

permit the President to loan one submarine to Pakistan] offered by the gentleman from New York (Mr. Koch).

The question was taken; and on a division (demanded by Mr. Koch), were—ayes 10, noes 50.

MR. [EDWARD I.] KOCH: Mr. Chairman, I demand tellers.

Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

Evidently a quorum is not present.

The Clerk will call the roll.

MR. [F. EDWARD] HÉBERT [of Louisiana]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HÉBERT: Mr. Chairman, is it in order to call for a quorum when a call for a teller vote is asked for and should be in progress at that moment—you cannot interrupt a vote.

THE CHAIRMAN: The Chair will state that the gentleman from New York made the point that a quorum was not present.

MR. HÉBERT: No, no—the Record will show that he asked for a teller vote and then asked for a quorum.

THE CHAIRMAN: It is the understanding of the Chair that the gentleman asked for a teller vote and then made the point of order that a quorum was not present.

MR. HÉBERT: That is it—when he asked for a teller vote, he asked for a vote to be taken and that vote comes automatically. Having made that motion, he cannot get the other.

THE CHAIRMAN: The Chair will advise the distinguished gentleman from Louisiana that the Committee cannot

do business without a quorum, and since it has been established a quorum is not present, the Chair has directed the Clerk to call the roll.

The Clerk will call the roll.

## §8. Motions During the Call—To Adjourn

This section discusses the motion to adjourn only as it relates to quorums and calls of the House.<sup>(8)</sup> Article I, section 5 of the Constitution<sup>(9)</sup> provides that “. . . a Majority of each [House] shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day. . . .”

The rule which authorizes calls of the House on motion<sup>(10)</sup> does not mention adjournment. The rule which authorizes automatic votes by the yeas and nays,<sup>(11)</sup> however, provides that in the absence of a quorum “unless the House shall adjourn,” there shall be a call of the House. Furthermore, the Speaker may entertain a motion to adjourn after the call has been completed, if the motion

8. See Ch. 40, *infra*, for discussion of adjournment generally.

9. *House Rules and Manual* §§ 52–57 (1979).

10. Rule XV clause 2(a), *House Rules and Manual* § 768 (1979).

11. Rule XV clause 4, *House Rules and Manual* § 773 (1979).

has been seconded by a majority of those present, to be ascertained by actual count of the Speaker.<sup>(12)</sup> If the House adjourns, all proceedings under Rule XV clause 4,<sup>(13)</sup> are vacated; this provision has been interpreted to mean voiding the vote taken by the yeas and nays, but not deleting the record of proceedings from the Record and Journal.<sup>(14)</sup>

Although a quorum is not required on a motion to adjourn,<sup>(15)</sup> it is required on a resolution providing for adjournment *sine die*<sup>(16)</sup> (but not on a motion to adjourn which implements such a resolution).<sup>(17)</sup>

An affirmative vote to adjourn by less than a quorum does not invoke an automatic roll call,<sup>(18)</sup> but the lack of a quorum on a negative vote on adjournment invokes a call.<sup>(19)</sup>

The motion to adjourn is highly privileged. In the absence of a quorum, no motion is in order but a motion for a call of the House or a motion to adjourn.<sup>(20)</sup> Because

the motion to adjourn takes precedence over a motion for a call of the House, the vote on adjournment is taken before the call of the House even when the motion for the call was offered but not finally agreed to prior to the motion to adjourn.<sup>(21)</sup> The motion to adjourn may even be offered when the House is dividing on a motion for a call of the House<sup>(22)</sup> and takes precedence over a motion to dispense with further proceedings under the call.<sup>(1)</sup>

### *Need for Second*

**§ 8.1 A motion to adjourn, after an automatic roll call has disclosed the absence of a quorum, must be seconded by a majority of those present to be ascertained by actual count of the Chair by a division vote prior to a vote on the motion to adjourn itself.**

On Oct. 10, 1940,<sup>(2)</sup> during consideration of a veto message on H.R. 7179, a bill to provide for the naturalization of Louis D. Friedman, Speaker William B.

12. *Id.* See also § 8.1, *infra*.

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

14. § 2.22, *supra*.

15. §§ 8.7, 8.8, *infra*.

16. § 8.9, *infra*.

17. § 8.10, *infra*.

18. § 8.11, *infra*.

19. § 8.13, *infra*.

20. § 8.14, *infra*.

21. §§ 8.14, 8.15, *infra*.

22. 8 Cannon's Precedents § 2644.

1. 8 Cannon's Precedents § 2643.

2. 86 CONG. REC. 13534, 13535, 76th Cong. 3d Sess.

Bankhead, of Alabama, entertained a motion to adjourn.<sup>(3)</sup>

THE SPEAKER: . . . The question is on the motion of the gentleman from New York [Mr. Dickstein] that the bill and the message together with the accompanying papers be referred to the Committee on Immigration and Naturalization.

The question was taken; and on a division (demanded by Mr. Dickstein) there were—ayes 17, noes 62.

MR. [PEHR G.] HOLMES [of Massachusetts]: Mr. Speaker, I object to the vote on the ground a quorum is not present.

MR. [SAMUEL] DICKSTEIN: Mr. Speaker, I was on my feet. I object to the vote on the ground a quorum is not present.

THE SPEAKER: The gentleman from New York [Mr. Dickstein] objects to the vote on the ground there is not a quorum present. The gentleman from Massachusetts [Mr. Holmes] objects to the vote on the same ground. Evidently a quorum is not present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 108, nays 105, not voting 216, as follows: . . .

3. Seconding by a majority is required by Rule XV clause 4, *House Rules and Manual* §773 (1979); there is no specific seconding requirement for calls of the House on motions which are authorized by Rule XV clause 2(a), *House Rules and Manual* §768 (1979), but such motions must be adopted by a majority, at least 15 voting in the affirmative.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker—

THE SPEAKER: The gentleman from Massachusetts.

MR. MCCORMACK: Mr. Speaker, may I inquire the result of the roll call just taken?

THE SPEAKER: On this roll call 213 Members have answered—108 yeas and 105 nays. This is 3 short of a quorum.

#### ADJOURNMENT

MR. MCCORMACK: Mr. Speaker, in view of the situation that exists, which is obvious to all of us, and of necessity, I move that the House do now adjourn.

