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# VOTING

Voting in the Senate may occur in one of the following three ways: by yea and nay vote (also referred to as a roll call or a recorded vote); by voice vote; or by division vote.

The Constitution states with respect to each House of Congress that on any question the yeas and nays shall be entered on the *Journal* at the request of one fifth of the Members present. The Standing Rules of the Senate likewise mention the yeas and nays. This is the only method of voting so mentioned in either the Constitution or the Rules, although by precedent voting may also occur by voice vote or by division vote.

Any Senator who has the floor may request the yeas and nays on the question then pending before the Senate, and the Presiding Officer must immediately determine if there is a sufficient second. In general, the minimum number of Senators needed to constitute a sufficient second is one fifth of a presumptive quorum of the Senate (eleven, based on 100 Senators). However, when the absence of a quorum has been established, one fifth of the Senators who responded to the quorum call constitutes a sufficient second should a rollcall vote be sought on any of the limited number of motions in order in the absence of a quorum.

The Chair has discretion in determining whether there is a sufficient second, and may base its count on the number of Senators who voted on the last rollcall vote, if it occurred "recently." The determination by the Chair as to whether there is a sufficient second is not subject to appeal. Under recent practice, a Senator who requests the yeas and nays loses the floor, and another Senator could be recognized. However, the ordering of the yeas and nays does not end debate on the matter on which such yeas and nays were ordered.

A rollcall vote begins when the first Senator responds to his or her name, and once begun a rollcall vote may not be interrupted. A Senator who has missed a rollcall vote may not seek unanimous consent to be added to the vote.

The Senate most frequently disposes of questions by voice vote (also referred to as *viva voce* vote). In a voice vote, the Chair first asks those in favor of the question to say "aye," and then asks those opposed to say "no," after which the Chair states the tentative result (the ayes or noes "appear to have it"). If another form of vote is not requested and ordered at this time (and if a quorum call is not instituted), the Chair will then announce the final result of the vote.

Frequently, the Chair will state, "Without objection the amendment, bill, resolution, motion etc. is agreed to (or not agreed to)." This is merely an abbreviated way of putting the question on a voice vote, and does not imply that the proposition can be defeated by one objection. However, any Senator may object to putting the question in this manner, in which case the vote will occur by one of the other methods discussed herein.

A division vote may be requested by a Senator or may be called for by the Chair on its own initiative. This method of voting is used to provide more information to the Chair. When this is used, the Chair alternatively requests that those in favor of the question stand and be counted, and then those opposed stand and be counted. The Chair does not divulge its count of those standing for each side of the question, but simply states that the "ayes" or "noes" appear to have it, as the case may be. If the yeas and nays are not requested and ordered (or if a quorum call is not instituted), the Chair announces the final result of the vote.

# Constitution, Article I, Section 5

## [Yeas and Nays]

* * * and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one-fifth of those Present, be entered on the Journal.

# Rule XII

## [Voting in the Senate]

1. When the yeas and nays are ordered, the names of Senators shall be called alphabetically; and each Senator shall, without debate, declare his assent or dissent to the question, unless excused by the Senate; and no Senator shall be permitted to vote after the decision shall have been announced by the Presiding Officer, but may for sufficient reasons, with unanimous consent, change or withdraw his vote. No motion to suspend this rule shall be in order, nor shall the Presiding Officer entertain any request to suspend it by unanimous consent.

2. When a Senator declines to vote on call of his name, he shall be required to assign his reasons therefor, and having assigned them, the Presiding Officer shall submit the question to the Senate: "Shall the Senator for the reasons assigned by him, be excused from voting?" which shall be decided without debate; and these proceedings shall be had after the rollcall and before the result is announced; and any further proceedings in reference thereto shall be after such announcement.

3. A Member, notwithstanding any other provisions of this rule, may decline to vote, in committee or on the floor, on any matter when he believes that his voting on such a matter would be a conflict of interest.

4. No request by a Senator for unanimous consent for the taking of a final vote on a specified date upon the passage of a bill or joint resolution shall he submitted to the Senate for agreement thereto until after a quorum call ordered for the purpose by the Presiding Officer, it shall be disclosed that a quorum of the Senate is present; and when a unanimous consent is thus given the same shall operate as the order of the Senate, but any unanimous consent may be revoked by another unanimous consent granted in the manner prescribed above upon one day's notice.

## Absentee May Not Vote:

A unanimous consent request that a Senator be recorded on a vote when he is not present is not in order; [1] and the Chair is specifically prohibited from entertaining a unanimous consent request to add the name of a Senator to a vote after the result of that vote has been announced.[2]

## Amendment, Modification of, After Ordering Yeas and Nays:

*See* "Modification of," pp. 64-70; "Yeas and Nays Ordered on, Amendments in Order," pp. 124-125.

## Amendment, Ordering of Yeas and Nays on:

*See* "Yeas and Nays Ordered on, Amendments in Order," pp. 124-125.

## Amendments, Withdrawal After Ordering Yeas and Nays:

*See* "Withdrawal of Amendments," pp. 119-123.

## Announcement of Vote, Delay Not in Order:

It is not in order for the Presiding Officer to entertain a request for a delay in the announcement of a result of a vote.[3]

## Announcement of Vote Is Final:

*See also* "Division Vote," pp. 1404-1409; "Viva Voce Vote," pp. 1429-1430; and "Voting After Announcement Out of Order," pp. 1432-1434.

Once a vote has been announced, whether it be as a result of a voice vote or a division vote, that is final unless the vote is reconsidered.[4]

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[1] Feb. 29, 1960, 86-2, *Record*, p. 3801.
[2] Rule XII, par. 1; Oct. 24, 1985, 99-1, *Record*, p. 28953; June 15, 1982, 97-2, *Record*, p. 13679.
[3] *See* Aug. 19, 1960, 86-2, *Record*, p. 16777.
[4] Mar. 21, 1975, 94-1, *Record*, pp. 8021-22.

## Appeal, Withdrawal After Ordering Yeas and Nays:

*See* "Withdrawal of," p. 149.

## Approval Without Objection:

*See* "Without Objection" Announcement of Approval, p. 1435.

## Calendar Call, Vote on Amendment:

*See* "Vote on Amendments by Yeas and Nays," p. 267.

## Censure, Vote on:

*See* "Censure," pp. 270-273.

## Chair Cannot Interpret Vote:

The Presiding Officer has no authority to interpret a vote.[5]

## Change of Vote:

*See also* "Correction of Vote," pp. 1401-1403; "Voting After Announcement Out of Order," pp. 1432-1434.

After the announcement of the result of a rollcall vote, by unanimous consent a Senator can withdraw,[6] or change his vote.[7] He may change his vote at any time prior to the announcement of the result.[8]

A Senator may by unanimous consent change his vote on a cloture motion.[9]

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[5] *See* Sept. 27, 1973, 93-1, *Record*, p. 31822.

[6] June 1 and 17, 1897, 55-1, *Record*, pp. 1374, 1791; Oct. 28, 1893, 53-1, *Record*, p. 2920; Aug. 11, 1911, 62-1, *Journal*, p. 166; Apr. 30, 1900, 56-1, *Record*, p. 4832; Feb. 7, 1905, 58-3, *Record*, p. 2003; *see* Aug. 11, 1982, 97-2, *Record*, pp. 20353, 20418; *see* Feb. 25, 1861, 36-2, *Record*, p. 1164; Dec. 15, 1969, 91-1, *Record*, pp. 39200-01.

