That the leaves of absence heretofore granted Members of this House for the present legislative day be, and they are hereby, revoked, and the Sergeant-at-Arms is hereby instructed to notify them of this action of the House, and to request their immediate attendance.

Mr. Thomas B. Reed, of Maine, made the point of order that a quorum was required on the adoption of the resolution.

The Speaker² overruled the point of order on the ground that it was a proceeding to secure the attendance of absent Members, on which a quorum was not required.³

3004. On September 10, 1890,¹ Mr. N. P. Haugen, of Wisconsin, offered this resolution:

Resolved, That all leaves of absence heretofore granted, except on account of sickness, are hereby revoked, and the Sergeant-at-Arms is instructed to notify the absent Members by telegraph of the passage of this resolution.

The question being on agreeing to the resolution,

Mr. Charles T. O'Ferrall, of Virginia, made the point of order that it was not competent for less than a quorum to revoke leaves of absence granted by a full House or by a quorum.

The Speaker pro tempore⁵ overruled the point of order for the following reasons:

It is not a new question. It has been presented in prior Congresses, and one particular occasion in the Forty-ninth Congress suggests itself to the present occupant of the chair. The proposition under discussion was the allowance of the French spoliation claims. A resolution similar to this was offered pending a call of the House and in the absence of a quorum, and Mr. Speaker Carlisle then decided, and several precedents were cited in support of the decision, that a resolution of this character is an incident to a call of the House.

Of course it is agreed on all hands that during the absence of a quorum no motion is in order except a motion to adjourn, a motion for a call of the House, or some motion which is incident to a call. Any resolution, the object of which is to secure a quorum that the business of the House may proceed in a parliamentary way, has been uniformly held to be in order; and that is precisely the character of the resolution offered by the gentleman from Wisconsin.

Mr. O'Ferrall appealed from the decision of the Chair,

The question being on the appeal, and being put,

“Shall the decision of the Chair stand as the judgment of the House?” It was decided in the affirmative, yeas 104, nays 16.

¹ First session Forty-eighth Congress, Journal, p. 621.

² John G. Carlisle, of Kentucky, Speaker.

³ Speaker pro tempore John H. Rogers, of Arkansas, held the same way in 1888. (First session Fifth Congress, Journal, p. 1571; Record, p. 2859.)

⁴ First session Fifty-first Congress, Journal, p. 1031; Record, p. 9949.

⁵ Lewis E. Payson, of Illinois, Speaker pro tempore.

3005. A resolution revoking leaves of absence and directing the Sergeant-at-Arms to telegraph for absent Members is in order pending a call of the House, although a quorum may have been disclosed.—On March 20, 1894,¹ during a call of the House, the Speaker announced the presence of 242 Members, more than a quorum. Then, before the proceedings under the call had been dispensed with, Mr. Josiah Patterson, of Tennessee, submitted the following resolution:

Resolved, That all leaves of absence, except for the sickness of the Member or in his family, be revoked, and that the Sergeant-at-Arms be directed to telegraph all Members absent without such leave and request them to return to Washington at once and attend the sessions of the House, in order that the public business may be transacted.

Mr. Thomas B. Reed, of Maine, submitted the point of order that a quorum having been disclosed, the resolution submitted by Mr. Patterson was not in order.

The Speaker² overruled the point of order and held that any resolution the object of which was to secure the attendance of absent Members was in order, pending proceedings under a call of the House.

3006. A resolution revoking leaves of absence, directing absentees to attend, and dispensing with proceedings under an existing call, was held to have precedence of a simple motion to dispense with the call.—On April 12, 1894,³ during proceedings under a call of the House, and after a yea-and-nay vote had shown a quorum present, Mr. Thomas C. Catchings, of Mississippi, submitted a resolution providing that leaves of absence be revoked, that the Sergeant-at-Arms be directed to notify absent Members to attend, and that proceedings under the call be dispensed with.

Mr. Catchings, having called for the previous question on the resolution submitted by him, Mr. Thomas B. Reed, of Maine, moved to dispense with further proceedings under the call.

Mr. Joseph H. Outhwaite, of Ohio, made the point of order that the motion of Mr. Reed was not now in order.

The Speaker pro tempore⁴ sustained the point of order, holding that the resolution submitted by Mr. Catchings, having for its object the securing of a quorum, took precedence over a motion to dispense with the proceedings under the call; also that the said resolution itself provided for dispensing with further proceedings under the call.

3007. On a motion for a call of the House a motion to excuse a Member from voting was held not in order, although the rule at that time permitted the motion generally.—On September 25, 1850,⁵ the army appropriation bill being under consideration, a call of the House was moved by Mr. Jacob Thompson, of Mississippi.

Mr. George W. Jones, of Tennessee, moved that he be excused from voting thereon.

¹ Second session Fifty-third Congress, Journal, pp. 256–258; Record, p. 3156.

² Charles F. Crisp, of Georgia, Speaker.

³ Second session Fifty-third Congress, Journal, pp. 330, 331; Record, pp. 3705, 3715.

⁴ Benton McMillin, of Tennessee, Speaker pro tempore.

⁵ First session Thirty-first Congress, Journal, p. 1538; Globe, p. 1970.

The Speaker¹ decided that the rule which authorized a Member to ask to be excused from voting did not extend the privilege to motions for a call of the House, and consequently that the motion was not in order.²

3008. During a call of the House a resolution construing the rule relating to the call or making a new rule is not in order.—On February 25, 1885,³ during consideration of the river and harbor bill, a quorum having failed, a call of the House began.

Mr. John D. Long, of Massachusetts, rose to a question of personal privilege, and stated that he had been refused admission to the floor of the House by the doorkeeper, in violation of the rules of the House and of the privileges of its Members.⁴

Pending this, Mr. George E. Adams, of Illinois, submitted the following resolution:

Resolved, That it is the sense of the House that the rule requiring the doors to be closed upon a call of the House should not be so construed as to prevent Members from voluntarily returning to the Chamber, provided they are not under arrest by the Sergeant-at-Arms.

Mr. Albert S. Willis, of Kentucky, made the point of order that the resolution was not in order.

The Speaker⁵ sustained the point of order, and the resolution was not received.

Mr. Adams thereupon modified the resolution so as to read as follows:

Resolved, That hereafter the order of the House that the doors be closed and absent Members be sent for shall not be so construed as to prevent Members not in arrest from voluntarily entering the Hall of the House.

The Speaker held the resolution to be not in order for consideration, except by unanimous consent, for the reason that it changed, or had the effect of changing, one of the standing rules of the House.

3009. Less than a quorum, engaged in a call of the House to compel attendance of absentees, may not order the record of any of the procedure to be omitted from the Journal.—On February 21, 1893,⁶ during a call of the House, Mr. William H. Crain, of Texas, submitted the following resolution:

Resolved, That the motion to excuse Mr. Allen, of Mississippi, and all subsequent proceedings thereunder, and the remarks of the gentleman from Mississippi upon the excuse offered by the gentleman from Michigan [Mr. Stephenson], be expunged from the Journal and from the Record.

Mr. Jason B. Brown, of Indiana, made the point of order that the resolution was not in order.

The Speaker pro tempore⁷ sustained the point of order, saying:

Against this motion of the gentleman from Texas, the gentleman from Indiana submitted the point of order that it is not competent for the House, less than a quorum being present, to expunge from the

¹ Howell Cobb, of Georgia, Speaker.

² It was the old rule of the House that a Member might be excused from voting on motion made and decided without debate. This provision was abolished in 1890 as encouraging obstruction.

³ Second session Forty-eighth Congress, Journal, p. 675; Record, pp. 2165, 2166.

⁴ See section 2982 of this chapter.

⁵ John G. Carlisle, of Kentucky, Speaker.

⁶ Second session Fifty-second Congress, Journal, p. 107; Record, p. 1994.

⁷ Joseph W. Bailey, of Texas, Speaker pro tempore.

Record or Journal of the House any of its proceedings. This seems to involve more than the simple power of the House over its Record. The resolution of the gentleman goes further and proposes to exclude matter from the Journal. That Journal is kept in accordance with a constitutional requirement and the Chair is of the opinion that less than a constitutional quorum of the House has no power whatever to expunge anything from it. Therefore the Chair decides that the point of order made by the gentleman from Indiana is well taken.

3010. The yeas and nays may be ordered during a call of the House. An appeal from a decision of the Chair is in order during a call of the House.

On May 23, 1879,¹ during proceedings under a call of the House, the yeas and nays were demanded on a motion to adjourn.

Mr. Casey Young, of Tennessee, made the point of order that it was not in order to move for a call of the yeas and nays pending proceedings under a call.

The Speaker pro tempore² overruled the point of order, saying that the Constitution provided that the yeas and nays should be taken upon any question on the demand of one-fifth of the Members present.

Mr. Young, having asked if he might appeal from the ruling of the Chair, the Speaker pro tempore held: "It is in order for the gentleman to appeal."

The appeal having been taken, it was laid on the table by a vote of 92 yeas, 21 noes.

3011. A quorum not being present, a resolution directing the enforcement of the statute relating to deductions from the pay of Members is not in order as a measure to compel the attendance of absentees.