MR. [JOHN C.] SCHAFER of Wisconsin: Mr. Speaker, I demand a second to the motion.

THE SPEAKER: Under the rule the demand for a second is in order. The question is on ordering a second.

The question was taken; and there were—ayes 144, noes 3.

So a second was ordered.

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

THE SPEAKER: The gentleman will state it.

MR. DICKSTEIN: The vote on the motion to refer the bill to the committee being yeas 108, nays 105, what will happen to the motion if the House adjourns?

THE SPEAKER: The motion will be the continuing business before the House when it convenes on Monday.

The question is on the motion to adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 35 minutes p.m.) the House, pursuant to its previous order, adjourned until Monday, October 14, 1940, at 12 o'clock noon.

***Effect of Adjournment on Pending Business***

**§ 8.2 Where a quorum fails to respond on an automatic roll call on a pending resolution and the House adjourns, the unfinished business when the House again convenes is the vote on the resolution; and the Speaker puts the question de novo.**

On Oct. 19, 1966,<sup>(4)</sup> Speaker John W. McCormack, of Massachusetts, after the opening prayer, approval of the Journal, and reading of messages from the President and Senate, proceeded immediately to the vote on a resolution which was pending the previous day when the House adjourned because a quorum had failed to respond on an automatic vote by the yeas and nays.

ANNOUNCEMENT BY THE SPEAKER—  
DISPOSING OF PENDING BUSINESS

THE SPEAKER: The Chair will receive unanimous-consent requests, after the disposition of pending business.

The unfinished business is the vote on agreeing to the resolution (H. Res. 1062) certifying the report of the Committee on Un-American Activities as to the failures of Jeremiah Stamler to give testimony before a duly authorized subcommittee of said committee.

The Clerk read the title of the resolution.

4. 112 CONG. REC. 27640, 27641, 89th Cong. 2d Sess.

CALL OF THE HOUSE

MR. [DON] EDWARDS of California: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The gentleman from California makes the point of order that a straight quorum is not present, or does the gentleman make the point of order on the resolution?

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

THE SPEAKER: Evidently a quorum is not present.

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

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

THE SPEAKER: On this rollcall 280 Members have answered to their names, a quorum.

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

PROCEEDINGS AGAINST JEREMIAH  
STAMLER

THE SPEAKER: The unfinished business is the vote on agreeing to the resolution (H. Res. 1062) certifying the report of the Committee on Un-American Activities as to the failures of Jeremiah Stamler to give testimony before a duly authorized subcommittee of said committee.

The Clerk read the title of the resolution.

The Speaker: The question is on the resolution.

The question was taken; and on a division (demanded by Mr. Williams) there were—ayes 92, noes 34.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

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

The question was taken; and there were—yeas 219, nays 69, not voting 144, as follows: . . .

So the resolution was agreed to.

### ***Calls of the House After Voting on Adjournment***

#### **§ 8.3 A quorum not being present, a motion by the Majority Leader to adjourn was defeated and a call of the House was ordered; the Speaker directed his name to be called to make a quorum.**

On Nov. 13, 1943,<sup>(5)</sup> a call of the House was ordered after defeat of the motion to adjourn offered by the Majority Leader, John W. McCormack, of Massachusetts.<sup>(6)</sup>

MR. [PETE] JARMAN [of Alabama]: Mr. Speaker, I think we ought to have a quorum present, and I make the point of order that there is no quorum present.

THE SPEAKER PRO TEMPORE: The gentleman from Alabama makes the

point of order that there is no quorum present. The Chair will count.

MR. JARMAN (interrupting the count): Mr. Speaker, I withdraw the point of order.

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Speaker, I renew the point of order and make the point that there is no quorum present.

THE SPEAKER:<sup>(7)</sup> The gentleman from Wisconsin makes the point of order. The Chair will count. [After counting.] Sixty-eight Members present, not a quorum.

MR. MCCORMACK: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The question is on the motion of the gentleman from Massachusetts that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. Mundt) there were—ayes 25, noes 41.

So the motion was rejected.

MR. MCCORMACK: Mr. Speaker, I move a call of the House.

The motion was agreed to.

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

THE SPEAKER: The Clerk will call my name.

The Clerk called the name of Mr. Rayburn and he answered "present."

THE SPEAKER: On this call 217 members have answered to their names. A quorum is present.

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

#### **§ 8.4 A yea and nay negative vote on a motion to adjourn**

7. Sam Rayburn (Tex.).

5. 89 CONG. REC. 9478, 78th Cong 1st Sess.

6. See also 105 CONG. REC. 3432, 86th Cong. 1st Sess., Mar. 5, 1959.

**having disclosed the presence of a quorum, the Majority Leader withdrew his pending motion for a call of the House.**

On June 4, 1963,<sup>(8)</sup> the Majority Leader, Carl Albert, of Oklahoma, withdrew his pending motion to adjourn.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER:<sup>(9)</sup> Evidently a quorum is not present.

MR. ALBERT: Mr. Speaker, I move a call of the House.

MR. [JAMES] ROOSEVELT [of California]: Mr. Speaker——

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

MR. ROOSEVELT: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The question is on the motion to adjourn.

The question was taken, and on a division (demanded by Mr. Williams) there were—ayes 98, noes 105.

MR. WILLIAMS: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 53, nays 277, not voting 103, as follows: .

MR. ALBERT: I withdraw my motion for a call of the House, Mr. Speaker.

THE SPEAKER: The motion is withdrawn.

8. 109 CONG. REC. 10155, 10156, 88th Cong. 1st Sess.

9. John W. McCormack (Mass.).

**§ 8.5 A point of no quorum having been made and a motion to adjourn having been defeated on a division vote, a call of the House was moved and agreed to.**

On Mar. 5, 1959,<sup>(10)</sup> a call of the House was moved and agreed to.<sup>(11)</sup>

THE SPEAKER PRO TEMPORE:<sup>(12)</sup> Under previous order of the House, the gentleman from Massachusetts [Mr. O'Neill] is recognized for 30 minutes.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, a point of order. The gentleman from Massachusetts has indicated to me that he desires to speak on the subject of an election contest. That being a matter upon which the entire membership of the House should be informed, I make the point of order that a quorum is not present.<sup>(13)</sup>

10. 105 CONG. REC. 3432, 86th Cong. 1st Sess.