[7] Apr. 23, 1987, 100-1, *Record*, p. S 5383; Aug. 17, 1982, 97-2, *Record*, p. 21684; Aug. 11, 1982, 97-2, *Record*, pp. 20353, 20418; Feb. 24, 1913, 62-3, *Record*, p. 3783; Apr. 19, 1933, 73-1, *Record*, p. 1943; June 1 and 17, 1897, 55-1, *Record*, pp. 1374, 1791; July 5, 1952, 82-2, *Record*, p. 9517; May 29, 1952, 82-2, *Record*, p. 6202; Aug. 29, 1949, 81-1, *Record*, p. 12423; Mar. 9, 1950, 81-2, *Record*, p. 3109; Mar. 6 and 7, 1950, 81-2, *Record*, pp. 2909-10; Oct. 15, 1949, 81-1, *Record* (daily), p. 14955; *see* permanent *Record* of Sept. 15 for corrected vote; Apr. 3, 1951, 82-1, *Record*, pp. 3161, 3189; May 23, 1946, 79-2, *Record*, p. 5454; Jan. 12, 1944, 78-2, *Record* (daily), p. 81; *see* permanent *Record* of Jan. 11 for corrected vote; Dec. 8, 1943, 78-1, *Record*, pp. 10417-18; Apr. 7, 1922, 67-2, *Record*, p. 5168; Apr. 7, 1960, 86-2, *Record*, p. 7552; Aug. 26, 1959, 86-1, *Record*, p. 16994; June 3, 1965, 89-1, *Record* (daily), p. 12116; *see* Feb. 20, 1861, 36-2, *The Congressional Globe*, p. 1049; Feb. 25, 1861, 36-2, *Record*, p. 1164; Nov. 13, 1969, 91-1, *Record*, p. 34029; *see* Dec. 15, 1969, 91-1, *Record*, pp. 39200-01; Sept. 29, 1978, 95-2, *Record*, p. 32820.

[8] June 11, 1935, 74-1, *Record*, p. 9068; June 12, 1941, 77-1, *Record*, p. 5070; *see also* Feb. 7, 1905, 58-3, *Record*, p. 2004; May 21, 1971, 92-1, *Record*, pp. 16442-44.

[9] Aug. 3, 1983, 98-1, *Record*, p. 22441.

A Senator may change his or her vote by unanimous consent, even on a day of session following a rollcall vote.[10]

In one instance a Senator was granted unanimous consent to change his vote several days after the result was announced; [11] in another instance a Senator obtained unanimous consent to change his vote, 30 days after it was cast.[12]

A Senator who was paired but inadvertently voted, may by unanimous consent, after the announcement of the result, withdraw his vote.[13]

## Closed Session, Vote in:

*See* "Closed Doors," pp. 275–281.

## Cloture Motion, Vote on:

*See* "Vote on Motion," pp. 328–332.

## Conflict of Interest:

*See* "Excused from Voting," pp. 1409–1411.

## Constitutional Amendments, Vote on:

*See* "Constitutional Amendments," pp. 683–686.

## Correction of Vote:

*See also* "Change of Vote," pp. 1400–1401; "Vote by Vice President," pp. 1394–1396.

Where a Senator voted, but through error his name was not recorded, or incorrectly recorded, the vote was corrected and announced upon the discovery of the error,[14] even though the effect thereof was to change the result of

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[10] Feb. 2, 1987, 100–1, *Record*, p. 1439.

[11] Mar. 6 and 7, 1950, 81–2, *Record*, pp. 2909–10.

[12] Oct. 15, 1949, 81–1, *Record* (daily), p. 14955; *see* permanent *Record* of Sept. 15 for corrected vote.

[13] Oct. 28, 1893, 53–1, *Record*, p. 2920; Apr. 30, 1900, 56–1, *Record*, p. 4832: Feb. 7, 1905, 58–3, *Record*, p. 2003; Aug. 11, 1911, 62–1, *Journal*, p. 166.

[14] Mar. 6, 1900, 56–1, *Record*, p. 2589; May 13, 1933, 73–1, *Journal*, p. 164, *Record*, pp. 3315, 3317; Sept. 7, 1959, 86–1, *Record* (daily), p. 16894; Feb. 11, 1955, 84–1, *Record* (daily), p. 1237.

the vote,[15] and vacate any subsequent proceedings thereon.[16]

On one occasion, when a Senator had voted but through error his vote was incorrectly recorded, he obtained unanimous consent to correct the vote and correct the permanent edition of the *Congressional Record*.[17] On other occasions, Senators have obtained unanimous consent to correct the vote when they voted, but were either not recorded,[18] or were incorrectly recorded.[19] On another occasion, when a Senator had voted, but through error his vote was not recorded, the Majority Leader obtained unanimous consent to correct the vote.[20]

By unanimous consent on October 10, 1968, rollcall No. 331 was corrected to include the name of Mr. Miller of Iowa.[21]

Where a motion to lay on the table was announced as carried by one vote, and it later appeared an error in tabulation was made, making the vote a tie and thus changing the result, the Presiding Officer announced the error and declared the motion was lost.[22]

In 1949, when errors were made in tabulating votes on amendments, which caused the Vice President to make erroneous announcements of the result, corrections were announced and in each case the actual vote changed the result.[23]

In one case the correct vote resulted in a tie, as subsequently discovered, and the Vice President was deprived of an opportunity to cast an effective vote.[24] The Vice President expressed the opinion that upon the discovery of the error that it should be corrected, even though an amendment had been stated in the meantime.[25]

The vote in one of the above cases was corrected by the adoption of an amendment to the Senate *Journal* on the succeeding day.[26]

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[15] June 4, 1952, 82-2, *Record*, pp. 6527-28; Sept. 15, 1949, 81-1, *Record*, pp. 12927-32; Oct. 27, 1977, 95-1, *Record*, pp. 35530-33; *see also* Sept. 12, 1950, 81-2, *Record*, p. 14594.
[16] Feb. 12, 1915, 63-3, *Record*, pp. 3628-29.
[17] Aug. 3, 1982, 97-2, *Journal*, p. 431.
[18] Aug. 12, 1982, 97-2, *Record*, p. 20856.
[19] Aug. 10, 1982, 97-2, *Journal*, p. 454.
[20] Oct. 15, 1987, 100-1, *Record*, p. S 14294.
[21] Oct. 10, 1968, 90-2, *Record*, pp. 30485-86.
[22] May 12, 1933, 73-1, *Journal*, p. 164.
[23] Sept. 15, 1949, 81-1, *Record*, pp. 12929-32; Sept. 16, 1949, 81-1, *Record*, p. 12961.
[24] *Ibid.*
[25] *Ibid.*
[26] *Ibid.*

An amendment having been erroneously announced as agreed to, upon the discovery of the error the President pro tempore announced the vote was in fact a tie and the amendment therefore lost; the President pro tempore having held that a Senator who voted in the negative could not change his vote, the vote disagreeing to the amendment was reconsidered and the amendment agreed to.[27]

An error in failing to record a Senator's vote, which would have changed the result, was corrected by an amendment of the Senate *Journal*.[28]

Where a Senator voted and by inadvertence his name was not recorded, he is entitled to have the rollcall corrected to show that he voted; [29] in one such circumstance, the Senator asked and obtained unanimous consent that the *Journal* and the *Record* be amended to record his vote.[30]

## Count of Division Vote:

The Senator from South Dakota (Mr. Abourezk) when a division vote was taken inquired of the Chair as to what was the count. The Chair responded: "It is not in order to ask for a count." [31]

## Debate on Ordering of Yeas and Nays:

*See* "Rollcall Vote, Ordering Yeas and Nays Does Not Exclude Debate," p. 774.