Instance wherein deductions were made from the salaries of Members because of absence. (Footnote.)

The House once established a fine for absence. (Footnote.)

On September 9, 1890,³ a quorum not being present, Mr. N. P. Haugen, of Wisconsin, submitted a resolution that the Sergeant-at-Arms take into custody and bring to the bar of the House such of its Members as were absent without leave of the House.

Mr. James Buchanan, of New Jersey, moved to amend the resolution by adding thereto the following:

That the Sergeant-at-Arms be, and he is hereby, directed to enforce the provisions of section 40 of the Revised Statutes⁴ of the United States.

Mr. C. R. Buckalew, of Pennsylvania, made the point of order that the said amendment was not in order, on the ground that while the resolution was, of course,

¹First session Forty-sixth Congress, Record, p. 1577.

²William M. Springer, of Illinois, Speaker pro tempore.

³First session Fifty-first Congress, Journal, p. 1025; Record, p. 9922.

⁴Section 40, Revised Statutes, provides for deductions from the salaries of Members in certain cases of absence. In the Fifty-third Congress there was an extended discussion and examination by the Judiciary Committee as to whether it was still in force (see Congressional Record, second session Fifty-third Congress, pages 5042–5046), and Chairman Richardson, in Committee of the Whole, on May 21, 1894, assumed that it was still in force in a ruling made at that time (Congressional Record, second session Fifty-third Congress, pages 5049–5051). In fact, portions of the salaries of Members were withheld during the Fifty-third Congress, and a paragraph making an appropriation to pay these amounts was stricken from an appropriation bill in the Fifty-fourth Congress (Congressional Record, second session Fifty-fourth Congress, pages 2049–2056).

in order to obtain the attendance of the absent Members, the amendment was to be an order of the House on the Sergeant-at-Arms, and would require a quorum of the Members to pass it.¹

Mr. Richard P. Bland, of Missouri, made the further point of order that the House was proceeding under the rules for a call of the House. That it was, in the present condition, without a quorum, and no other business could be transacted until that was disposed of.

The Speaker pro tempore² sustained the said point of order made by Mr. Buckalew, on the following grounds:

By the uniform course of decision as to proceedings when less than a quorum is present, nothing is in order except a motion to adjourn, or some motion that is incident to the necessary proceedings under a call of the House; and the amendment proposed by the gentleman from New Jersey, Mr. Buchanan, is an affirmative direction, which would require, if in order at all, the action of a majority of the House when transacting its ordinary business. The Chair sustains the point of order.

3012. After the roll has been called for excuses and the House has ordered the arrest of those who are unexcused, a motion to excuse an absentee is in order when he is brought to the bar.

As to the propriety of calling the roll a second time during a call of the House to ascertain who have absented themselves since the first call.

On Friday evening, March 13, 1896,³ during a call of the House,⁴ and after the adoption of a resolution directing the Sergeant-at-Arms to arrest and take into custody absent Members, Mr. Joseph W. Bailey, of Texas, moved that Mr. Joseph G. Cannon, of Illinois, be excused from attendance.

The Speaker pro tempore⁵ said:

The Chair will state to the gentleman from Texas that in the opinion of the Chair the motion is not in order, for this reason: Under the rule the Clerk proceeded to call the names of absentees, when excuses were in order. Subsequently to that the House adopted a resolution to send for absent Members. When any absent Member is brought into the House, it will be competent then for the House to excuse him. Otherwise, while the House is under this order to bring in absent Members, the Chair thinks that no motion to excuse a Member is in order.

Mr. Charles Curtis, of Kansas, asked whether or not it would be in order to have another call of the House to ascertain who had left the House since the former call.

The Speaker pro tempore said:

The Chair thinks it is not in order to have another call upon a call. The officers of the House are engaged in executing the former order of the House.

3013. Those present on a call of the House may prescribe a fine as the condition on which an arrested Member may be discharged.—On Feb-

¹On December 18, 1882 (second session Forty-seventh Congress, Record, pages 408, 409), the House by resolution, a quorum being present, provided that any Member absent without leave or valid excuse from December 22 to January 3 should be fined \$50 for each day of absence, the same to be deducted from his pay.

²Lewis E. Payson, of Illinois, Speaker pro tempore.

³First session Fifty-fourth Congress, Record, p. 2805.

⁴This being a Friday evening, section 4 of Rule XV did not apply. See section 3041 of this chapter.

⁵Serenio E. Payne, of New York, Speaker pro tempore.

ruary 24, 1881,¹ the Speaker pro tempore² held that on a call of the House the House might excuse a Member on the payment of a fine, basing his decision on the line of the rule:

And the House shall determine upon what condition they shall be discharged.

He further held that the House authorized to do this was the same House which was authorized to compel the attendance of Members, i. e., a House of 15 Members.

The House in this case declined to impose the fine.

3014. On February 24, 1881,³ during a call of the House, a motion was made that Mr. Leopold Morse, of Massachusetts, who was under arrest, be discharged upon the payment of a fine of 5 cents.

Mr. John T. Harris, of Virginia, made the point of order that the House had no authority to impose a fine under such circumstances.

After debate as to the effect of the clauses of Constitution and rules relating to the subject, the Speaker pro tempore² held:

The question raised by the point of order of the gentleman from Virginia is whether the House can excuse a Member on the condition of paying a fine. The Chair has no doubt of the power of the House to do it. The last clause of Rule XV reads:

“And the House shall determine upon what condition they shall be discharged.”

The motion of the gentleman from New York is that the gentleman from Massachusetts be discharged on condition that he pay 5 cents. Now, the argument of the gentleman from Massachusetts is it took the House to do this—that is, a quorum of the whole House, a majority of the whole House. If that were true, the last vote discloses more than a quorum were present. Therefore the House as it stands is thoroughly able to do what the House can do on any other subject. But the Chair believes the House mentioned in this rule is that House which is authorized to compel the attendance of Members, 15 in number. The Chair thinks it would have been an exceptionally poor rule which would have authorized 15 Members to excuse a Member absent without leave of the House and not allow that same number to impose a condition. The House spoken of there is the House authorized to compel the attendance of absentees, and that House may be composed only of 15 Members. But that question can not arise here, because there is a quorum of a full House. The point of order of the gentleman from Virginia is therefore overruled.

3015. Under the old rule for a call of the House an order of arrest for absent Members may be made after a single calling of the roll.—On April 26, 1890,⁴ during a call of the House, Mr. Benjamin Butterworth, of Ohio, submitted the following resolution; which was read:

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. Charles F. Crisp, of Georgia, made the point of order that the roll must be called a second time before the adoption and execution of the foregoing order.

The Speaker pro tempore⁵ overruled the point of order on the ground that the rules did not provide for a second call of the roll, but that upon a call being ordered the doors were closed, the names of the Members called and the absentees noted, and

¹ Third session Forty-sixth Congress, Record, p. 2048.

² Eppa Hunton, of Virginia, Speaker pro tempore.

³ Third session Forty-sixth Congress, Record, pp. 2046–2048.

⁴ First session Fifty-first Congress, Journal, p. 527; Record, p. 3903.

⁵ Lewis E. Payson, of Illinois, Speaker pro tempore.

that then “those for whom no sufficient excuse is made” may be arrested and their attendance secured and retained.

3016. On August 9, 1890,¹ during a call of the House, Mr. Joseph Wheeler, of Alabama, made the point of order that under the provisions of Rule XV the roll should be called the second time.

The Speaker² overruled the point of order, but stated that without objection the list of absentees would be again called, and there being no objection it was so called.³

3017. On a call of the House the Sergeant-at-Arms is required to execute an order of arrest wherever the Members referred to may be found.

Instance wherein the Sergeant-at-Arms reported at the bar of the House his proceedings under a continuing order of arrest.

On February 21, 1894,⁴ the Sergeant-at-Arms appeared at the bar of the House and submitted the following report:

As a supplementary report of my further proceedings under the House warrant of February 19, 1894, directing the Sergeant-at-Arms to arrest absentees, I report all of them here or on their way here, except those sick or excused by the House, and seven others who are sent for by duly authorized deputies.

The Sergeant-at-Arms submitted the question whether he was required by said writ to make arrest of Members on the floor of the House.

The Speaker⁵ stated that, the Sergeant-at-Arms was required to execute the order of the House wherever Members referred to in the order might be found.

3018. A proposition to arrest Members who absent themselves after answering on a call of the House is in order during continuance of the call.

Form of resolution for directing the Sergeant-at-Arms to arrest absent Members. (Footnote.)

On February 21, 1893,⁶ during a call of the House, it having been ordered that the roll be called in order to ascertain which of the Members were present and which were absent,

Mr. George D. Wise, of Virginia, submitted the following:

Ordered, That the Sergeant-at-Arms of the House be directed to take into custody and bring to the bar of the House such Members as have absented themselves since the first call of the roll.

Mr. Thomas C. McRae, of Arkansas, made the point of order that the said resolution was not in order.

After debate, the Speaker⁵ overruled the point of order.⁷

¹ First session Fifty-first Congress, Journal, p. 935; Record, p. 8371.