11. See also, for example, 89 CONG. REC. 9478, 78th Cong. 1st Sess., Nov. 13, 1943.

12. Thomas J. Lane (Mass.).

13. See supplements to this edition for discussion of more recent provisions effective in the 93d Congress on Apr. 9, 1974, to the effect that after the presence of a quorum has been once ascertained on any day, a point of order of no quorum may not be entertained during the period of the day when the Speaker recognizes Members to address the House under special orders, with no measure or matter then under consider-



MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, will the gentleman withhold that for a moment?

MR. WILLIAMS: I withhold the point of order.

MR. HAYS: Mr. Speaker, I would like to say to the gentleman if this is going to be the practice there will be no more special orders by the gentleman or any of his friends.

MR. WILLIAMS: Mr. Speaker, I renew the point of order.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, if the gentleman insists on his point of order I shall feel obliged to move to adjourn the House. Does the gentleman insist on his point of order?

MR. WILLIAMS: Mr. Speaker, I do not think this speech should be made without the membership of the House being present and I insist on the point of order.

MR. ALBERT: Mr. Speaker, I move that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. Albert) there were ayes 6, noes 47.

So the motion was rejected.

#### CALL OF THE HOUSE

MR. ALBERT: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

### ***Effect on Questions of Privilege***

#### **§ 8.6 Where a Member objects to a negative vote on a mo-**

tion for disposition by the House. See also Rule XV clause 6(c)(3) [*House Rules and Manual* §774c (1979)].

**tion to adjourn on the ground that a quorum is not present, the Chair will not entertain a question of privilege pending disposition of the point of no quorum.**

On Apr. 15, 1970,<sup>(14)</sup> Speaker pro tempore Charles M. Price, of Illinois, refused to entertain a question of personal privilege where the House had just refused to adjourn and objection had been raised to that vote on the ground that a quorum was not present.

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Ohio.

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

MR. HAYS: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. Justice Douglas has been on the Bench for a great many years, and he can wait for one more night. I have not had my dinner.

THE SPEAKER PRO TEMPORE: The Chair will count.

MR. HAYS: Mr. Speaker, I am willing to withhold my motion if the gentleman wants to ask permission to insert his remarks, but obviously all these speeches were written by the

14. 116 CONG. REC. 11940, 11941, 91st Cong. 2d Sess.

same author, and I do not think we ought to have to sit here and listen to them.

MR. [WILLIAM L.] SCOTT [of Virginia]: Mr. Speaker, if the gentleman will yield, my remarks will not take more than 10 minutes.

MR. HAYS: I have been hearing that for a long time now.

MR. [LOUIS C.] WYMAN [of New Hampshire]: Mr. Speaker, I rise to a point of special privilege.

THE SPEAKER PRO TEMPORE: There is a motion pending.

MR. HAYS: Mr. Speaker, I insist on the point of order.

THE SPEAKER PRO TEMPORE: The gentleman from Ohio insists on the point of order.

Evidently a quorum is not present.

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

The question was taken; and there were—yeas 81, nays 75, not voting 274, as follows: . . .

So the motion was agreed to.

### ***Matters Requiring a Quorum***

#### **§ 8.7 Motions to adjourn do not require a quorum for adoption.**

On Dec. 30, 1970,<sup>(1)</sup> Speaker pro tempore Wilbur D. Mills, of Arkansas, made a ruling regarding a quorum on a motion to adjourn.<sup>(2)</sup>

1. 116 CONG. REC. 44190, 91st Cong. 2d Sess.
2. See also, for example, 109 CONG. REC. 24634, 88th Cong. 1st Sess.,

MR. [W.C.] DANIEL of Virginia: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER PRO TEMPORE: The question is on the motion to adjourn.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker——

THE SPEAKER PRO TEMPORE: The Chair would request that the gentleman from Missouri permit the Chair to put the question.

The question was taken; and the Speaker pro tempore announced that the ayes had it. . . .

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

THE SPEAKER PRO TEMPORE: The Chair announced that the ayes had it.

MR. HUNT: Mr. Speaker, I was seeking recognition and I was on my feet.

THE SPEAKER PRO TEMPORE: The Chair will advise the gentleman from New Jersey that a quorum is not required in order to adjourn the House.

The House stands adjourned until 12 o'clock tomorrow.

#### **§ 8.8 A quorum is not required to vote for adjournment and an objection to an affirmative vote on that ground is not entertained.**

On May 6, 1950,<sup>(3)</sup> Speaker pro tempore John W. McCormack, of

Dec. 14, 1963; 109 CONG. REC. 10674, 10675, 88th Cong. 1st Sess., June 11, 1963; and 87 CONG. REC. 4320, 77th Cong. 1st Sess., May 21, 1941.

3. 96 CONG. REC. 6568, 81st Cong. 2d Sess.



Massachusetts, refused to entertain an objection to a vote on a motion to adjourn.<sup>(4)</sup>

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I renew my motion that the House do now adjourn.

THE SPEAKER PRO TEMPORE: The question is on the motion.

The question was taken; and on a division (demanded by Mr. Rankin) there were—ayes 51, noes 44.

MR. [MIKE] MANSFIELD [of Montana]: Mr. Speaker, I object to the vote on the ground a quorum is not present.

MR. RANKIN: Mr. Speaker, a point of order. A quorum is not necessary on a motion to adjourn.

THE SPEAKER PRO TEMPORE: The Chair cannot entertain that.

MR. [JERE] COOPER [of Tennessee]: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 98, nays 170, not voting 162.

### **§ 8.9 A quorum is required on the vote agreeing to a resolution providing for the adjournment of the Congress sine die.**

On July 16, 1932,<sup>(5)</sup> the Chair made a ruling regarding the need for a quorum for an adjournment *sine die*.