## Debate Out of Order During a Vote:

*See* "Rollcall Vote (Yeas and Nays), Debate Out of Order," pp. 773–774; "Voting, Debate Not in Order During," p. 787.

## Decline To Vote:

*See* "Excused From Voting," pp. 1409–1411.

## Decorum:

*See also* "Decorum," pp. 798–799.

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[27] July 24, 1912, 62–2, *Record*, p. 9523.
[28] Mar. 20 and 24, 1941, 77–1, *Record*, pp. 2490–91.
[29] Apr. 3, 1951, 82–1, *Record*, p. 3173; for corrected vote *see* daily *Record*, p. 3319 for request to correct the *Record*; *see also* footnote No. 15.
[30] May 10, 1950, 81–2, *Record*, p. 6769.
[31] Sept. 30, 1977, 95–1, *Record*, pp. 31750–52.

In 1982 the Chair stated that it was not necessary that Senators vote from their desks,[32] but in 1984 the Senate adopted S. Res. 480 to impose this requirement.[33] In 1986 the Chair stated that this standing order of the Senate resulting from the adoption on that resolution requiring Senators to vote from their desks, had the same force and effect as a provision of the Standing Rules of the Senate.[34]

## Disqualify From Voting Because of Personal Interest:

*See* "Excused From Voting," pp. 1409-1411.

## Division of Question on Passage of Bill:

*See* "Division of Pending Question," pp. 807-812.

## Division of Question When Yeas and Nays Ordered:

*See also* "Division of Pending Question," pp. 807-812.

## Division Vote:

There is no authority in the rules of the Senate for the method of voting by a division; the method is intended to advise the Presiding Officer whether or not the majority of the Senators present favor or oppose a given question; [35] and the judgment of the Chair may be questioned by a resort to a rollcall.[36]

The only reason for a division of the Senate is to satisfy the mind of the Chair as to whether a motion is carried or lost.[37] Therefore, the Chair may request a division vote.[38] The Chair may also deny a request for a division vote.[39]

When a division vote occurs, the Chair does not announce the numerical breakdown of the vote, but only announces whether or not the proposition was approved.[40]

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[32] Aug. 4, 1982, 97-2, *Record*, p. 19229.
[33] S. Res. 480, 98-2, Oct. 11, 1984.
[34] Feb. 27, 1986, 99-2, *Record*, p. 3141.
[35] June 10, 1913, 63-1, *Record*, pp. 1928-29; Jan. 18, 1915, 63-3, *Record*, p. 1766.
[36] *See* June 10, 1913, 63-1, *Record*, pp. 1928-29.
[37] Aug. 11, 1914, 63-2, *Record*, pp. 13612-13.
[38] Dec. 11, 1987, 100-1, *Record*, p. S 17940.
[39] Oct. 3, 1977, 95-1, *Record*, p. 31940.
[40] Dec. 19, 1982, 97-2, *Record*, p. 32497.

A division vote, while counted for the Chair by the Clerk, is never recorded; the Record does not show how many voted for and how many voted against—it merely shows the results; whether approved or not approved.[41]

There is no procedure authorizing the recording of the names of Senators voting on a division, but the yeas and nays may be ordered on any question.[42]

The yeas and nays may be demanded prior to the announcement of the result of a division vote on an amendment.[43]

A request for a division vote is in order before the result of a voice vote is announced and not afterwards.[44] The tentative announcement of the result of a voice vote is not conclusive and a division vote may occur.[45]

Where the Chair announced the result of a *viva voce* vote while a Senator was on his feet asking for a division, the right of the Senator was recognized.[46]

The Chair has announced the tentative result of a voice vote, but in response to a request by a Senator conducted a division vote which produced the opposite result.[47]

It is too late to request a division after the Chair has announced that the question had been rejected by a voice vote.[48]

Once the result of a division vote has been announced, it is too late to ask for the yeas and nays.[49]

When the Chair is in doubt on a voice vote, it is his prerogative to call for a division to ascertain the vote.[50]

A division vote may be interrupted to request the yeas and nays,[51] even if it is necessary to have a quorum call in order to get sufficient Senators to take that action.

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[41] Feb. 22, 1973, 93-1, *Record*, p. 5181.
[42] Dec. 16, 1937, 75-2, *Record*, p. 1652.
[43] July 16, 1947, 80-1, *Record*, p. 9026; *see also* Oct. 24, 1942, 77-2, *Record*, p. 8652.
[44] June 3, 1952, 82-2, *Record*, p. 6461; Oct. 6, 1978, 95-2, *Record*, p. 34342; May 10, 1926, 69-1, *Record*, pp. 9023, 9039; Aug. 18 and 19, 1958, 85-2, *Record*, pp. 18193, 18512-13; May 13 and Aug. 12, 1958, 85-2, *Record*, pp. 8565, 17109-10; July 29, 1954, 83-2, *Record*, p. 12550; June 30, 1953, 83-1, *Record*, p. 7629; May 18, 1953, 83-1, *Record*, p. 5045; July 7, 1953, 83-1, *Record*, p. 8068.
[45] Dec. 11, 1987, 100-1, *Record*, p. S 17940.
[46] July 31, 1937, 75-1, *Record*, p. 7948; Mar. 6, 1940, 76-3, *Record*, p. 2440; Jan. 16, 1942, 77-2, *Record*, p. 424.
[47] July 22, 1982, 97-2, *Record*, p. 17635.
[48] June 15, 1965, 89-1, *Record*, p. 13663.
[49] June 17, 1986, 99-2, *Record*, pp. 14147-48.
[50] Sept. 15, 1970, 91-2, *Record*, p. 31804.
[51] Mar. 1, 1971, 92-1, *Record*, p. 4473.

An announcement of the result of a vote on a division was rescinded when it developed that a Senator was demanding the yeas and nays prior to the announcement.[52]

A division vote is not final unless it has been announced by the Chair and then it is too late to request the yeas and nays,[53] unless, of course, that vote is reconsidered.

On a division or voice vote, an announcement of the result by the Chair is final, even though the Chair failed to state, "The ayes appear to have it," in the case of a voice vote.[54]

Where no definite announcement of the result of a *viva voce* vote has been made, a division is in order as a means of determining the question.[55]

Prior to the announcement of the result of a division vote on an amendment, the suggestion of the absence of a quorum is in order.[56]

After the result of a *viva voce* vote has been announced, it is too late to request a division on the question, which then is not in order,[57] nor would it then be in order to request the yeas and nays.[58]

When the Chair puts a question to a division vote and the result is announced, the vote is final, and a request for the yeas and nays is not in order, as coming too late.[59]

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[52] Apr. 16, 1940, 76-3, *Record*, pp. 4579-80; Jan. 18, 1944, 78-1, *Record*, pp. 321-22.

[53] Mar. 1, 1971, 92-1, *Record*, p. 4473; Sept. 23, 1970, 91-2, *Record*, p. 33496.

[54] Dec. 10, 1970, 91-2, *Record*, pp. 40888-89, 40907.

[55] Aug. 8, 1914, 63-2, *Record*, p. 13527.

[56] June 3, 1938, 75-3, *Record*, pp. 8122-23.