² Thomas B. Reed, of Maine, Speaker.

³ Under the call provided in section 4 of Rule XV (see sec. 3041 of this chapter) the roll is called twice.

⁴ Second session Fifty-third Congress, Journal, p. 185.

⁵ Charles F. Crisp, of Georgia, Speaker.

⁶ Second session Fifty-second Congress, Journal, p. 106; Record, p. 1969.

⁷ The ordinary form of motion for ordering the arrest of absent Members is as follows: “*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.”

3019. A Member who appears and answers during a call of the House is not subject to arrest for absence.—On February 20, 1894,¹ during proceedings over a continuing order of arrest which had been adopted on the preceding day, Mr. Philip S. Post, of Illinois, stated that after the call of the House on yesterday, and pending proceedings under the call, he had voted and his vote was recorded on a motion to adjourn. He submitted the question of order whether or not his appearance during the call being thus disclosed he was subject to arrest under the order directed to the Sergeant-at-Arms.

The Speaker² held as follows:

The rule is that on a call of the House Members who have failed to answer may be sent for; but the rule also provides that any gentleman coming in voluntarily pending the call may have his name entered as present. That is the privilege of a Member, and the Chair thinks that even though a Member had failed to answer on the call of the House, if he came in later and even failed to report his name to the Clerk, but it appeared by a subsequent roll call, pending the proceedings under the call, that he was present and answered to his name, it would hardly be proper to send for him as an absentee.

3020. Leave for a committee to sit during sessions of the House does not release its members from liability to arrest during a call of the House.—On May 20, 1882,³ Mr. Speaker Keifer held that the fact of a committee having obtained leave of the House to sit during the sessions of the House did not release its members from the liability to be brought into the House on the call of the House. This order of attendance might deal with the Members individually, but not with the committee.

3021. A Member complaining that he had been wrongfully arrested during a call of the House, the House ordered the Sergeant-at-Arms to investigate and amend the return of his writ.—On February 23, 1894,⁴ Mr. Henry U. Johnson, of Indiana, complained to the House that he had been arrested by the Sergeant-at-Arms as an absent Member when in fact he had been present. The House thereupon ordered the Sergeant-at-Arms to investigate, and in case it should be found that Mr. Johnson had been wrongfully arrested to amend the return on his writ.

3022. A Member having escaped from arrest during a call of the House, it was held that he might not be brought back on the same warrant.—On June 6, 1860,⁵ during a call of the House, a Member who had been arrested and brought to the House during a call walked out. It was proposed to bring him back, when the point of order was made that he could not be brought back on the same warrant. Speaker pro tempore Schuyler Colfax, of Indiana, sustained the point. There was little debate.

3023. A Member under arrest for absence may not, when called on for an excuse, question the authority of the House.—On June 6, 1860,⁶ during a call of the House, the Sergeant-at-Arms appeared at the bar, having in his custody

¹ Second session Fifty-second Congress, Journal, p. 180; Record, pp. 2300, 2325.

² Charles F. Crisp of Georgia, Speaker.

³ First session Forty-seventh Congress, Record, p. 4141.

⁴ Second session Fifty-third Congress, Journal, p. 195.

⁵ First session Thirty-sixth Congress, Globe, p. 2710.

⁶ First session Thirty-sixth Congress, Journal, p. 1023; Globe, p. 2701.

Mr. William Howard, of Ohio. Mr. Howard having been arraigned, and, in response to the inquiry of the Speaker as to his excuse for absenting himself without the leave of the House, having proceeded to question the authority under which he was arrested and arraigned,

Mr. William A. Howard, of Michigan, raised the point of order that it was only in order at this time for the Member to submit an excuse for his absence.

The Speaker pro tempore sustained the point of order.

On appeal this decision was sustained.

3024. During a call, but after the appearance of a quorum, penalties were once imposed which contemplated the future appearance of absent Members at the bar.—On April 6, 1842,² during proceedings under a call of the House, and after motions to dispense with further proceedings under the call had been decided in the negative, Mr. Landaff W. Andrews, of Kentucky, moved the following resolution:

Resolved, That all such Members of the House as have not appeared in pursuance of the call of the House and given satisfactory excuse shall be fined the amount of the fees of the Sergeant-at-Arms, subject to be released from the payment of the same on appearing hereafter and making such excuse as shall be deemed satisfactory to the House.³

This resolution was adopted,⁴ the previous question having been demanded and put. Further proceedings under the call were then dispensed with and the doors were opened.

3025. Under proceedings of a call of the House, and sometimes by less than a quorum, the House has made an order of arrest which continued beyond that day's session.

Instance wherein Members in custody on a call of the House were discharged on payment of fees.

On July 12, 1848,⁵ during proceedings under a call of the House, Mr. William Sawyer, of Ohio, moved that the Sergeant-at-Arms require all Members now absent, except such as have been excused, to appear at the meeting of the House to-morrow morning to give excuses for their absence at this time.

This motion was agreed to, 69 yeas to 48 nays, a total of 117—a quorum, the entire membership being 227.

On the succeeding day the Speaker announced that, pursuant to an order of the House on the previous day, the Sergeant-at-Arms had arrested and was now present with the absent Members.

A motion to dispense with further proceedings under the call having been laid on the table by a vote of 70 yeas to 57 nays, Mr. Henry W. Hilliard, of Alabama, moved that all the absent Members who are now in custody of the Sergeant-at-Arms

¹ Schuyler Colfax, of Indiana, Speaker.

² Second session Twenty-seventh Congress, Journal, p. 672.

³ At this time Rule 64 provided that "the fees of the Sergeant-at-Arms shall be, for every arrest, the sum of \$2." This rule had been for some time a dead letter when the rules were revised in 1880, and was then dropped. (See Congressional Record, second session Forty-sixth Congress, p. 199.)

⁴ The Congressional Globe (second session Twenty-seventh Congress, p. 393) shows that the resolution was adopted by a vote of 80 to 53, a total of 133, the quorum being 121.

⁵ First session Thirtieth Congress, journal, pp. 1034, 1035; Globe, p. 926.

be admitted to their seats on payment of fees:¹ *Provided, however,* That any of such Members who desired to make excuses might be heard.

This motion was decided in the affirmative, and several gentlemen were excused.²

3026. On April 28, 1892,³ during a call of the House, Mr. James H. Blount, of Georgia, submitted the following resolution:

Resolved, That except as to the revocation of leaves of absence and the arrest by the Sergeant-at-Arms of absent Members of the House, as heretofore ordered, all further proceedings under the call of the House be, and the same are hereby, dispensed with.

Mr. W. C. P. Breckinridge, of Kentucky, submitted the question of order: Whether the House has, under its rules, power to dispense in part with proceedings taken in part, and whether the resolution just offered was not out of order.

The Speaker⁴ replied:

It seems to the Chair that it must be competent for the House in the present situation to continue the order of arrest, notwithstanding an adjournment. A recess can not be taken in the absence of a quorum, and a motion for a recess is not in order pending a call of the House. If an adjournment dispenses necessarily (notwithstanding the desire of the House to the contrary) with all proceedings under the call, including the order for the arrest of absent Members, then if the House wanted to send for a Member, say in Texas, it would have to stay in session until the Sergeant-at-Arms could go there and return. The House could not adjourn without causing the proceeding to fall and could not take a recess in the absence of a quorum. So that it seems to the Chair it must be in the power of a minority of the House, when a call has been entered upon, to adopt a resolution to continue the order of arrest and then to adjourn, the Constitution contemplating that less than a quorum may adjourn from day to day and may also enforce the attendance of absent Members. It seems, therefore, to the Chair that this resolution is in order.

The resolution was then agreed to.

On April 29 the Sergeant-at-Arms appeared at the bar of the House and announced that he had, pursuant to the order of the House, notified certain Members to appear at the bar of the House on this day.

Mr. James W. Owens, of Ohio, submitted the point of order that the adjournment on yesterday terminated all proceedings under the call of the House, and that the resolution purporting to continue the proceedings in force after adjournment was void and of no effect.

The Speaker overruled the point of order, stating that the question had, after full consideration, been decided on yesterday and the decision acquiesced in by the House.

Mr. W. W. Dickerson, of Kentucky, moved that Members under arrest be discharged and that all further proceedings under the call be dispensed with.

¹ Rule 69 at this time allowed the Sergeant-at-Arms \$2 as a fee for each arrest. If Members did not pay it he received it out of the contingent fund.

² Proceedings of this nature were not new at this time. In the second session of the Twenty-seventh Congress (Journal, p. 672) a resolution was passed to fine absent Members. In the Twenty-ninth Congress (Journal, first session Twenty-ninth Congress, p. 1045) during a call of the House a resolution was offered that absent Members be required to present themselves next morning and make excuses. Mr. Speaker Davis ruled such a resolution not in order when a quorum was not present, but those present, on appeal, overruled the Speaker. The next day, when a quorum was present, the vote overruling the Speaker was reconsidered and the Member making the appeal, Mr. Ashmun, withdrew it.

³ First session Fifty-second Congress, Journal, pp. 166, 167; Record, pp. 3761, 3765, 3766.