THE SPEAKER PRO TEMPORE:<sup>(6)</sup> Will the House permit the Chair to make a

4. See also 95 CONG. REC. 10092, 81st Cong. 1st Sess., July 25, 1949.
5. 75 CONG. REC. 15753, 72d Cong. 1st Sess.
6. John McDuffie (Ala.).

statement? It requires a majority of this House to agree to a resolution providing for adjournment *sine die*, and we do not know yet when the Senate will send over that resolution. The Chair respectfully suggests to the gentleman, especially those who have made reservations to return to their homes tonight, that it might be well to remain until the concurrent resolution providing for adjournment is adopted. The Chair desires to make that statement, because our ranks are gradually being thinned, and we might find ourselves without a quorum.

### **§ 8.10 Pursuant to a concurrent resolution passed when a quorum was present, the House adjourned sine die in the absence of a quorum.**

On Oct. 18, 1972,<sup>(7)</sup> House Concurrent Resolution 726 was passed.

MR. [THOMAS P.] O'NEILL [Jr., of Massachusetts]: Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 726) and ask for its immediate consideration.

The Clerk read as follows:

H. CON. RES. 726

*Resolved by the House of Representatives (the Senate concurring)* That the two Houses of Congress shall adjourn on Wednesday, October 18, 1972, and that when they adjourn on said day, they stand adjourned *sine die*.

THE SPEAKER:<sup>(8)</sup> The question is on the concurrent resolution.

7. 118 CONG. REC. 37061, 92d Cong. 2d Sess.
8. Carl Albert (Okla.).

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

MR. [JAMES G.] O'HARA [of Michigan]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

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

The question was taken; and there were—yeas 239, nays 21, not voting 171, as follows: . . .

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Later that day,<sup>(9)</sup> the House adjourned *sine die*.

#### CALL OF THE HOUSE

MR. [JOHN T.] MYERS [of Indiana]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The Chair will count.

One hundred twelve Members are present, not a quorum.

MR. O'NEILL: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

#### PARLIAMENTARY INQUIRIES

MR. [WILBUR D.] MILLS of Arkansas: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

9. 118 CONG. REC. 37200, 92d Cong. 2d Sess.

MR. MILLS of Arkansas: Mr. Speaker, will the Speaker entertain a unanimous-consent request that the call of the roll be vacated.

THE SPEAKER: The Speaker does not have that authority under the Constitution.

If there are any Members in the Chamber who have not answered and the Speaker can identify them, he will have them recorded. The Speaker does have that authority, but he does not know of any such Members.

MR. O'NEILL: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. O'NEILL: Mr. Speaker, am I correct in assuming that when the House adjourns tonight it adjourns to meet on January 3, 1973, at 12 o'clock?

THE SPEAKER: That is correct.

#### ADJOURNMENT SINE DIE

MR. O'NEILL: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

THE SPEAKER: In accordance with the provisions of House Concurrent Resolution 726, the Chair declares the second session of the 92d Congress adjourned *sine die*.

Accordingly (at 8 o'clock and 47 minutes p.m.), Wednesday, October 18, 1972, the House adjourned *sine die*.

### ***Automatic Vote by Yeas and Nays***

**§ 8.11 Parliamentarian's Note: A quorum is not required to adjourn the House; and an affirmative vote to adjourn**

**by less than a quorum does not invoke an automatic roll call under Rule XV clause 4.<sup>(10)</sup>**

On Dec. 14, 1963,<sup>(11)</sup> an automatic call of the House was not invoked following an affirmative vote to adjourn.<sup>(12)</sup>

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I move that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. Johansen) there were—ayes 77, noes 17.

MR. [AUGUST E.] JOHANSEN [of Michigan]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER:<sup>(13)</sup> The Chair will advise the gentleman that on a motion to adjourn, when the majority of Members present vote in favor of the motion, a quorum is not required.

The motion to adjourn was agreed to; accordingly (at 12 o'clock and 20 minutes p.m.) the House adjourned until Monday, December 16, 1963, at 12 o'clock noon.

### **§ 8.12 Parliamentarian's Note: It is not in order to demand**

10. See *House Rules and Manual* §773 (1979).
11. 109 CONG. REC. 24634, 88th Cong. 1st Sess.
12. See also, for example, 116 CONG. REC. 44190, 91st Cong. 2d Sess., Dec. 30, 1970; and 109 CONG. REC. 10674, 10675, 88th Cong. 1st Sess., June 11, 1963.
13. John W. McCormack (Mass.).

**an “automatic” roll call under Rule XV clause 4,<sup>(14)</sup> on a motion to adjourn, since the motion to adjourn from day to day may be agreed to by less than a quorum.**

On Dec. 30, 1970,<sup>(15)</sup> Speaker pro tempore Wilbur D. Mills, of Arkansas, refused to entertain an objection to a vote on the ground that a quorum was not present.

### ***Consequence of Point of No Quorum After Vote***

**§ 8.13 Although a quorum is not required to adjourn the House, a point of no quorum on a negative vote on adjournment, if sustained, precipitates a call of the House under Rule XV clause 4.<sup>(16)</sup>**

On Sept. 22, 1965,<sup>(17)</sup> Speaker John W. McCormack, of Massachusetts, ordered a call of the House.<sup>(18)</sup>

14. See *House Rules and Manual* §773 (1979).
15. 116 CONG. REC. 44190, 91st Cong. 2d Sess. For the proceedings of the House on this date, see §8.7, *supra*.
16. See *House Rules and Manual* §773 (note) (1979).
17. 111 CONG. REC. 24716, 24717, 89th Cong. 1st Sess.
18. See also, for example, 117 CONG. REC. 38536, 38537, 92d Cong. 1st Sess., Nov. 1, 1971; 114 CONG. REC. 16225, 16226, 90th Cong. 2d Sess.,

MR. [LESLIE C.] ARENDS [of Illinois]: Mr. Speaker, I make the motion that the House do now adjourn.

THE SPEAKER: The question is on the motion of the gentleman from Illinois.

The question was taken; and the Speaker announced that in his opinion the "noes" had it.

MR. ARENDS: Mr. Speaker, I demand tellers.

Tellers were ordered; and the Speaker appointed as tellers Mr. Albert and Mr. Arends.

The House divided, and the tellers reported that there were—ayes 58, noes 104.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER (after counting): Evidently a quorum is not present.

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

The question was taken; and there were—yeas 90, nays 204, not voting 138, as follows: . . .

So the motion was rejected.