[57] May 10, 1926, 69-1, *Journal*, p. 387; Dec. 17, 1937, 75-2, *Record*, pp. 1764-65; Sept. 24, 1940, 76-3, *Record*, p. 12541; Dec. 4, 1950, 81-2, *Record*, p. 16063; Aug. 23, 1949, 81-1, *Record*, p. 12038; June 18, 1948, 80-2, *Record*, p. 8730; July 15, 1947, 80-1, *Record*, p. 8888; Mar. 21, 1930, 71-2, *Record*, p. 5833; May 10, 1926, 69-1, *Record*, pp. 9023, 9039; *see also* Jan. 13, 1949, 81-1, *Record*, p. 220; May 27, 1926, 69-1, *Record*, p. 10182; June 26, 1962, 87-2, *Record*, p. 11695.

[58] May 10, 1926, 69-1, *Record*, pp. 9023, 9039; Jan. 17, 1950, 81-2, *Record*, p. 455; Feb. 11, 1930, 71-2, *Record*, p. 3429; Sept. 1, 1950, 81-2, *Record*, p. 14058; Oct. 11, 1949, 81-1, *Record*, p. 14195; May 9, 1947, 80-1, *Record*, p. 4895; Jan. 19, 1944, 78-1, *Record*, p. 398; July 31, 1937, 75-1, *Record*, pp. 7947-48; Feb. 7, 1935, 74-1, *Journal*, p. 102, *Record*, pp. 1651-52; Apr. 6, 1933, 73-1, *Record*, p. 1339; Mar. 12, 1930, 71-2, *Record*, p. 5085; Feb. 19, 1861, 36-2, *The Congressional Globe*, p. 1028; *see also* May 27, 1926, 69-1, *Record*, p. 10182; in one instance the Vice President ruled that a demand for the yeas and nays was in order after the result of a division vote had been announced, June 4, 1920, 66-2, *Record*, p. 8506.

[59] June 14, 1938, 75-3, *Record*, p. 9198; Mar. 6, 1940, 76-3, *Journal*, p. 149, *Record*, p. 2441; Apr. 6, 1933, 73-1, *Record*, p. 1339; Sept. 13, 1950, 81-2, *Record*, p. 14723; Aug. 3, 1950, 81-2, *Record*, pp. 11691, 11715; Sept. 29, 1949, 81-1, *Record*, pp. 13524-25, 13538; Oct. 11, 1949, 81-1, *Record*, p. 14195; May 9, 1947, 80-1, *Record*, p. 4895; Jan. 19, 1944, 78-1, *Record*, p. 398; July 31, 1937, 75-1, *Record*, pp. 7947-48; June 20, 1936, 74-2, *Journal*, p. 455; Feb. 7, 1935, 74-1, *Journal*, p. 102, *Record*, pp. 1651-52; July 2, 1930, 71-2, *Journal*, p. 532; Nov. 16, 1929, 71-1, *Journal*, p. 206, *Record*, p. 5678; *see also* Sept. 27, 1949, 81-1, *Record*, p. 13332; Sept. 15, 1970, 90-1, *Record*, p. 31804.

After the result of a vote, on a division, has been announced, it is too late to call for a quorum in order to obtain the presence of Senators for the vote.[60]

A request for a division of the Senate on the question of agreeing to an amendment as modified is not in order after the decision of the Chair has been announced.[61]

A point of order that the negative of a question to consider a treaty was not put by the Presiding Officer comes too late after the result is announced and other business in the meantime has been transacted.[62]

The Presiding Officer is not required nor is it a practice of the Senate to announce the number voting on a division; [63] and usually the number voting for or against a proposition on a division vote, under the practice of the Senate, is not stated by the Presiding Officer; [64] he merely declares the results; [65] on occasions the number voting on a division has been announced.[66]

There is no question of a quorum involved in a division vote; [67] it is not required that a quorum shall vote on a division [68] and the vote is not invalidated because of that fact; [69] the number voting on a division is immaterial, the question being simply whether the larger vote is on the one side or the other.[70]

It is assumed that a quorum is participating in a division vote unless a point of no quorum is made.[71]

Where, on a division, less than a quorum voted on a question, the Presiding Officer held the vote was valid, and that it was not in order, after a quorum call which had been demanded by a Senator, to ask for another division upon the question.[72]

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[60] Oct. 3, 1949, 81-1, *Record*, p. 13632.
[61] June 28, 1939, 76-1, *Record*, p. 8098.
[62] Mar. 10, 1925, 69-Special Session, *Record*, p. 102.
[63] Aug. 11, 1914, 63-2, *Record*, pp. 13612-13; Sept. 5, 1962, 87-2, *Record*, pp. 18585-86; *see also* Mar. 6, 1940, 76-3, *Record*, p. 2440.
[64] Jan. 19, 1944, 78-1, *Record*, p. 398; July 10, 1947, 80-1, *Record*, p. 8610; Mar. 6, 1940, 76-3, *Record*, p. 2440; *see also* Mar. 28, 1933, 73-1, *Record*, p. 927; May 23, 1957, 85-1, *Record*, p. 7550.
[65] Sept. 8, 1922, 67-2, *Record*, p. 12250.
[66] Mar. 18, 1940, 76-3, *Record*, p. 2985; Apr. 5, 1940, 76-3, *Record*, p. 4104; May 21, 1940, 76-3, *Record*, p. 6495; June 14, 1940, 76-3, *Record*, p. 8252; Mar. 7, 1940, 76-3, *Record*, pp. 2467-68; Mar. 19, 1935, 74-1, *Record*, p. 3971; Mar. 15, 1940, 76-3, *Record*, p. 2959; Mar. 21, 1940, 76-3, *Record*, p. 3213.
[67] May 4, 1914, 63-2, *Record*, p. 7671.
[68] Jan. 18, 1915, 63-3, *Record*, p. 1766; Sept. 5, 1962, 87-2, *Record*, pp. 18585-86.
[69] *See* Mar. 10, 1916, 64-1, *Record*, p. 3898.
[70] May 4, 1914, 63-2, *Record*, p. 7671.
[71] *Ibid.*
[72] June 15, 1910, 61-2, *Record*, pp. 8162-67.

An announcement by the Presiding Officer that, on a division, less than a quorum voted does not officially disclose the absence of a quorum; in such a case, the Presiding Officer made no declaration of the result, but the Senate, on appeal, decided the question had not been determined.[73]

An amendment, on a division, having received a majority of the votes cast, although not a quorum, was declared to have been adopted; while the number of votes announced by the Presiding Officer was less than a quorum, it does not officially show that a quorum is not present; a quorum is presumed to be present until the contrary is shown,[74] and any Senator can call for a quorum before the vote is announced.