⁴ Charles F. Crisp, of Georgia, Speaker.

The Speaker expressed the opinion that each of the Members who appeared pursuant to the order of the House should be permitted to state the reasons why he was absent. The motion of Mr. Dickerson was accordingly not then submitted.

Mr. Benton McMillin, of Tennessee, submitted the question of order: Whether the Members who were brought in by the Sergeant-at-Arms to-day are to be held under arrest in like manner as they would have been if they had been brought in yesterday evening.

The Speaker held that such was the effect of the proceedings which had been taken.

3027. On March 29, 1894,¹ during a call of the House, Mr. Josiah Patterson of Tennessee, moved the adoption of the following order:

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 of the House; this order shall continue in force beyond the adjournment of the session of today and until the further order of the House; the Sergeant-at-Arms is directed to employ a sufficient number of deputies to execute this order and to take into custody such absentees wherever they may be found, and all leaves of absence, except for sickness, are hereby revoked.

Mr. Patterson demanded the previous question thereon, and a vote being taken, the Speaker announced the result to be yeas 104, nays 3.

Mr. Thomas B. Reed, of Maine, made the point that no quorum had voted and that a quorum was required on the adoption of the proposed order.

The Speaker² overruled the point of order, holding as follows:

The question is not new. Under the Constitution and the rules of the House 15 Members, with the Speaker, if there be one, may compel the attendance of absent Members; and in the absence of a quorum nothing can be done except to adjourn or to adopt measures relating to obtaining a quorum. The proposition of the gentleman from Maine is that less than a quorum can not continue from day to day an order for the arrest of absent Members. The practical effect of that suggestion, if it were adopted, would be that the Members who might be here, constituting less than a quorum—15 or 18 or 20, perhaps—would be forced to stay in session (because they could not take a recess), if they desired to obtain the attendance of absentees, until such absentees were brought in; and if any of such absentees lived, for instance, in California or Texas, the Members engaged here in the endeavor to obtain a quorum would be obliged to remain in session continuously four, five, six, seven, or eight days and nights, until the Sergeant-at-Arms should return with the Members who had been absent.

A recess can not be taken under such circumstances; and if by reason of an adjournment the proceeding to secure the attendance of absentees falls, then the House would be utterly powerless to secure the presence of a quorum. The Chair submits that it has been repeatedly held in the history of the House that no such absurd contention as that could be right or ought to be enforced. On the contrary, it has been uniformly held that the House, in the absence of a quorum, may do anything looking to obtaining a quorum. The present proposition is nothing more than a revocation of leaves of absence and an effort to compel the attendance of absent Members by ordering the Sergeant-at-Arms to arrest them, it being further provided that the proceeding shall not fall by reason of an adjournment. It seems to the Chair that this resolution suggests the only practical method of obtaining the presence of a quorum.³

On April 7, the Speaker laid before the House the report of the Sergeant-at-Arms.

Mr. William M. Springer, of Illinois, moved that the Sergeant-at-Arms be discharged from further proceedings under the warrant of the 29th ultimo.

¹ Second session Fifty-third Congress, Journal, pp. 284, 286, 287, 318, 319; Record, p. 3333.

² Charles F. Crisp, of Georgia, Speaker.

³ See also Journal, second session Fifty-third Congress, pp. 143, 149, 323.

The question being put on agreeing to the motion, no quorum appeared.

Mr. C. B. Kilgore, of Texas, made the point that a quorum was not required to discharge the Sergeant-at-Arms from taking further action under the said warrant.

The Speaker held that, inasmuch as the House was not now proceeding under a call of the House, a quorum was required to dispose of the motion.

3028. On January 8, 1897,¹ at a Friday evening session,² during a call of the House, Mr. Henry F. Thomas, of Michigan, offered this resolution:

Resolved, That the order directing the Sergeant-at-Arms to take into custody and to bring to the bar absent Members be made returnable on Tuesday morning next after the reading of the Journal.

Mr. John J. Gardner, of New Jersey, made the point of order that this resolution was not in order.

The Speaker pro tempore³ ruled:

The Chair thinks the motion of the gentleman from Michigan is in order. This is a proceeding to compel the attendance of Members at this session of the House. It is the prerogative of the House when the Members are brought in either to excuse or punish them as the House may see fit, and this resolution provides that the return of the warrants for the arrest of absent Members shall be made at some future day to the House, namely, next Tuesday.

The Chair think, under the rule, that the House has the power to compel a quorum at these Friday night sessions, and has the power also to provide for the return of the warrant at such time as it shall determine at this session.

The question, therefore, is on the motion presented by the gentleman from Michigan.

The resolution was agreed to by those present.

On the next day, January 9, the question was raised whether or not, if many Members were under arrest, they could participate in the proceedings of the House. Mr. David B. Henderson, of Iowa, moved that the resolution be reconsidered. This was done. The House then, the question being on the resolution, decided it in the negative. Finally proceedings under the call were dispensed with.

3029. On February 19, 1894,⁴ during a call of the House, Mr. Richard P. Bland, of Missouri, offered a resolution that the Sergeant-at-Arms arrest absent Members, that the order should continue in force beyond the adjournment of that day and until the further order of the House, and that a sufficient number of deputies be appointed to execute the order.

A motion to adjourn having been made and decided in the negative, Mr. Charles Tracey, of New York, thereupon moved that when the House adjourn to-day it be to meet on Wednesday next.

Mr. Bland made the point of order that pending proceedings under a call of the House the motion of Mr. Tracey was not in order.

The Speaker pro tempore² sustained the point of order, holding that no motion, except to adjourn or with reference to the call, was in order during a call of the House.

Mr. Tracey moved to dispense with proceedings under the call.

Mr. Bland made the point of order that the latter motion was not in order pending the motion that the Sergeant-at-Arms take into custody absent Members.

¹ Second session Fifty-fourth Congress, Record, pp. 607, 612; Journal, p. 65.

² At such evening session section 4 of Rule XV was not operative. (See sec. 3041 of this chapter.)

³ Sereno E. Pane, of New York, Speaker pro tempore.

⁴ Second session Fifty-third Congress, Journal, pp. 177, 194; Record, pp. 2297, 2300, 2388.

The Speaker pro tempore¹ sustained the point of order, holding, as was held in the Forty-fourth Congress, that “a motion to dispense with proceedings under the call is not in order pending a motion that the Sergeant-at-Arms take into custody absent Members.”

The question recurring and being put on the motion of Mr. Bland for the previous question on his motion for an order directing the Sergeant-at-Arms to take into custody absent Members, and the vote being taken, the Speaker pro tempore¹ announced that the yeas were 122 and the nays were 3.

Mr. Thomas B. Reed, of Maine, made the point that no quorum had voted and that a quorum was required to decide said question.

The Speaker pro tempore¹ overruled the point, holding that upon all motions incidental to the call and while the House is operating under the call, according to the uniform practice of the House, a quorum is not required.

So the previous question was ordered. And the question being put, “Will the House adopt the order proposed by Mr. Bland?” there appeared, yeas 116, nays none.

Mr. Reed made the point that no quorum had voted, and that a quorum was necessary to decide the question.

After debate, the Speaker pro tempore¹ overruled the latter point, holding that the motion of Mr. Bland being a proceeding to compel the attendance of absent Members, and having been submitted pending a call of the House, a quorum was not required to decide the question.

So the motion of Mr. Bland was agreed to, and the order proposed by him was adopted.

On February 23, 1894, Mr. Bland moved to dispense with all further proceedings under the call of the House of the 19th instant, under which call Members had been arrested and were in custody, and on that motion demanded the previous question.

Mr. Reed made the point of order that the motion of Mr. Bland was not in order, for the reason that proceedings under the call had already been dispensed with.

The Speaker pro tempore² held that the proceeding before the House in relation to Members in custody was a proceeding under the call of the House of the 19th instant, and that the motion of Mr. Bland was therefore in order.

3030. A quorum appearing on a call, the House sometimes orders absent Members to be arraigned on the succeeding day.—On February 9, 1865,³ during proceedings incident to a call of the House, and a quorum having appeared on a motion to adjourn, which was decided in the negative, Mr. John M. Broomall, of Pennsylvania, offered the following resolution:

Resolved, That the Sergeant-at-Arms be directed to bring the Members now absent without leave before the bar of the House at 1 o'clock to-morrow, Friday, February 10, 1865, or as soon thereafter as possible; and that they then be required to show cause why they shall not be declared in contempt of the House and abide the order of the House.

A question having been raised as to this resolution, the Speaker⁴ referred to the precedent of 1842 as justifying it.

¹Alexander M. Dockery, of Missouri, Speaker pro tempore.

²James D. Richardson, of Tennessee, Speaker pro tempore.

³Second session, Thirty-eighth Congress, Journal, pp. 224, 238; Globe, pp. 710, 735, 736.

⁴Schuyler Colfax, of Indiana, Speaker.

The resolution was then agreed to.

On the next day the Members arrested were arraigned in the House and excused on the payment of fees.

3031. On January 22, 1867,¹ the House, a quorum having been ascertained on the last vote, ordered that the Sergeant-at-Arms be directed to bring all the absent Members before the bar of the House at 1 p. m. to-morrow. Accordingly, on January 23, the Sergeant-at-Arms appeared with the absentees, who were then arraigned and dealt with.