### ***Precedence of Motion to Adjourn Over Motion for Call of House***

#### **§ 8.14 A motion to adjourn cannot ordinarily be offered**

June 6, 1968; 109 CONG. REC. 24217, 24218, 88th Cong. 1st Sess., Dec. 11, 1963; and 97 CONG. REC. 6621, 82d Cong. 1st Sess., June 15, 1951.

**while another Member having the floor for debate refuses to yield for that purpose, but if a point of order of no quorum is made and sustained during such debate, a motion to adjourn is in order and takes precedence over a motion for a call of the House.**

On Apr. 24, 1956,<sup>(19)</sup> Mr. Carl Vinson, of Georgia, had the floor for debate when a point of order of no quorum was made. Speaker Sam Rayburn, of Texas, ruled that a motion to adjourn could not deprive Mr. Vinson of the floor before the point of order was sustained, but after announcing the lack of a quorum, entertained a motion to adjourn as preferential over a motion for a call of the House:

MR. [JOHN BELL] WILLIAMS of Mississippi: Mr. Speaker, a point of order.

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

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

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I object to the point of order.

MR. VINSON: Will the gentleman not withhold that? I have only about 5 minutes.

MR. WILLIAMS of Mississippi: Mr. Speaker, I withdraw the point of order.

19. 102 CONG. REC. 6891, 84th Cong. 2d Sess.

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

MR. YATES: Mr. Speaker, may I be heard on the point of order?

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

MR. YATES: Since the last point of order on a quorum there has been no further transaction of business, and it is obvious that the points of order being made are dilatory.

THE SPEAKER: There were various unanimous-consent requests granted since the last call of the House. The Chair has been up against this question of whether there was a filibuster or whether there was not a great many times. This occupant of the Chair is very liberal with Members who want a quorum present or to have business transacted in the regular way. The Chair is not going to hold that this point of order is dilatory.

MR. [WAYNE L.] HAYS of Ohio: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: If the gentleman from Georgia retains the floor, that motion is not in order.

MR. VINSON: I retain it, Mr. Speaker. I am just moving around to get a little exercise.

THE SPEAKER: Does the gentleman from Mississippi insist upon his point of no quorum?

MR. COLMER: Mr. Speaker, I insist upon the point of no quorum.

THE SPEAKER: The Chair will count. Evidently there is no quorum present.

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Speaker, I move a call of the House.

MR. HAYS of Ohio: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The motion to adjourn is a privileged motion. The question is on the motion.

The motion was rejected.

THE SPEAKER: The question is on the motion offered by the gentleman from Massachusetts.

A call of the House was ordered.

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

THE SPEAKER: On this rollcall 298 Members have answered to their names, a quorum is present.

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

THE SPEAKER: The gentleman from Georgia will proceed.

**§ 8.15 The motion to adjourn takes precedence over a motion for a call of the House; and where a motion to adjourn is defeated, and the motion for a call of the House is then withdrawn, business may continue if there has been no finding or announcement of the absence of a quorum.**

On June 12, 1963,<sup>(1)</sup> the Speaker pro tempore ruled that a motion to adjourn takes precedence over a motion for a call of the House.

MR. [FRANK J.] BECKER [of New York]: Mr. Speaker, I make the point of order a quorum is not present.

1. 109 CONG. REC. 10739, 10740, 88th Cong. 1st Sess.

MR. [DONALD C.] BRUCE [of Indiana]: Mr. Speaker, I move a call of the House.

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER PRO TEMPORE:<sup>(2)</sup> The question is on the motion that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. Bruce) there were—ayes 23, noes 34.

So the motion was rejected.

MR. [M. G.] SNYDER [of Kentucky]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: Does the gentleman yield for the purpose of making a parliamentary inquiry?

MR. [JOHN M.] ASHBROOK [of Ohio]: Certainly.

MR. SNYDER: The point of order has been made that there was no quorum present and the gentleman from Indiana moved a call of the House. Since the motion to adjourn was defeated, is not his motion in order?

MR. BRUCE: I withdraw the motion

THE SPEAKER PRO TEMPORE: Let the Chair state that the motion to adjourn was made in the meantime, and no point of order has been made since.

### ***Continuing Call After Quorum Fails to Appear on Motion to Adjourn***

#### **§ 8.16 The Speaker indicated that if a quorum failed to materialize on a yea and nay vote on a motion to adjourn decided in the negative, the**

2. W. Homer Thornberry (Tex.).

**House would proceed to establish a quorum under the call of the House under Rule XV clause 2(a),<sup>(3)</sup> which was in progress when the motion to adjourn was made.**

On Oct. 14, 1969,<sup>(4)</sup> following a motion to adjourn offered during a call of the House on a motion on which less than a quorum appeared, after the roll call was completed, but before announcement of absence of a quorum, Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry regarding the procedure following a negative vote to adjourn. (See § 10.2, *infra*.)

### ***Pending Point of No Quorum***

#### **§ 8.17 A motion to adjourn is in order pending a point of order that a quorum is not present.**

For example, on Dec. 7, 1963,<sup>(5)</sup> the House adjourned while a point of order that a quorum was not present was pending.<sup>(6)</sup>

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

4. 115 CONG. REC. 30055, 91st Cong. 1st Sess.

5. 109 CONG. REC. 23752, 88th Cong. 1st Sess.

6. See also, for example, 106 CONG. REC. 16535, 86th Cong. 2d Sess., Aug. 16, 1960, and 95 CONG. REC. 12191, 81st Cong. 1st Sess., Aug. 24, 1949.



MR. [WILLIAM K.] VAN PELT [of Wisconsin]: Mr. Speaker, I make the point of order that a quorum is not present.

#### ADJOURNMENT

MR. [JOHN E.] MOSS [Jr., of California]: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 2 minutes p.m.) the House adjourned until Monday, December 9, 1963, at 12 o'clock noon.

#### *When in Order*

#### **§ 8.18 The House adjourned pending the vote on agreeing to a conference report, the vote on adoption having been objected to on the ground that a quorum was not present.**

On Dec. 14, 1971,<sup>(7)</sup> during consideration of the conference report on H.R. 11731, the Department of Defense appropriation measure, the House adjourned.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

THE SPEAKER:<sup>(8)</sup> The question is on the conference report.