The number of Senators voting on a division being less than a quorum, the Presiding Officer by unanimous consent in 1884 counted the Senate and announced a quorum was present.[75]

Less than a quorum, on a division, having voted on a motion to proceed to the consideration of a bill, the President pro tempore held that unanimous consent could not be given to withdraw the motion; and a count of the Senate was made by him and a quorum announced as being present.[76]

Where, on a division, one less than a quorum voted, the President of the Senate, stating there was present a Senator who did not vote, held that a quorum of the Senate was in attendance, citing a precedent of June 19, 1879.[77]

In 1942 the count of the Presiding Officer on a division was challenged as to its correctness, and the Presiding Officer again put the question by a division.[78]

A vote by division on a motion to lay on the table being less than a quorum, the Vice President held the vote was valid, inasmuch as the presence of a quorum had been established by a rollcall immediately previous to the vote.[79]

On various occasions, a quorum not having voted on a division, the Chair announced the number voting, ordered

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[73] Aug. 18, 1922, 67-2, *Journal*, p. 393, *Record*, pp. 11559-61.
[74] Mar. 25, 1920, 66-2, *Record*, pp. 4812-13.
[75] Apr. 8, 1884, 48-1, *Record*, p. 2756.
[76] July 3, 1884, 48-1, *Record*, p. 5038.
[77] May 29, 1908, 60-1, *Record*, p. 7159.
[78] Aug. 13, 1942, 77-2, *Record*, pp. 6832-33.
[79] Mar. 20, 1912, 62-2, *Journal*, p. 221, *Record*, pp. 3675-76; *see also* Mar. 25, 1920, 66-2, *Record*, pp. 4812-13.

a call of the Senate to develop a quorum for a valid vote,[80] or for the yeas and nays.[81]

## Engrossment and Third Reading, Voted on and Rejected:

*See* "Engrossed Bills and Resolutions," pp. 819–822.

## Excused From Voting:

The Senate may excuse a Senator from the otherwise obligation, under Rule XII, of voting on each issue.[82] A Senator is required to vote on a question when the yeas and nays are called unless excused, but the Senate is free to accept or reject a request to be excused, as it has done.[83]

However, under the newly amended Rule XII, relative to Senators not having to vote when a conflict of interest is involved, the Senator from North Carolina (Mr. Helms) on a vote in 1980 on an amendment involving broadcasting companies declined to vote since he owned stock in a broadcasting company.[84]

Under Rule XII, except under paragraph 3, in the case of a conflict of interest, a Senator must vote unless he is excused by the Senate,[85] but by unanimous consent he may be excused irrespective of the provisions of Rule XII.[86]

It is the practice of the Senate to allow Senators who decline to vote to respond "present" whether or not they

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[80] Feb. 23, 1903, 57–2, *Journal*, p. 200, *Record*, p. 2505; Feb. 27, 1913, 62–3, *Record*, p. 4184; Feb. 28, 1913, 62–3, *Record*, p. 4261; Nov. 17, 1913, 63–1, *Record*, p. 5937; Oct. 23, 1913, 63–1, *Record*, p. 5789–90; July 2, 1913, 63–1, *Record*, p. 2294; June 18, 1913, 63–1, *Record*, p. 2082; June 6, 1913, 63–1, *Record*, p. 1911; June 2, 1913, 63–1, *Record*, p. 1844; May 7, 1913, 63–1, *Record*, p. 1290; Mar. 3, 1913, 62–3, *Record*, p. 4705; Aug. 17, 1888, 50–2, *Journal*, p. 1305.

[81] Jan. 23, 1884, 48–1, *Record*, p. 592; Jan. 24, 1884, 48–1, *Record*, p. 624; Feb. 8, 1884, 48–1, *Record*, pp. 991–92; May 14, 1884, 48–1, *Record*, p. 4146; May 15, 1884, 48–1, *Record*, p. 4175; Feb. 20, 1884, 48–1, *Record*, p. 1255; *see also* Mar. 4, 1884, 48–1, *Record*, p. 1585.

[82] Rule XII; Feb. 7, 1956, 84–2, *Record*, p. 2168; Feb. 27, 1958, 85–2, *Record*, p. 3000.

[83] Jan. 18, 1944, 78–1, *Record*, pp. 304–05; June 9, 1944, 78–2, *Record*, p. 5637; Mar. 1, 1946, 79–2, *Record*, p. 1817; Aug. 3, 1954, 83–2, *Record*, p. 13086; Apr. 10, 1952, 82–2, *Record*, p. 3954; Sept. 7, 1951, 81–1, *Journal*, p. 535; June 29, 1951, 82–1, *Record*, pp. 7403–06; June 2, 1959, 86–1, *Record*, p. 9550; May 22, 1959, 86–1, *Record*, p. 8911; Aug. 2, 1972, 92–2, *Record*, pp. 26398–400; *see also* Sept. 22 and 24, 1951, 82–1, *Record*, pp. 11877, 11957.

[84] Feb. 7, 1980, 96–2, *Record*, p. S 1205.

[85] Sept. 23, 1965, 89–1, *Record*, pp. 24878–80.

[86] Dec. 1, 1969, 91–1, *Record*, p. 36259.

give an explanation and whether or not that explanation is consistent with the rule requiring a Senator to vote.[87]

In one instance two Senators answered "present" during the vote on an amendment, one of whom indicated in his remarks on the amendment that he would so vote.[88]

By a voice vote a Senator was excused from voting on final passage of a bill; the vote to excuse the Senator was taken after the conclusion of the rollcall vote on passage but before the vote was announced.[89]

Under Rule XII, it is too late to require a Senator to vote after the vote has been announced, but until the vote is announced, a Senator may be required to vote or to state his reasons for not voting and have the Senate excuse him,[90] except under paragraph 3 of Rule XII.

The Chair has held that a Senator has a limited right to explain his reasons for declining to vote, and may not "go on forever" stating his reasons for not voting.[91]

The question of excusing a Senator is not put until after the rollcall has been completed and before the result is announced.[92]

The Presiding Officer has no power to demand reasons of a Senator for failure to vote.[93]

A motion to excuse Senators from voting is not in order, and a Senator not only has a right but is required to assign his reasons for not voting; but he must confine his statements to those reasons. The question of excusing him is decided by the Senate.[94]

Proceedings in a case where a Senator declined to vote on call of his name, and the Senate having refused to excuse him, he again declined to vote; such proceedings are had after the rollcall and before the result is announced.[95]

The Chair has held that repeated requests by Senators to be excused from voting on a vote on or subsumed by a

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[87] June 2, 1981, 97-1, *Record*, p. 11118.
[88] Sept. 18, 1984, 98-2, *Record*, p. 25749.
[89] Sept. 23, 1965, 89-1, *Record*, pp. 24878-80.
[90] Aug. 2, 1972, 92-2, *Record*, pp. 26398-400.
[91] May 13, 1987, 100-1, *Record*, pp. S 6346-47.
[92] Aug. 3, 1950, 81-2, *Record*, pp. 11716-17; Mar. 3, 1916, 64-1, *Journal*, p. 201, *Record*, p. 3464; Oct. 13, 1893, 53-1, *Record*, p. 2474; Oct. 11, 1893, 53-1, *Record*, p. 2398.
[93] Mar. 3, 1881, 46-3, *Journal*, pp. 386-88.
[94] Aug. 17, 1911, 62-1, *Journal*, p. 183, *Record*, pp. 4064-67; Jan. 29, 1915, 63-3, *Record*, p. 2576.
[95] Oct. 11, 13 and 14, 1893, 53-1, *Record*, pp. 2398, 2474, 2508.

vote on a motion to approve the *Journal*, were out of order as dilatory.[96]

A yea and nay vote may be had on the question of excusing a Senator from voting on a question.[97]

A Senator may vote "Present" if granted consent by the Senate; [98] a motion to allow a Senator to vote "Present" is not in order.[99]

Under the precedents, Senators have voted "Present," which really is not a vote, and if this should be questioned by a single Senator, the Senator, unless excused, would have to vote,[100] except under paragraph 3 of Rule XII. A response of "Present" does not constitute a vote, and a Senator so responding is eligible to enter a motion to reconsider a vote.[101]

## Fixing Time for Vote:

*See also* "Unanimous Consent Agreement To Fix Time for Vote on Bill—When Quorum Call Required," pp. 1071-1074.