3032. Less than a quorum may not order the arraignment of absent Members at a future meeting of the House.—On July 7, 1846, less than a quorum being present, the following resolution was offered:

Resolved, That all Members now absent, except such as have been excused, be required at the meeting of the House on to-morrow morning, to give excuses for their absence at this time; and it shall be the duty of the Clerk to enter their names on the Journal for that purpose.

The Speaker² ruled the resolution out of order, but the Members present overruled him and agreed to the resolution.

On the next day, the House reconsidered the vote whereby the ruling of the Speaker was reversed, as well as the vote whereby the resolution was held to be in order, and then the resolution was withdrawn.³

3033. On July 8, 1846,⁴ Mr. George C. Dromgoole, of Virginia, moved to reconsider the vote, of the preceding day, whereby the House had agreed to the following:

Resolved, That all Members now absent, except such as have been excused, be required, at the meeting of the House to-morrow morning, or when they shall next attend, to give excuses for their absence at this time: and it shall be the duty of the Clerk to enter their names on the Journal for that purpose.

Mr. Milton Brown, of Tennessee, moved to rescind the said resolution.

The Speaker² stated that under the rule of the House declaring that a motion to reconsider should take precedence of all motions except a motion to adjourn, the motion to reconsider was first in order.

The question being put on the motion to reconsider, after the yeas and nays had been called through, and before the vote was announced, Mr. Garrett Davis, of Kentucky, raised the question of order that the said resolution proposed to be reconsidered, having been adopted by a minority, was a nullity, and therefore it was not in order to move that it be reconsidered.

The Speaker overruled the point of order.

3034. On February 19, 1869,¹ during a call of the House, Mr. Robert C. Schenck, of Ohio, moved that the Sergeant-at-Arms be directed to bring to the bar of the House at its meeting to-morrow such Members as are now absent without leave.

¹ Second session Thirty-Ninth Congress, Journal, pp. 237, 147; Globe, pp. 663, 686.

² John W. Davis, of Indiana, Speaker.

³ First session Twenty-ninth Congress, Journal, pp. 1045, 1051; Globe, p. 1070.

⁴ First session Twenty-ninth Congress, Journal, pp. 1048, 1049; Globe, pp. 1069, 1070.

⁵ Third session Fortieth Congress, Journal, p. 400; Globe, p. 1402.

The Speaker pro tempore¹ decided, in view of the precedents, that the motion was not in order in the absence of a quorum.

Mr. Schenck having appealed, the appeal was laid on the table.

3035. On July 7, 1838,² but the calendar day of Sunday, July 8, a quorum had failed, and there had been a call of the House. In the course of the proceedings incident to this call, the Sergeant-at-Arms handed in the following report:

The following-named Members of the House of Representatives were notified by me of the order of the House that their attendance was required; they refused to attend, and left the city on the morning railroad cars for the eastward, viz: (Here follows a list of sixteen names.)

RODERICK DORSEY,

Sergeant-at-Arms of the House of Representatives.

SUNDAY MORNING, *July 8, 1838.*

Then it was

Resolved, That the sixteen members reported by the Sergeant-at-Arms be called on, when they next appear in this Hall,³ to render a reason why they disobeyed the order of this House.

It was also—

Resolved, That all Members now absent, except such as have been excused, and the sixteen Members who have been reported by the Sergeant-at-Arms as having defied the execution of the order of the House, be required, upon the reassembling of Congress, to give excuses for their absence at this time; and it shall be the duty of the Clerk to enter their names on the Journal for that purpose; and the Speaker shall bring the same to the notice of the House.

Both the above resolutions were evidently adopted by less than a quorum. The second resolution was reconsidered and decided in the negative on the succeeding day.

3036. A motion directing the Speaker to issue his warrant for the arrest of absent Members being pending, a motion to dispense with further proceedings under the call was ruled out.

An appeal may not be entertained on a question of order on which an appeal has just been taken and decided.

On August 14, 1876,⁴ during proceedings to secure the attendance of a quorum, Mr. George F. Hoar, of Massachusetts, moved to dispense with all further proceedings under the call; which motion the Speaker pro tempore declined to submit to the House, holding it to be not in order, the motion of Mr. Morrison that the Speaker pro tempore issue his warrant to the Sergeant-at-Arms to take into custody and bring to the bar of the House all Members absent without leave being pending and the only motion in order at this time.

Mr. Hoar appealed from the decision of the Chair.

The Speaker pro tempore⁵ held that the House having just laid upon the table an appeal from the decision of the Chair upon the same question of order, the second appeal was not in order and could not be entertained.

¹ George S. Boutwell, of Massachusetts, Speaker pro tempore.

² Second session Twenty-fifth Congress, Journal, pp. 1300–1304.

³ It does not appear that any action was taken in this matter at the third session.

⁴ First session Forty-fourth Congress, Journal, p. 1494; Record, pp. 5650, 5651.

⁵ Milton Sayler, of Ohio, Speaker pro tempore.

3037. A motion to dispense with proceedings under the call, having been once entertained, was ruled not to be in order again pending a motion for the arrest of absent Members.

An appeal from a decision of the Chair may be entertained during proceedings to secure the attendance of a quorum.

During proceedings to secure a quorum the Chair ruled out of order a motion to reconsider the vote whereby an appeal had been laid on the table.

On July 31, 1876,¹ a message from President Grant was laid before the House, wherein he announced his approval of the sundry civil appropriation bill, but pointing out certain defects in the measure. This message having been referred to the Committee on Appropriations by vote of the House, a motion to reconsider that vote was made by Mr. Eugene Hale, of Maine. Over this motion a parliamentary struggle occurred, during which there was a call of the House and votes on several dilatory motions. On August 14, a quorum having failed to vote, after votes upon various dilatory motions, a motion to adjourn was defeated, yeas 44, nays 70, not voting 172.

The question then recurred on the motion of Mr. William R. Morrison, of Illinois, that the Speaker pro tempore issue his warrant to the Sergeant-at-Arms to take into custody and bring to the bar of the House all Members absent without leave.

Pending this motion,

Mr. George F. Hoar, of Massachusetts, moved that all further proceedings under the call be dispensed with.

The Speaker pro tempore² held that the only motion now in order was the motion that a warrant issue to the Sergeant-at-Arms to take into custody and bring to the bar of the House all Members absent without its leave. In making this decision the Chair said:

The Chair has entertained that motion and also the motion to adjourn. While the Chair recognizes the fact that all proceedings under the call can be dispensed with, yet the Chair does not understand the rule to apply to such an extent as to destroy the whole proceedings under the call. The Chair, therefore, having entertained that motion and also a motion to adjourn, he will now entertain a motion that warrants be issued to the Sergeant-at-Arms to arrest and bring to the bar of the House the absentees.

From this decision Mr. Hoar appealed, and considerable discussion arose about entertaining an appeal when less than a quorum were present. But the Speaker pro tempore declared that he could not decline to entertain the appeal.

The appeal was laid on the table by a vote of yeas 82, nays 19, not voting 185.

Mr. John K. Luttrell, of California, moved to reconsider the vote last taken, and also moved that the motion to reconsider be laid on the table.

Mr. William M. Springer, of Illinois, made the point of order that a motion to reconsider the vote by which an appeal from the decision of the Chair was laid on the table was not in order.

The Speaker pro tempore sustained the point of order, holding that the only motions in order were the motion to issue the Speaker's warrant to compel the attendance of absentees and the motion to adjourn.

¹ First session Forty-fourth Congress, Journal, p. 1492; Record, pp. 5647, 5649.

² Milton Saylor, of Ohio, Speaker pro tempore.

In this decision of the Chair the House acquiesced.

3038. A quorum is not required on a motion to dispense with further proceedings under a call of the House.—On September 10, 1890,¹ during a call of the House, a motion was made that the House adjourn. On this question there were 50 yeas and 92 nays. The Chair announced that there were 172 Members present, a quorum.

Then, a motion being made by Mr. Nils P. Haugen, of Wisconsin, that all further proceedings under the call be dispensed with, there were 122 yeas, 15 nays, and 188 not voting.

Mr. Charles T. O'Ferrall, of Virginia, made the point of order that no quorum was present.

The Speaker pro tempore² overruled the point of order on the ground that the former proceedings had disclosed the presence of 172 Members—more than a quorum—and that a motion to dispense with all further proceedings under a call did not require a quorum for its adoption.

3039. The motion to dispense with proceedings under a call is in order, although Members under arrest may not have had opportunity to make excuses.—On April 29, 1892,³ during proceedings under a call of the House, Mr. William W. Bowers, of California, presented his excuse for failure to attend part of the session of the previous day.

Mr. Richard P. Bland, of Missouri, moved that Mr. Bowers be excused, which motion was agreed to, 123 yeas to 53 nays. Then Mr. Charles J. Boatner, of Louisiana, submitted the following resolution:

Resolved, That all further proceedings against Members for nonattendance at the sessions of the House on yesterday are hereby dispensed with.