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

MR. [CHARLES M.] TEAGUE of California: Mr. Speaker, I object to the vote

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

#### ADJOURNMENT

MR. [HALE] BOGGS [of Louisiana]:

Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, December 15, 1971, at 11 o'clock a.m.

#### **§ 8.19 A motion to adjourn is in order at any time after the conclusion of the second call of the roll if a quorum has not been established; announcement by the Chair that a quorum has failed to respond is not necessary before entertaining the motion to adjourn.**

On Oct. 14, 1969,<sup>(9)</sup> during a call of the House while American military involvement in Vietnam was under debate, Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries about the quorum requirement for, and the timeliness of, a motion to adjourn.

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

7. 117 CONG. REC. 46888 46894, 92d Cong. 1st Sess.

8. Carl Albert (Okla.).

9. 115 CONG. REC. 30055, 91st Cong. 1st Sess.

MR. FRASER: I would like to ask, if I may, where the matter stands now of the call of the House which was made by the majority leader. As I understand it, there is not yet a quorum recorded at the desk.

THE SPEAKER: The gentleman is correct.

MR. FRASER: Now, Mr. Speaker, what are the options open to the House at this point?

THE SPEAKER: The Chair is patiently waiting to see. Regular order is the establishment of a quorum. If a quorum is not established, then a motion to adjourn would be in order.

MR. FRASER: Mr. Speaker, am I correct that if a quorum is not established, there are only two choices open to the House—either a motion to adjourn or a motion to instruct the Sergeant at Arms to produce the missing Members?

THE SPEAKER: The gentleman is correct.

MR. [JAMES H.] QUILLEN [of Tennessee]: Mr. Speaker—

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

MR. QUILLEN: Mr. Speaker, due to the lack of a quorum, I move that the House do now adjourn.

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

MR. [HALE] BOGGS [of Louisiana]: Mr. Speaker, a parliamentary inquiry.

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

MR. BOGGS: Mr. Speaker, does it require a quorum to adjourn?

THE SPEAKER: The Chair will state to the gentleman from Louisiana that it does not require a quorum. . . .

MR. [CARL] ALBERT [of Oklahoma]:

Mr. Speaker, a parliamentary inquiry.

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

MR. ALBERT: Is it in order to move that the House adjourn on the ground that a quorum is not present until the Chair has announced the nonexistence of a quorum?

THE SPEAKER: The Chair will state that a motion to adjourn is in order any time after the conclusion of the second call if a quorum has not been established.

*Parliamentarian's Note:* See parliamentarian's note, § 4.4, supra, for similar precedent relating to quorum call by electronic device.

**§ 8.20 One motion to adjourn having been offered and rejected at the expiration of 15 minutes during a call of the House by electronic device, another motion to adjourn is in order and takes precedence over a motion directing the Sergeant at Arms to arrest absentees.**

On June 6, 1973,<sup>(10)</sup> during a discussion of impeachment powers, Speaker Carl Albert, of Oklahoma, ruled on the precedence of a motion to adjourn over a motion for a call of the House.

MR. [EARL F.] LANDGREBE [of Indiana]: Mr. Speaker, this is a very im-

10. 119 CONG. REC. 4416, 4417, 93d Cong. 1st Sess.

portant matter being discussed. I do not believe there is a quorum in the House. I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE:<sup>(11)</sup> The Chair will count.

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

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

A call of the House was ordered.

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

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

THE SPEAKER: The regular order is the establishment of a quorum and the rule provides a minimum of 15 minutes for Members to respond. Clause 5 of rule XV<sup>(12)</sup> states that Members have "not less than 15 minutes to have their presence recorded."

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

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

The yeas and nays were ordered.

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

So the motion to adjourn was rejected.

The result of the vote was amended as above recorded.

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

MOTION OFFERED BY MR. STRATTON

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Speaker, I move that the Sergeant at Arms be instructed to bring in the absent Members.

PARLIAMENTARY INQUIRY

MR. [PAUL N.] MCCLOSKEY [Jr., of California]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. MCCLOSKEY: Mr. Speaker, I rise in order that I may be recognized for a motion to adjourn.

MOTION OFFERED BY MR. MCCLOSKEY

MR. MCCLOSKEY: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The question is on the motion offered by the gentleman from California (Mr. McCloskey).

MR. STRATTON: Mr. Speaker, I have a motion pending.

THE SPEAKER: The Chair will state that the motion to adjourn offered by the gentleman from California (Mr. McCloskey) takes precedence over the motion offered by the gentleman from New York (Mr. Stratton).

ADJOURNMENT

The motion was agreed to; accordingly (at 9 o'clock and 38 minutes p.m.), the House adjourned until Thursday, June 7, 1973, at 12 o'clock noon.

11. Romano L. Mazzoli (Ky.).

12. See *House Rules and Manual* § 774b (1979).

*Parliamentarian's Note:* Because the Speaker had not announced the result of the call of the House at the time the motion to adjourn was offered, he announced that the call of the House was still open and in progress upon rejection of the adjournment motion, and that Members could record their presence although they had not been able to return to the floor during the 15-minute period. It was contended that the Speaker had no authority to entertain the motion to adjourn during the call of the House and prior to his announcement of the result of that call. But if this contention were valid, it would give the Speaker unlimited discretion to keep a quorum call open indefinitely by refusing to announce the result (where a quorum had not been obtained) and thereby indefinitely refusing to entertain a motion to adjourn.

### § 8.21 The House adjourned in the absence of a quorum.

On Sept. 23, 1968,<sup>(13)</sup> the House adjourned in the absence of a quorum.<sup>(14)</sup>

13. 114 CONG. REC. 27813, 90th Cong. 2d Sess.

14. See also, for example, 116 CONG. REC. 11941, 91st Cong. 2d Sess., Apr. 15, 1970; 115 CONG. REC. 30137, 91st Cong. 1st Sess., Oct. 15, 1969; 114 CONG. REC. 30816, 30817,

Mr. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER:<sup>(15)</sup> Evidently a quorum is not present.

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

A call of the House was ordered.

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

THE SPEAKER: On this rollcall 188 Members have answered to their names, not a quorum.