The time for a vote upon a question cannot be fixed by a motion.[102]

## Impeachment, Vote on:

*See* "Impeachment," pp. 865-879.

## Interpretation of Vote:

The Presiding Officer has no authority to interpret a vote.[103]

## Interruption of a Rollcall Vote Out of Order:

*See also* "Rollcall Vote (Yeas and Nays), Debate Out of Order," pp. 773-774; "Voting Debate Not in Order During," p. 787; "Parliamentary Inquiry," pp. 977-980.

A rollcall vote does not begin until at least one Senator responds.[104]

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[96] May 13, 1987, 100-1, *Record*, pp. S 6346-47.
[97] Jan. 29, 1915, 63-3, *Record*, p. 2576.
[98] June 9, 1969, 91-1, *Record*, p. 15195.
[99] Sept. 23, 1965, 89-1, *Record*, pp. 24878-80.
[100] *Ibid.*
[101] Aug. 2, 1972, 92-2, *Record*, pp. 26399-400.
[102] Mar. 4, 1930, 71-2, *Record*, p. 4703.
[103] *See* Sept, 27, 1978, 93-1, *Record*, p. 31822.
[104] July 27, 1988, 100-2, *Record*, p. S 10030.

When a rollcall is ordered, a Senator addressing the Chair before a response is made is entitled to recognition,[105] and Senators have been so recognized; [106] likewise a suspension of a call is in order if a Senator was demanding recognition when the call started,[107] even though a Senator had voted when his name was called.[108]

An interruption or suspension of a yea and nay vote is not in order.[109] However, on several occasions points of order and appeals from the Chairs' rulings thereon have interrupted the proceedings during rollcall votes.[110]

A Senator is entitled to recognition after calling of the roll has started and prior to a response thereto.[111] Where a rollcall was interrupted to permit debate by a Senator who was endeavoring to secure recognition prior to the call of the roll, the right to further debate is not precluded.[112]

A rollcall ordered by the Presiding Officer, to which a response has been made by a Senator, will be vacated upon the statement of a Senator that he was endeavoring to secure recognition at the time the call was ordered; [113] but on occasions Senators have been denied recognition under such circumstances.[114]

See proceedings for June 20, 1946, for a discussion as to right of a Senator to debate a matter after the rollcall had been ordered and the rollcall had begun since a response

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[105] Feb. 24, 1948, 80-2, *Record*, p. 1598; Apr. 2, 1952, 82-2, *Record*, pp. 3367-70; June 19, 1936, 74-2, *Record*, p. 10162.

[106] July 17, 1935, 74-1, *Record*, p. 11297; Apr. 5, 1935, 74-1, *Record*, p. 5116; June 18, 1934, 73-2, *Journal*, p. 616, *Record*, p. 12380; Apr. 2, 1930, 71-2, *Record*, p. 6351; June 29, 1926, 69-1, *Record*, pp. 12205-06; June 11, 1909, 61-1, *Record*, p. 3129; June 17, 1890, 51-1, *Record*, p. 6171.

[107] Jan. 28, 1942, 77-2, *Record*, pp. 770-75; June 14, 1943, 78-1, *Record*, p. 5824; June 29, 1943, 78-1, *Record*, pp. 6736-37; July 24, 1947, 80-1, *Record*, p. 9975; Mar. 21, 1947, 80-1, *Record*, p. 2368; Sept. 28, 1945, 79-1, *Record*, p. 9152; June 14, 1958, 85-2, *Record*, p. 11178.

[108] June 15, 1948, 80-2, *Record*, p. 8322.

[109] Nov. 8, 1971, 92-1, *Record*, p. 39874-76; Aug. 22, 1958, 85-2, *Record*, pp. 19075-78; Mar. 2, 1861, 36-2, *The Congressional Globe*, p. 1401; *see* July 1, 1958, 85-2, *Record*, p. 12813.

[110] May 13, 1987, 100-1, *Record*, pp. S 6346-47; Jan. 29, 1915, 63-3, *Record*, p. 2576; July 29, 1954, 83-2, *Record*, p. 12549.

[111] Nov. 30, 1945, 79-1, *Record*, p. 11238; Apr. 21, 1949, 81-1, *Record*, p. 4850; *see also* Dec. 4, 1945, 79-1, *Record*, p. 11406; Mar. 4, 1960, 86-2, *Record*, pp. 4452-53; May 20, 1953, 83-1, *Record*, p. 5222; June 14, 1958, 85-2, *Record*, p. 11178.

[112] Mar. 21, 1939, 76-1, *Record*, p. 3049.

[113] Mar. 24, 1930, 71-2, *Record*, pp. 5972-73; June 11, 1909, 61-1, *Record*, p. 3129; Nov. 20, 1903, 58-1, *Record*, p. 411; Sept. 25, 1951, 82-1, *Record*, p. 12037; Mar. 20, 1941, 77-1, *Record*, p. 2419; Mar. 21, 1939, 76-1, *Record*, p. 3049; June 18, 1934, 73-2, *Journal*, p. 616.

[114] May 14, 1946, 79-2, *Record*, p. 4995; May 30, 1908, 60-1, *Record*, pp. 7259-60; Sept. 3, 1917, 65-1, *Record*, p. 6541.

had been made, and he had previously indicated his purpose to speak.[115]

Actually, from a parliamentary point of view, a rollcall vote does not begin until the Chair directs the clerk to call the roll and the clerk calls the roll and the first Senator responds to the call,[116] after which an interruption of the rollcall is not in order.[117]

Once a Senator responds to a rollcall vote, the rollcall is in progress and may not be interrupted.[118]

After the yeas and nays have been ordered on a motion to refer, and a response has been made, it is too late to move to amend the motion, and the rollcall must proceed.[119]

Less than a quorum having voted on a motion, but a quorum appearing in response to a call of the Senate, a ruling was made that a motion to proceed to the consideration of executive business was not in order in that a rollcall was proceeding.[120]

Again, during a vote on a motion to reconsider a tie vote, when a Senator announced that another Senator had voted in the affirmative on the original vote, a point of order was made and sustained that the rollcall was in progress and should be proceeded with.[121]

An interruption of a yea and nay vote is not in order, upon objection, to permit the reading of the question being voted upon; [122] it has been done, however, without objection.[123]

A Senator is not permitted during a rollcall to explain a vote, unless unanimous consent is given for that purpose.[124]

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[115] June 20, 1946, 79-2, *Record*, pp. 7198-99, 7200.

[116] Mar. 20, 1978, 95-2, *Record*, p. 7619; Aug. 3, 1888, 50-1, *Record*, p. 7221; Mar. 11, 1958, 85-2, *Record*, p. 3943; Oct. 7, 1970, 91-2, *Record*, p. 35509; Oct. 28, 1977, 95-1, *Record*, p. 35750.

[117] Feb. 5, 1925, 68-2, *Record*, p. 3057; Mar. 11, 1958, 85-2, *Record*, p. 3943; Aug. 3, 1950, 81-2, *Record*, pp. 11716-17; June 23, 1952, 82-2, *Record*, p. 7826; June 2, 1953, 83-1, *Record*, pp. 5891-92; Sept. 25, 1951, 82-1, *Record*, p. 12037; Mar. 11, 1948, 80-2, *Record*, p. 2545; May 23, 1946, 79-2, *Record*, p. 5519; Feb. 12, 1945, 79-1, *Record*, p. 1023; June 5, 1944, 78-2, *Record*, p. 5299; May 27, 1940, 76-3, *Record*, p. 6903; Feb. 6, 1940, 76-3, *Record*, p. 1069; Feb. 11, 1938, 75-3, *Record*, p. 1822; Apr. 27, 1935, 74-1, *Journal*, p. 301; Mar. 17, 1932, 72-1, *Journal* p. 337; May 16, 1928, 70-1, *Journal*, p. 457; June 3, 1926, 69-1, *Journal*, p. 462; Nov. 16, 1967, 90-1. *Record*, p. 32844; June 12, 1973, 93-1, *Record*, p. 19229, *see also* June 3, 1952, 82-2, *Record*, p. 6461.