Mr. Bland made the point of order that each Member who is included in the warrant of the Sergeant-at-Arms and is under arrest has a right to give his excuse for his absence, and to make such explanation as he thinks proper, and that the resolution submitted by Mr. Boatner was therefore not in order.

The Speaker⁴ overruled the point of order and decided that the resolution was in order.

3040. A call of the House ordered under the old rule may be dispensed with on the appearance of a quorum, although actual proceedings may not have begun.—On July 10, 1890,⁵ there being no quorum present, Mr. James B. McCreary, of Kentucky, moved a call of the House. The question being taken by yeas and nays, there were yeas 115, nays 69, not voting 144.

As soon as the Speaker had announced the result, Mr. McCreary said that, as a quorum was present, he would move that all further proceedings under the call be dispensed with.

Mr. William D. Bynum, of Indiana, made the point of order that the House having determined upon a call of the House, the call could not be dispensed with except by a motion to reconsider.

¹First session Fifty-first Congress, Journal, p. 1028; Record, p. 9946.

²Julius C. Burrows, of Michigan, Speaker pro tempore.

³First session Fifty-second Congress, Journal, p. 167; Record, p. 3770.

⁴Charles F. Crisp, of Georgia, Speaker.

⁵First session Fifty-first Congress, Journal, p. 844; Record, p. 7111.

The Speaker¹ overruled the point of order.

3041. 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 the new rule for a call of the House.

Form of warrant issued under the new rule for a call of the House. (Footnote.)

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 arrested² 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 and 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; but this section of the rule shall not apply to the sessions of Friday night until further order of the House.

This rule was adopted on January 23, 1896.³ It had been proposed, in a modified form, by Mr. John Randolph Tucker, of Virginia, at the time of the revision of the rules in 1880,⁴ but had been withdrawn after debate.

¹Thomas B. Reed, of Maine, Speaker.

²The form of warrant issued by the Speaker under this rule is as follows:

—— Congress, —— session.

Congress of the United States.

IN THE HOUSE OF REPRESENTATIVES.

To —— ——, *Sergeant-at-Arms of the House of Representatives, or his deputies:*

Whereas clause 4, of rule 15, of the House of Representatives, provides as follows:

[Here follows the Rule.]

And whereas the conditions specified in the said rule have arisen, and the following-named Members of the House are absent, to wit:

[Here follow the names of Members.]

Now, therefore, I, ——, Speaker—— of the House of Representatives, by virtue of the power vested in me by the House, hereby command you to execute the said order of the House, by taking into custody and bringing to the bar of the House said above-named Members who are so absent; hereof fail not, and make due return in what manner you execute the same.

In testimony whereof I have hereunto set my hand and caused to be affixed the seal of the House of Representatives of the United States this the —— day of——, A. D. 190—.

[SEAL OF THE HOUSE OF REPRESENTATIVES.]

—— ——, *Speaker.*

Attest:

—— ——, *Clerk.*

³First session Fifty-fourth Congress, Record, pp. 923–938.

⁴Congressional Record, second session Forty-sixth Congress, pp. 575, 603.

In 1892 Mr. Thomas B. Reed, of Maine, brought the proposition again before the House and advocated it.¹ It was not adopted, however, until the Fifty-fourth Congress, when Mr. Reed again became Speaker. Under the old call of the House, provided for in section 2 of Rule XV,² the vote on the pending proposition could not be taken until the proceedings under the call had been dispensed with. Thus an opportunity was given for a quorum secured by the call to vanish before the vote could be taken. The new rule has been used often and has superseded the old form of call except in cases where the absence of a quorum is developed by other means than by a vote, or where a quorum fails on a motion for which a quorum is not required, and on Friday nights.

3042. The new rule for a call of the House applies only to cases where a quorum is required on the vote, and hence not to motions to adjourn.— On May 6, 1896,³ the Committee of the Whole House rose without a quorum and the Chairman reported the names of the absentees to the House. After the names of the absentees had been read, Mr. Nelson Dingley, of Maine, moved that the House adjourn.

The yeas and nays being ordered, there were 38 yeas, 58 nays, and 259 not voting.

The result of the vote having been announced, Mr. John A. Pickler, of South Dakota, moved a call of the House.

Mr. John F. Lacey, of Iowa, made the point that under section 4 of Rule XV the call would be ordered without further action of the House.

The Speaker⁴ said:

The Chair thinks this is not one of the cases covered by the rule, as a quorum is not needed to adjourn.

3043. Discussion of the authority of the Speaker to issue a warrant for the arrest of absent Members during a call of the House.

The Speaker asks consent to address the House, even on a question of order.

On May 29, 1906,⁵ Mr. Arthur P. Murphy, of Missouri, claiming the floor for a question of personal privilege, stated that on the preceding day he had been arrested by an Assistant Sergeant-at-Arms, of whom he said:

He presented to me this paper, a portion of which I want to read:

“Fifty-ninth Congress, first session, Congress of the United States.

“IN THE HOUSE OF REPRESENTATIVES.

“To HENRY CASSON,

“*Sergeant-at-Arms of the House of Representatives, or his deputies:*

“Whereas clause 4 of Rule XV of the House of Representatives provides as follows:”

Then it recites clause 4 of Rule XV.

“And whereas the conditions specified in the said rule have arisen and the following-named persons are absent, to wit, Arthur P. Murphy (and fifty-nine others who are named), now, therefore, I,

¹ Congressional Record, first session Fifty-second Congress, p. 767.

² See section 2982 of this chapter.

³ First session Fifty-fourth Congress, Record, p. 4915.

⁴ Thomas B. Reed, of Maine, Speaker.

⁵ First session Fifty-ninth Congress, Record, pp. 7625, 7626.

J. G. Cannon, Speaker of the House of Representatives, by virtue of the power vested in me by the House, hereby command you to execute the said order of the House by taking into custody and bringing to the bar of the House the said above-named Members who are so absent; hereof fail not, and make due return in what manner you execute the same.

"In testimony whereof I have hereunto set my hand and caused to be affixed the seal of the House of Representatives of the United States this 28th day of May, 1906.

"J. G. CANNON, *Speaker.*
A. MCDOWELL, *Clerk.*"

"Attest:

With the seal of the House of Representatives thereon.

I fail to find, Mr. Speaker, in my opinion, any authority whatever under law or under the rules of the House or under the Constitution for the issuance of such a paper, which purports to be a warrant. Section 5 of Article I of the Constitution of the United States provides:

"SEC. 5. Each House shall be the judge of the elections, returns, and qualifications of its own Members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent Members in such manner and under such penalties as each House may provide."

That provides the House may do that. I find that under Rule I of the House, clause 4, in relation to the duties of the Speaker:

"SEC. 4. He shall sign all acts, addresses, joint resolutions, writs, warrants, and subpoenas of, or issued by order of, the House, and decide all questions of order, subject to an appeal by any Member, on which appeal no Member shall speak more than once, unless by permission of the House."

I find in clause 3 of Rule III, in relation to the duties of the Clerk, as follows:

"Attest and affix the seal of the House to all writs, warrants, and subpoenas issued by order of the House, certify to the passage of all bills and joint resolutions."

I find in Rule IV, clause 1, that the duties of the Sergeant-at-Arms are as follows:

"1. It shall be the duty of the Sergeant-at-Arms to attend the House and the Committee of the Whole during their sittings, to maintain order under the direction of the Speaker or Chairman, and, pending the election of a Speaker or Speaker pro tempore, under the direction of the Clerk; execute the commands of the House, and all processes issued by authority thereof, directed to him by the Speaker."

Then I find under Rule XV, in clause 2, it provides:

"2. In the absence of a quorum, fifteen Members, including the Speaker, if there is one, 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 majority of those present, be sent for and arrested, wherever they may be found."

Then we find in clause 4 of Rule XV—and this warrant under which the Sergeant-at-Arms was acting especially states upon its face that it was under clause 4 of Rule XV—this:

"4. 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."

There is not a single provision in that rule that authorizes the Speaker of the House of Representatives to issue a warrant. There is no authority in that rule or in any other rule of this House that authorizes the Speaker of the House of Representatives to issue a warrant except upon the order of the House. Rule XV is on the subject of "Calls of the roll and House," and, under all of the rules of construction of law, all of these sections would be considered together. If you take clause 4 and construe it alone, it would be ambiguous, but in construing ambiguity, it is not in favor of arrest, but more in the opposite direction.

I looked over the Record this morning, and the Journal, and there is not a single entry directing, ordering, or authorizing the Speaker of the House of Representatives to issue a warrant, a rule, an order, or any other process to bring a single Member before the bar of this House. * * * Now, I want to call attention to the closing words of the warrant:

"Now, therefore, I, J. G. Cannon, Speaker of the House of Representatives, by virtue of the power vested in me by the House."

I do not understand what authority you would get unless it would be by a vote of the majority of the Members present.

The Speaker,¹ rising in his place, said:

The Chair desires to state, and can only do it by unanimous consent of the House, because there is nothing before the House— * * * for the Chair to rule upon. Is there objection to a very brief statement by the Chair? [After a pause.] The Chair hears none.