#### ADJOURNMENT

Mr. ALBERT: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 22 minutes p.m.), the House adjourned until tomorrow, Tuesday, September 24, 1968, at 12 o'clock noon.

### § 8.22 A motion to adjourn is not entertained after a call of the House has been ordered.

On June 4, 1963,<sup>(16)</sup> Speaker John W. McCormack, of Massachusetts, refused to entertain a motion to adjourn.

Mr. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, since 45 or 50

90th Cong. 2d Sess., Oct. 11, 1968; 110 CONG. REC. 22023, 88th Cong. 2d Sess., Sept. 14, 1964; and 88 CONG. REC. 9096, 77th Cong. 2d Sess., Nov. 23, 1942.

15. John W. McCormack (Mass.).

16. 109 CONG. REC. 10152, 10153, 88th Cong. 1st Sess.

Members have left the floor, I make the point of order a quorum is not present.

THE SPEAKER: Evidently a quorum now is not present.

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

A call of the House was ordered.

THE SPEAKER: The Clerk will call the roll.

MR. WILLIAMS: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The Chair will state that a call of the House has been ordered.

The Clerk will call the roll.

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

THE SPEAKER: On this roll call 332 Members have answered to their names, a quorum.

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

*Parliamentarian's Note:* But see 8 Cannon's Precedents §2644 where a motion to adjourn has been entertained when the House was dividing on a motion for a call of the House but before a call was finally ordered.

**§ 8.23 In response to a parliamentary inquiry, the Chair advised that a motion to adjourn was not in order, where a call of the House had been ordered.**

On June 3, 1950,<sup>(1)</sup> Speaker pro tempore Carl Albert, of Okla-

homa, refused to entertain a motion to adjourn.

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: Obviously a quorum is not present.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HOFFMAN of Michigan: Is a motion to adjourn in order?

THE SPEAKER PRO TEMPORE: Not now. The Chair will advise that a call of the House has been ordered.

MR. HOFFMAN of Michigan: Can a member of the minority—

The regular order was demanded.

THE SPEAKER PRO TEMPORE: The regular order is demanded. The Clerk will call the roll.

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

*Parliamentarian's Note:* The House refused to adjourn pending special orders obtained to give Members an opportunity to sign a discharge petition. The 219th name was affixed to the petition at approximately 4:00 p.m., and the House adjourned shortly thereafter.

**§ 8.24 When a Member holding the floor under a special**

1. 106 CONG. REC. 11828, 11829, 86th Cong. 2d Sess.

**order is interrupted by a call of the House, he is again entitled to the floor when a motion to dispense with further proceedings under the call has been agreed to; the Chair refuses to entertain a motion to adjourn unless the Member having the floor yields for that purpose.**

On June 4, 1963,<sup>(2)</sup> during time allotted for special orders, Speaker John W. McCormack, of Massachusetts, refused to entertain a motion to adjourn where another Member had the floor during a special order.

During the progress of a special order, Mr. Clark MacGregor, of Minnesota, had been recognized for and was proceeding in debate when the following transpired:

MR. [ROBERT A.] EVERETT [of Tennessee]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. [CARL] ALBERT [of Oklahoma]:

Mr. Speaker, I move a call of the House.

A call of the House was ordered.

THE SPEAKER: On this rollcall [No. 65] 332 Members have answered to their names, a quorum.

Without objection, further proceedings under the call will be dispensed with.

2. 109 CONG. REC. 10154, 88th Cong. 1st Sess.

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

MR. ALBERT: Mr. Speaker, I move that further proceedings under the call may be dispensed with.

The question was taken; and on a division (demanded by Mr. Williams) there were—ayes 210, noes 0.

So the motion was agreed to.

MR. [JAMES] ROOSEVELT [of California]: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: Does the gentleman from Minnesota yield for that purpose?

MR. MACGREGOR: Mr. Speaker, I respectfully decline to yield to the gentleman from California for that purpose.

### ***Motion to Recess***

**§ 8.25 A motion for a recess not being a privileged matter in the House, it is not in order, even in the absence of a quorum.**

On May 14, 1930,<sup>(3)</sup> the Speaker pro tempore, John Q. Tilson, of Connecticut, ruled on a motion to recess, as follows:

THE SPEAKER PRO TEMPORE: On this roll call 198 Members have answered to their names, not a quorum.

MR. [JAMES C.] KETCHAM [of Michigan]: A parliamentary inquiry, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. KETCHAM: Would it be in order to offer a motion to recess until 10

3. 72 CONG. REC. 8961, 71st Cong. 2d Sess.



o'clock tomorrow or, if that be not in order, until 10 o'clock on next Calendar Wednesday?

THE SPEAKER PRO TEMPORE: No motion is in order except a motion to adjourn, a quorum not being present.

### ***Declaration of Recess***

**§ 8.26 The Speaker may not declare a recess and interrupt a roll call under Rule XV clause 4,<sup>(4)</sup> even though the House has by unanimous consent previously given him authority to declare a recess at any time for the remainder of the session.**

On Oct. 11, 1962,<sup>(5)</sup> the House had granted permission to declare a recess as follows:

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that for the balance of this week it may be in order for the Speaker to declare a recess at any time, subject to the call of the Chair.

THE SPEAKER: Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

On Oct. 12,<sup>(6)</sup> during a roll call on H.R. 12900, the public works appropriations bill for 1963, Speaker John W. McCormack, of

Massachusetts, made a ruling regarding the time for declaring a recess.

MR. [EDMOND] EDMONDSON [of Oklahoma] (interrupting the rollcall): Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. EDMONDSON: May a recess be declared in advance of the completion of the vote?

THE SPEAKER: The Chair will state that the present situation the Chair may not declare a recess with a rollcall in process.

*Parliamentarian's Note:* This precedent does not address the question whether the Chair could declare a recess when the roll call was completed if a quorum had not voted. There is no precedent directly on that question. See, however, 4 Hinds' Precedents §2965, 5 Hinds' Precedents §§6665, 6666 and 6 Cannon's Precedents §664.

### ***Motion for Call of the House Pending After Rejection of Motion to Adjourn***

**§ 8.27 A pending motion for a call of the House, preempted by a motion to adjourn, remains pending if the motion to adjourn is rejected.**

On June 4, 1963,<sup>(7)</sup> Speaker John W. McCormack of Massachu-

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

5. 108 CONG. REC. 23207, 87th Cong. 2d Sess.