[118] Sept. 22, 1983, 98-1, *Record*, p. 25276.

[119] May 23, 1908, 60-1, *Record*, p. 6805.

[120] Sept. 11, 1914, 63-2, *Record*, p. 14992.

[121] Dec. 16, 1941, 77-1, *Record*, pp. 9835-36.

[122] Sept. 1, 1950, 81-2, *Record*, pp. 14088-89.

[123] Aug. 4, 1950, 81-2, *Record*, p. 11785; *see also* Aug. 3, 1950, 81-2, *Record*, pp. 11716-17.

[124] Feb. 7, 1952, 82-2, *Record*, p. 930; *see also* Aug. 17, 1954, 83-2, *Record*, p. 14800.

Interruption of a yea and nay vote is not in order for parliamentary inquiries,[125] but the Chair held on one occasion in reply to a parliamentary inquiry, that, by unanimous consent he would inform a Senator as to the pending question.[126]

Where a yea and nay vote is interrupted by unanimous consent to permit the reading of the question being voted upon, debate is not in order.[127]

After a rollcall has begun and a Senator responds to his name, debate (including a statement in the nature of a parliamentary inquiry) [128] is not in order,[129] nor at any time during that call.[130] The Presiding Officer is precluded from entertaining any request to suspend the rule even by unanimous consent.[131] Therefore, the Chair may not acknowledge the attempt of a Senator to appeal a ruling of the Chair if a roll call vote is in progress.[132]

A point of order against an amendment to a general appropriation bill, interposed during a yea and nay vote thereon, is not in order as having been made too late.[133]

On objection, a rollcall on the passage of a joint resolution cannot be suspended for the purpose of permitting the reading of such joint resolution,[134] nor can a rollcall vote on a motion to proceed to the consideration of a bill, after a response has been made, be interrupted by a demand for the reading of the bill; after such bill has been taken up it would be in order to demand its reading.[135]

After a response has been made to a rollcall, it is too late to raise a point of order,[136] or that the demand for the yeas and nays had not been sufficiently seconded.[137]

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[125] July 9, 1987, 100-1, *Record*, p. S 9568; Aug. 21, 1980, 96-2, *Record*, p. 22469; May 21, 1971, 92-1, *Record*, p. 16441; Sept. 20, 1967, 90-1, *Record*, p. 26251; Aug. 2, 1972, 92-2, *Record*, pp. 26400-01; June 27, 1951, 82-1, *Record*, p. 7224; Aug. 28, 1959, 86-1, *Record*, p. 17337; July 9, 1959, 86-1, *Record*, p. 13081; Aug. 15, 1961, 87-1, *Record*, pp. 15908-09; *see also* Sept. 7, 1959, 86-1, *Record*, p. 18343; Nov. 16, 1967, 90-1, *Record*, p. 32844.

[126] *See* Aug. 3, 1950, 81-2, *Record*, pp. 11716-17; July 20, 1945, 79-1, *Record*, p. 7865.

[127] Mar. 20, 1930, 71-2, *Record*, p. 5703.

[128] July 9, 1959, 86-1, *Record*, p. 13081.

[129] May 16, 1928, 70-1, *Journal*, p. 457, *Record*, p. 8802; Feb. 4, 1896, 54-1, *Record*, p. 1276; May 19, 1922, 67-2, *Record*, pp. 7255-56; July 5, 1943, 78-1, *Record*, p. 7165; June 12, 1941, 77-1, *Record*, pp. 5085-86.

[130] May 12, 1884, 48-1, *Record*, p. 4058; Feb. 7, 1905, 58-3, *Record*, p. 1974; May 29, 1914, 63-2, *Record*, p. 9461.

[131] July 31, 1888, 50-1, *Record*, p. 7069.

[132] Feb. 5, 1987, 100-1, *Record*, pp. S 1835-37.

[133] May 20, 1896, 54-1, *Record*, p. 5456.

[134] Feb. 16, 1933, 72-2, *Record*, p. 4231.

[135] Jan. 27, 1915, 63-3, *Journal*, p. 75, *Record*, p. 2405.

[136] Dec. 19, 1913, 63-2, *Record*, p. 1217; June 12, 1973, 93-1, *Record*, p. 19229.

[137] Feb. 11, 1927, 69-2, *Record*, p. 3515.

However, the Senate has reversed a ruling by the Chair and voted on appeal that a point of order is in order during a roll call vote on or subsumed by a vote on a motion to approve the *Journal*, that repeated requests by Senators to be excused from voting on any such vote are dilatory.[138]

A yea and nay vote having been taken, followed by the routine recapitulation of the Senators voting, but prior to the announcement of the result, requests by Senators as to how they voted will be terminated by a call for the regular order and the Chair will immediately announce the results of the vote.[139]

## Invalid Vote:

*See* "Vote of Less Than Quorum not Valid," pp. 1431–1432.

## Majority Vote Controls:

The Senate can control almost anything by a majority vote unless a limitation is found in the rules.[140]

## Mixing Majority and Two-Thirds Vote Out of Order:

A motion to recommit which requires a majority vote could not be amended by adding instructions to make the bill a special order which requires a two-thirds vote.[141]

## Order To Vote by Date Certain:

A point of order was sustained against an amendment which required the Senate to act on a measure having a specified purpose on or by a date certain.[142]

## Ordering of the Yeas and Nays:

*See also* "Yeas and Nays Ordered on, Amendments in Order," pp. 124–125.

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[138] May 13, 1987, 100–1, *Record*, pp. S 6346–47.
[139] May 24, 1956, 84–2, *Record*, pp. 8895–96; Mar. 19, 1956, 84–2, *Record*, pp. 5040–41; Mar. 15, 1956, 84–2, *Record*, pp. 4777–78; *see also* Mar. 12, 1958, 85–2, *Record*, p. 4116; Mar. 9, 1956, 84–2, *Record*, pp. 4426–27.
[140] June 10, 1913, 63–1, *Record*. p. 1939.
[141] Mar. 15, 1940, 76–3, *Record*, pp. 2932–34.
[142] June 27, 1987, 100–1, *Record*, pp. S 8955–57.

A Senator must be recognized by the Chair to ask for the yeas and nays.[143]

A demand for the yeas and nays is a constitutional privilege and a quorum is always presumed to be present.[144] Such a demand for the yeas and nays must be seconded by at least one-fifth of the presumptive quorum,[145] a minimum of 11 with the present membership of 100,[146] and based on the last rollcall.[147] The demand should be put when requested.[148] A demand for the yeas and nays should be put when the request is made; a parliamentary inquiry may not interrupt putting the question to see if there is a sufficient second.