The Chair examined with some care, and caused to be examined with some care, the propriety of issuing the warrant referred to. Clause 4 of Rule XV is a rule that was adopted in the Fifty-fourth Congress; and in the absence of a quorum, shown upon a vote taken, the rule provides what the Sergeant-at-Arms shall do. The Chair is inclined to believe that, on such a fact arising, the Sergeant-at-Arms, without a warrant, would be legally authorized, upon the order of the Speaker verbally given, as the rule provides, to bring in absent Members. Such was the old practice of Parliament. The Chair is quite well aware that no act that he performs as Representative or Speaker should be performed or can be performed properly or legally except under the Constitution, under the law, or under the rules of the House which the House adopts, not only from necessity, but by express provision.

Clause 4 was adopted, the Chair stated, in the Fifty-fourth Congress. Prior to that the House had proceeded under clause 2 of the same Rule XV, which was a provision that has dwelt in the rules, perhaps, almost from the organization of the House, but that was a proceeding for the House to get a quorum in all cases, and not especially upon the passage of a bill, as is provided for in clause 4.

Now, the gentleman from Missouri has read the authority from Rule I for the Speaker issuing subpoenas, warrants, orders, etc. There is not now, and never has been any rule, so far as the Chair can find out, that authorizes in express terms the Speaker to issue a warrant, and the Chair has caused to be examined the practice of the House under clauses 1 and 2 of Rule XV prior to the Fifty-fourth Congress and has found that uniformly on a call of the House those present gave authority in form, as follows:

“Resolved, 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.”

That resolution is in substance the authority that is given by terms of the rule in cases arising under clause 4 of Rule XV, and the Chair, on inquiry, finds it was the invariable practice of substantially all the Speakers prior to the Fifty-fourth Congress, on the strength of the resolution and without further authority, to issue a warrant.

The Chair is still of opinion that under the practice in the House he is authorized to issue the warrant, although, as stated before, the Chair is inclined to be of the opinion that when the fact arises under clause 4 of Rule XV the Sergeant-at-Arms, on the verbal direction of the Speaker, as that rule provides, can bring in absent Members. If he can under the verbal direction, much more he can under the written direction.

Mr. Murphy called attention to section 4 of Rule XV, and pointed out that it did not provide that the Speaker should direct the Sergeant-at-Arms to arrest absent Members or that he should issue a warrant.

The Speaker replied:

No; nor has the resolution, so far as the Chair can find, usually adopted by the House under the old rule, provided that the Speaker should issue the warrant. That authority is inferred from Rule I and other rules; but especially is derived from the old practice of the House as well as the ancient usage of the courts and Parliament.²

Now, the Chair has no doubt but that under the rule and under the warrant the gentleman was legally arrested, and the question as to whether the Chair had the right to issue the warrant is a barren question, in the opinion of the Chair, because the gentleman was lawfully and legally arrested under the rules of the House without or with the warrant.

¹ Joseph G. Cannon, of Illinois, Speaker.

² May's Parliamentary Practice (Chap. III) states: "In earlier times it was not the custom to prepare a formal warrant for executing the orders of the House of Commons; but the sergeant arrested persons with the mace, without any written authority."

3044. Proceedings of arrest of Members and arraignment at the bar under section 4 of Rule XV for securing attendance of a quorum.—On May 28, 1906,¹ the House was considering the bill (S. 1243) providing for compulsory education in the District of Columbia, when, on the division on the passage of the bill it appeared that there was no quorum present.

Thereupon the Speaker² ordered a call of the House under section 4 of Rule XV.

During the call the Assistant Sergeant-at-Arms appeared and said:

Mr. Speaker, in accordance with the rules of the House and the warrant of the Speaker, I present at the bar of the House, under arrest, Mr. Buckman and Mr. Rucker.

The Speaker pro tempore³ said:

The gentlemen will be noted as present under the rule and discharged from arrest.

Thereupon the Speaker interrogated each gentleman as to whether or not he desired to vote, and each having stated that he did, their names were called and they voted.

The same procedure was called as to other gentlemen brought in under arrest.

3045. On a call of the House under the new rule the Sergeant-at-Arms is required to detain those Members who are present and bring in absentees.—On December 14, 1896,⁴ the question being taken on the engrossment and third reading of the bill (H. R. 1888) to amend an act relating to the sale of intoxicating liquors in the District of Columbia, there were, on a yea and nay vote, 130 yeas and 31 nays.

Mr. Rowland B. Mahany, of New York, made the point of no quorum.

Mr. Elijah A. Morse, of Massachusetts, moved a call of the House.

The Speaker⁵ said that the rule provided for such a contingency, and caused to be read section 4 of Rule XV. He then said:

Under the rule there will now be a call of the House, the Sergeant-at-Arms will proceed to bring in absent Members, and the yeas and nays on the pending question will be considered as ordered. The Clerk will therefore call the roll and the responses will show whether the Member is present or not, and will also show his vote upon the pending question. The Doorkeeper will close the doors.

During the roll call, as there seemed to be a misunderstanding, the Speaker said:

The Chair will state to the House that under this rule, when Members are called they are required to vote "yea" or "nay" upon the engrossment and third reading of the pending bill, unless they desire not to vote, in which case they will respond "present." Thus the roll call will answer the double purpose of taking a vote on the bill and of showing what Members are present. The Chair desires to add also that we are now under a call of the House, so that it is the duty of Members who are present to remain until the call and the vote is completed, and the Sergeant-at-Arms is required to keep Members here who are present, and also to bring in the absentees.

3046. On January 25, 1897,⁶ during the consideration of a bill (H. R. 9099) for the regulation of cemeteries of the District of Columbia, there appeared, on a division, aye 1, noes 19.

¹First session Fifty-ninth Congress, Record, p. 7585.

²Joseph G. Cannon, of Illinois, Speaker.

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

⁴Second session Fifty-fourth Congress, Record, p. 152.

⁵Thomas B. Reed, of Maine, Speaker.

⁶Second session Fifty-fourth Congress, Record, p. 1132.

Mr. Henry M. Baker, of New Hampshire, made the point of no quorum.

The Speaker,¹ having counted the House, announced—

One hundred and twenty-four Members are present, not a quorum, and, under the rules of the House, the yeas and nays will be considered as ordered, and also a call of the House. As the roll is called, Members desiring to vote will vote yea or nay, and Members desiring to record themselves as present will announce their presence. * * * The Chair desires to call the attention of Members to the fact that, under the rules, not only is a vote to be now taken, but also a call of the House. The doors will be closed and Members are expected to remain within the precincts of the Hall, and the Sergeant-at-Arms and doorkeepers have no right to permit any Member to leave the House during the continuance of the call. The Chair hopes Members will understand this, and will stay in the Hall until a conclusion of the vote.

3047. On January 21, 1897,² the House was considering the contested-election case of Jacob Yost *v.* Henry St. George Tucker, from Virginia, and the question was on the adoption of the resolutions confirming Mr. Tucker in his seat. There were, on division, yeas 115, nays 7.

Mr. William P. Hepburn, of Iowa, made the point of order that no quorum was present.

After a count the Speaker announced 150 Members present; not a quorum.

A motion to adjourn having been entertained and rejected, the Speaker¹ said:

A call of the House will be considered as ordered; the Sergeant-at-Arms will close the doors and the Clerk will call the roll, and Members will answer in two ways, yea or nay upon the question and "present" on the roll call, and the Sergeant-at-Arms will bring in absentees.

The roll call having been completed, the Speaker announced—

On this question the yeas are 119, the nays 47; 14 gentlemen are present and not voting. A quorum being present, the resolutions are adopted. In order to avoid the possibility of mistake, the Clerk will announce the names of gentlemen present, so that if there be any error it may be corrected.

The names of Members present and not voting were read, as follows: Messrs. Dalzell, Daniels, Grow, Mahon, Meredith, Raney, Steele, Tucker, Wilson of Ohio, Bowers, Foote, Foss, Atwood, and Miller of West Virginia.

Mr. J. H. Bankhead, of Alabama, stated that he was present and desired to be so recorded.

The Speaker said:

The gentleman is not recorded. He will be marked as present. The report of Members present and not voting has been read as made up by the Clerk, and whether the name of the gentleman from Virginia, Mr. Tucker, should be counted or not is not material, as it is not necessary to make up a quorum.

3048. On February 8, 1897,³ the question being on an amendment to the bill (H. R. 9470) to incorporate the Washington and Gettysburg Railway Company, there were on division yeas 40, noes 11.

The point of no quorum having been made, the Speaker counted the House and announced the presence of 160 Members, not a quorum.

The Speaker¹ then said:

By the rules of the House the yeas and nays are ordered, and at the same time a call of the House is directed.

¹Thomas B. Reed, of Maine, Speaker.

²Second session Fifty-fourth Congress, Record, p. 1042.

³Second session Fifty-fourth Congress, Record, p. 1658.

The Clerk will call the roll, and Members will answer either for against the proposition, and those who desire simply to be recorded without voting will answer "present."

The Chair desires to say to the Members of the House that under this rule the doors of the House are closed, and the doorkeepers and Sergeant-at-Arms are not authorized, neither the one nor the other, to allow Members to go out. Of course every convenience will be afforded to Members, but all are expected to remain in the House or in the adjoining rooms.