6. *Id.* at p. 23434.

7. 109 CONG. REC. 10152, 88th Cong. 1st Sess.

setts, by unanimous consent ordered a call of the House immediately after a vote on adjournment.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE:<sup>(8)</sup> The gentleman will state it.

MR. WILLIAMS: Mr. Speaker, if they are going to clutter up the Record with this stuff, I think the rest of the Members ought to be present to hear it. I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: The Chair will count. [After counting.] Thirty-eight Members are present, not a quorum.

#### CALL OF THE HOUSE

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

MR. WILLIAMS: Mr. Speaker, I move that the House do now adjourn.

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

The motion was rejected.

THE SPEAKER: Without objection, a call of the House is ordered.

There was no objection.

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

THE SPEAKER: Three hundred and forty Members have answered to their names, a quorum.

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

8. G. Elliott Hagan (Ga.).

#### *Senate Precedents*

**§ 8.28 When the Senate adopts an order for a recess at the conclusion of its day's business to a day or hour certain, a motion may be made in the absence of a quorum to take a recess pursuant to such order; but a motion to take a recess or take a recess to an hour certain is not in order in the absence of a quorum, nor is it in order to entertain a motion to recess or to recess to an hour certain after the absence of a quorum has been determined unless such previous order has been adopted.**

On July 27, 1962,<sup>(9)</sup> the Senate agreed to recess at the conclusion of its business for that day and, later, did recess (in the absence of a quorum) as follows:

MR. [MICHAEL J.] MANSFIELD [of Montana]: Mr. President, I ask unanimous consent that when the Senate concludes its business tonight, it recess to meet at 10 o'clock tomorrow morning.

THE VICE PRESIDENT:<sup>(10)</sup> Is there objection? The Chair hears none and it is so ordered. . . .

MR. [WAYNE L.] MORSE [of Oregon]: Mr. President, I suggest the absence of

9. 108 CONG. REC. 14895, 14948, 87th Cong. 2d Sess.

10. Lyndon B. Johnson (Tex.).

a quorum, and I ask that it be a live quorum. . . .

THE PRESIDING OFFICER: A quorum is not present.

RECESS TO 10 A.M. TOMORROW

MR. [GEORGE A.] SMATHERS [of Florida]: Mr. President, I move that the Senate recess in accordance with the previous order.

The motion was agreed to; and (at 10 o'clock and 14 minutes p.m.), under the previous order, the Senate recessed until tomorrow, Saturday, July 28, 1962, at 10 a.m.

On July 28,<sup>(11)</sup> Vice President Johnson ruled on a motion to recess in the absence of a quorum.

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

CALL OF THE ROLL

THE VICE PRESIDENT: The Senate having taken a recess last night in the absence of a quorum, no business can be transacted until a quorum is present.

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

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

THE VICE PRESIDENT: A quorum is not present.

MR. [HUBERT H.] HUMPHREY [of Minnesota]: Mr. President, I move that the Sergeant at Arms be directed to re-

quest the attendance of absent Senators.

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

The motion was agreed to.

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

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

THE VICE PRESIDENT: No. . . .

MR. HUMPHREY: Mr. President, I move that the Senate stand in recess until Monday, at noon.

THE VICE PRESIDENT: That motion is not in order. A motion to adjourn would be in order.

**§ 8.29 When the Senate convenes following an adjournment taken in the absence of a quorum, the first order of business is the establishment of a quorum and the Presiding Officer directs the roll to be called.**

On Sept. 23, 1968,<sup>(12)</sup> a quorum was established, as follows:

THE PRESIDENT PRO TEMPORE:<sup>(13)</sup> The Senate having adjourned on Friday, September 20, 1968, in the absence of a quorum, the clerk will call the roll to ascertain the presence of a quorum.

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

11. 108 CONG. REC. 14952, 87th Cong. 2d Sess.

12. 114 CONG. REC. 27814, 27815, 90th Cong. 2d Sess.

13. Carl Hayden (Ariz.).

THE PRESIDING OFFICER:<sup>(14)</sup> A quorum is not present.

MR. [MICHAEL J.] MANSFIELD [of Montana]: Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

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

The motion was agreed to.

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

After some delay, the following Senators entered the Chamber and answered to their names: . . .

THE PRESIDING OFFICER: A quorum is present.

*Parliamentarian's Note:* Under House procedures, where a quorum fails to respond on a vote on a pending matter or motion, and the House adjourns, the unfinished business when the House reconvenes is the vote on the pending matter; but where the House simply adjourns in the absence of a quorum, a quorum is presumed present when the House reconvenes and there is no requirement to affirmatively establish a quorum.

## § 9.—To Dispense With Further Proceedings Under the Call

Appearance of a quorum and passage of the motion to dispense

14. Howard W. Cannon (Nev.).

with further proceedings are necessary before pending business may be resumed<sup>(15)</sup> following a call of the House ordered on motion under Rule XV clause 2(a).<sup>(16)</sup> Agreement to the motion terminates the call of the House,<sup>(17)</sup> and efforts to call other Members to the Chamber,<sup>(18)</sup> including notation of absentees, arrest, and discharge of Members, and opens the doors.<sup>(19)</sup> The motion is not required on automatic votes by the yeas and nays because Rule XV clause 4,<sup>(20)</sup> which authorizes this procedure, provides that when the Speaker declares that a quorum is constituted, "further proceedings under the call shall be considered as dispensed with."<sup>(1)</sup>

The motion is not in order when a motion to arrest absent Members is pending,<sup>(2)</sup> and is not entertained until a quorum responds on the call,<sup>(3)</sup> is not preferential to

15. §9.7, *infra*.

16. *House Rules and Manual* §768 (1979)

17. §9.8, *infra*.

18. §9.10, *infra*.

19. §§9.9, 9.10, *infra*.

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

1. *Id.*

2. 4 Hinds' Precedents §§3029, 3037, and annotation to Rule XV clause 2(a), *House Rules and Manual* §770 (1979)

3. 6 Cannon's Precedents §689, and annotation to Rule XV clause 2(a),