The Chair has deemed it proper to make this statement, as there seems to have been some misunderstanding or misapprehension heretofore as to the operation of the rule. Those Members here are expected to remain, and those who are not here are expected to be brought in.

3049. Under the new rule for a call of the House a resolution of the House is not required to empower the Sergeant-at-Arms to bring in absentees.—On May 27, 1898,¹ a quorum having failed to vote on the motion to lay on the table the appeal taken by Mr. Joseph G. Cannon, of Illinois, from the decision of the Chair on a point of order raised by Mr. William L. Greene, of Nebraska, the Speaker pro tempore ordered the doors to be closed and the roll to be called under the provisions of section 4 of Rule XV. After the roll had been called twice Mr. James D. Richardson, of Tennessee, rising to a parliamentary inquiry, asked whether or not, under the rule, the Sergeant-at-Arms was required, without the passage of a resolution by the House, to bring in absent Members.

The Speaker² replied: "The Chair thinks he is, under the rule."³

3060. A motion to adjourn may be made before the call of the roll under section 4, of Rule XV.—On February 16, 1899,⁴ the sundry civil appropriation bill being under consideration, an appeal was taken from the decision of the Chair on a point of order, and a motion was made to lay the appeal on the table. The yeas and nays being ordered on the latter motion, there appeared, yeas 96, nays 68; "present" 9; not a quorum.

The regular order being demanded, the Speaker announced that the regular order was a call of the House; that the yeas and nays were ordered, and that the doors would be closed.⁵

Before the call of the roll had begun Mr. William Sulzer, of New York, as a parliamentary inquiry, asked whether or not a motion to adjourn would be in order. The Speaker² held that the motion would be in order.

3051. After the roll has been called under the new rule for a call of the House, and while the proceedings to obtain a quorum are going on, motions to excuse Members are in order.—On Monday, February 15, 1897,⁶ at a special evening session for the consideration of bills usually in order at a Friday evening session, on a motion to go into Committee of the Whole House, there were 64 yeas, 3 nays.

The point of no quorum being made, the Speaker pro tempore caused⁷ section 4 of Rule XV to be read, after which the doors were closed and the roll call began.

¹ Second session Fifty-fifth Congress, Record, p. 5304.

² Thomas B. Reed, of Maine, Speaker.

³ In this case no warrant was issued to the Sergeant-at-Arms, as he only found it necessary to notify Members.

⁴ Third session Fifty-fifth Congress, Record, p. 1962.

⁵ Under section 4 of Rule XV. (See sec. 3041 of this chapter.)

⁶ Second session Fifty-fourth Congress, Record, p. 1858; Journal, p. 175.

⁷ Sereno E. Payne, of New York, Speaker pro tempore.

After the roll had been called through, but before the announcement of the result, Mr. John E. McCall, of Tennessee, asked that his colleague, Mr. Foster V. Brown, of Tennessee, be excused.

Mr. Henry F. Thomas, of Michigan, made the point of order that excuses were not in order at this time.

The Speaker pro tempore said:

The Chair thinks that it is in order at this time. This rule provides that after the completion of the roll, the call shall still be in operation, that absent Members may be brought to the bar of the House and given an opportunity to vote until after further proceedings are dispensed with.

Before the announcement of the result also, Mr. W. Jasper Talbert, of South Carolina, moved that the House adjourn.

The Speaker pro tempore said:

The gentleman from South Carolina moves that the House do now adjourn. Under the rule it requires a majority of those present to second the motion. As many as are in favor of seconding the motion that the House do now adjourn will stand until counted. [A pause.] No one rising to second the motion to adjourn, the motion is out of order.

3052. Under the new rule for a call of the House the roll is called over twice, and those appearing after their names are called may vote.—On June 9, 1896,¹ the House was voting by yeas and nays to lay on the table a motion to reconsider a vote on the District of Columbia appropriation bill. There appeared, yeas 99, nays 31, not voting 224.

No quorum being present, the Speaker announced that under the rule there would be a call of the House, and the Sergeant-at-Arms would proceed at once to bring in absent Members.

Mr. Joseph W. Bailey, of Texas, inquired whether or not those who had answered on the previous roll call should vote again.

The Speaker² said:

The Chair thinks the only solution as the matter stands is for each Member to vote when his name is called, and then when the roll call is finished the absentees may vote. The Sergeant-at-Arms will close the doors, and the Clerk will call the roll.

The Clerk proceeded with the roll call, and the same having been finished, the Speaker said:

The Clerk will now call the names of Members failing to respond to the first call. The Chair trusts that gentlemen who are present and do not vote will announce that they are present, to avoid confusion.

The second call having been concluded, the Speaker announced:

On this question the yeas are 126 and the nays are 43. The following-named gentlemen are present: Mr. Apsley, Mr. Heatwole, Mr. Leisenring, Mr. Tracey, Mr. Richardson, Mr. McMillin, Mr. Warner, Mr. Belknap, Mr. Fitzgerald, Mr. Johnson, of North Dakota, and Mr. De Witt.

The Chair desires to say to these gentlemen that under a misapprehension he stated a while ago that they could not vote, but they are marked present and their presence is necessary to constitute a quorum, and under the rule they have a right to vote if they desire to do so.

¹First session Fifty-fourth Congress, Record, p. 6330.

²Thomas B. Reed, of Maine, Speaker.

Several of these gentlemen having voted, the Speaker announced the corrected vote as yeas 131, nays 45; answering "present," Messrs. Apsley, Heatwole, Leisenring, Tracey, Richardson, Hurley, and McMillin, a quorum being present.

3053. On seconding, by tellers, a motion to suspend the rules, a quorum failed, whereupon the Speaker ordered the doors closed and the roll called.—On March 2, 1901,¹ Mr. Nehemiah D. Sperry, of Connecticut, moved to suspend the rules and pass the bill (H. R. 12551) "to prevent the sale of firearms, opium, and intoxicating liquors in certain islands of the Pacific."

Mr. Joseph W. Bailey, of Texas, demanded a second, and on the vote by tellers there were 53 ayes and 9 noes.

Mr. Bailey made the point that no quorum was present.

After counting, the Speaker² announced 91 Members present, not a quorum. Thereupon he ordered the doors closed, and announced that those favoring the seconding of the motion would answer "aye," those opposed "no," and those not voting "present."

The roll being called there were yeas 93, nays 8, answering "present" 82. The Speaker thereupon announced that a quorum was present and that a second was ordered.

3054. On June 16, 1902,³ Mr. Fred C. Stevens, of Minnesota, by authority of the Committee on Military Affairs, moved to suspend the rules and pass with amendment the bill (H. R. 14441) to authorize the Secretary of War, in his discretion, to favor American-built ships in the transportation of Government supplies to the Philippines across the Pacific Ocean.

A second having been demanded, there appeared on a vote, by tellers, ayes 77, noes 0.

Mr. James D. Richardson, of Tennessee, made the point of order that there was no quorum present.

The Speaker, having counted the House, announced the presence of 129 Members, not a quorum.

Mr. Oscar W. Underwood, of Alabama, moved that the House adjourn, which was negatived on division, ayes 41, noes 81, a demand for the yeas and nays on the motion to adjourn being refused.

Then the Speaker² said:

There being no quorum present, the Doorkeeper will close the doors and the Sergeant-at-Arms will bring in absent Members to answer to their names. The question is on seconding the motion to suspend the rules and pass the bill.

Thereupon Mr. Richardson, of Tennessee, made the point of order that the rule required the seconding of the motion to suspend the rules to be by tellers, and that there was no provision in the rule for calling the yeas and nays on such motion.

¹ Second session Fifty-sixth Congress, Record, p. 3444.

² David B. Henderson, of Iowa, Speaker.

³ First session Fifty-seventh Congress, Journal, p. 815; Record, p. 6886.

The Speaker said:

Tellers were duly ordered in this case. The Chair admits that the question raised by the gentleman from Tennessee is not without difficulty. But a rule of the House requires that when a quorum fails to appear the doors shall be closed and Members brought in. On another occasion the Chair held that that rule would apply in a case of this kind. Therefore the Chair overrules the point of order.

Thereupon the yeas and nays were called, a quorum answered, and by a vote of yeas 105, nays 66, answering present 11 the second was ordered.

3055. On April 2, 1906,¹ a vote was taken by tellers on ordering a second on a motion to suspend the rules and pass the bill (H. R. 15266) "to amend existing law relating to the fortification of pure sweet wines."

The tellers reported ayes 83, noes 20.

Mr. Champ Clark, of Missouri, made the point of order that a quorum was not present.

The Speaker² then announced:

The Chair will count. [After counting.] One hundred and fifty-nine gentlemen are present, not a quorum. The doors will be closed and the Clerk will call the roll. Those in favor of ordering a second will, as their names are called, answer "aye", those opposed will answer "no," and those not voting will answer "present," and the Sergeant-at-Arms will bring in the absentees.

¹First session Fifty-ninth Congress, Record, p. 4609.

²Joseph G. Cannon, of Illinois, Speaker.