In response to a parliamentary inquiry, the Chair indicated that one fifth of a presumed quorum would require 11 Senators to order the yeas and nays, and when a Senator then requested unanimous consent to order the yeas and nays, the Chair indicated that such request was not in order.[149]

When there is a request for the yeas and nays, the regular order is for the Chair to determine the sufficiency of the second. The Chair will not recognize a Senator who is seeking recognition until such determination is made,[150] and a quorum may not interrupt the determination of a sufficient second.[151]

The Presiding Officer, in connection with a demand for the yeas and nays, has to assume that a quorum is present, and a request of four Senators only for the yeas and nays is not sufficient.[152] The yeas and nays are required to be taken on any question when demanded by one-fifth of the Senators present.[153]

No Senator has a right to object to a request for the yeas and nays; that is a constitutional right by one-fifth of the Senators present, a quorum being present.[154]

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[143] Sept. 25, 1986, 99-2, *Record*, p. 26141.
[144] July 26, 1937, 75-1, *Record*, pp. 7582, 7584.
[145] Apr. 11, 1812, 62-2, *Record*, p. 4585; Sept. 18, 1914, 63-2, *Record*, p. 15354; May 25, 1928, 70-1, *Journal*, p. 537, *Record*, p. 9819; Apr. 1 and 2, 1941, 77-1, *Record*, pp. 2796, 2871-76.
[146] *See* June 6, 1960, 86-2, *Record*, p. 11881; Sept. 21, 1972, 92-2, *Record*, pp. 31725-26, 31728.
[147] *Ibid*; May 8, 1936, 74-2, *Journal*, p. 277, *Record*, pp. 6901-02.
[148] Dec. 8, 1919, 66-2, *Journal*, pp. 20-21, *Record*, p. 287; *see* July 16, 1975, 94-1, *Record*, pp. 23017-19.
[149] Sept. 24, 1990, 101-2, *Record*, p. S 13563.
[150] Aug. 3, 1988, 100-2, *Record*, p. S 10691.
[151] July 9, 1987, 100-1, *Record*, p. S 9537.
[152] May 25, 1928, 70-1, *Journal*, p. 537, *Record*, p. 9819.
[153] Jan. 29, 1915, 63-3, *Record*, p. 2576.
[154] June 22, 1971, 92-1, *Record*, p. 21281.

A Senator must have possession of the floor to request the yeas and nays.[155]

A Senator who has the floor may request the yeas and nays, and no Senator may object to that request, but if there is not a sufficient second for the request, the yeas and nays will not be ordered.[156]

The yeas and nays of the Members of either House on any question shall be ordered at the desire of one-fifth of those present,[157] and the sufficiency of the number of Senators demanding a rollcall is based on the last preceding rollcall.[158] The Chair, noting that 81 Senators had just voted, denied the yeas and nays when only 16 Senators responded to a request for a sufficient second.[159]

A demand for the yeas and nays immediately following a call of the Senate is seconded by one-fifth of those answering such call,[160] or immediately following a yea and nay vote, seconded by one-fifth of those voting.[161]

On appeal in 1911, the Senate sustained the action of the Presiding Officer in putting the question on the ordering of the yeas and nays while Senators were addressing the Chair.[162]

When a demand for the yeas and nays is requested, the first thing to be done, without debate, is to determine whether there is a second to the request,[163] but it is not in order under the precedents for the Presiding Officer to put that question to a vote and announce the result.[164] A division of the Senate to second a request for the yeas and nays is not in order.[165]

When a request for the yeas and nays has been made, the Chair will not entertain a point of order until it has determined if there is a sufficient second.[166]

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[155] Oct. 11, 1988, 100-2, *Record*, pp. S 15444-45.
[156] Oct. 16, 1986, 99-2, *Record*, p. 32439; May 3, 1984, 98-2, *Record*, p. 10851.
[157] U. S. Constitution, Art. I, sec. 5; Mar. 31, 1920, 66-2, *Record*, p. 5049.
[158] May 8, 1936, 74-2, *Record*, pp. 6901-02; *see also* June 12, 1941, 77-1, *Record*, p. 5069.
[159] Oct. 1, 1977, 95-1, *Record*, p. 31870.
[160] Oct. 3, 1913 63-1, *Record*, pp. 5398-99.
[161] Aug. 17, 1959, 86-1, *Record*, p. 16026; *see* Sept. 21, 1972, 92-2, *Record*, pp. 31725-26, 31728.
[162] Feb. 27, 1911, 61-3, *Journal*, p. 210, *Record*, pp. 3556-57; the Chair stated, however, that if a Senator had raised a question of order and so stated, he would be recognized.
[163] Aug. 4, 1980, 96-2, *Record*, p. 21189; July 19, 1912, 62-2, *Record*, p. 9289.
[164] July 25, 1950, 81-2, *Record*, p. 10974.
[165] Feb. 8, 1916, 64-1, *Record*, p. 2257; June 26, 1909, 61-1, *Record*, p. 3869; May 9, 1908, 60-1, *Record*, p. 5973; May 4, 1949, 81-1, *Record*, p. 5595; Feb. 11, 1938, 75-3, *Record*, p. 1821; Feb. 21, 1938, 75-3, *Record*, p. 2209.
[166] Feb. 24, 1982, 97-2, *Record*, pp. 2254, 2340.

Where a request for the yeas and nays is denied, it is not in order to ask for a count of those who are opposed thereto,[167] since a request that those opposing be counted, for the purpose of determining whether one-fifth of those present desire the yeas and nays, is not in order.[168] If a demand is not seconded, it is also not in order to call for those who are opposed to the ordering thereof.[169]

It is not customary for the Chair to announce the number of Senators who held up their hands to order the yeas and nays. Under the practices and precedents of the Senate, the judgment of the Chair as to whether or not the yeas and nays have been ordered is deemed sufficient; of course the Chair makes his calculations of one-fifth of those present on the basis of the number who voted at the last rollcall, if that occurred recently.[170]

In view of a Senator having challenged the accuracy of an announcement that a demand for the yeas and nays was not seconded, the Vice President held he had discretion to order a recount, and overruled a point of order that his action could only be reversed on appeal. The Vice President further stated that, while there was no rule governing the question, he deemed it to be his duty, rather than that of the Secretary, to determine whether a demand for the yeas and nays, being a constitutional provision, was seconded.[171]

The yeas and nays having been refused or not seconded, the demand cannot be immediately submitted again.[172] It would be in order shortly thereafter for a further request therefor.[173]

Where a demand for the yeas and nays did not have the required number, a quorum call was had, after which the demand was renewed and they were then ordered.[174]

Under the practices of the Senate, even though there is a time fixed for a vote, a quorum call is in order after the said time has arrived, and a quorum being present on the call, it is in order to ask for the yeas and nays before the Senate starts voting on the pending question.[175]

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[167] Mar. 31, 1920, 66-2, *Record*, p. 5049.
[168] Oct. 3, 1913, 63-1, *Record*, pp. 5398-99.
[169] July 9, 1932, 72-1, *Record*, p. 14957.
[170] *See* Sept. 21, 1972, 92-2, *Record*, pp. 31725-28.
[171] Dec. 21, 1937, 75-2, *Record*, pp. 2013-14.
[172] June 28, 1909, 62-2, *Record*, pp. 3888-89; Sept. 8, 1922, 67-2, *Record*, pp. 12250-51; Sept. 1, 1950, 81-2, *Record*. p. 14101.
[173] *See* Mar. 20, 1952, 82-2, *Record*, p. 2568.
[174] June 26, 1939, 76-1, *Record*, pp. 7890-91.
[175] *See* July 16, 1975, 94-1, *Record*, pp. 23017-18.

A request may be renewed if there has been intervening business,[176] or renewed following a quorum call which was requested immediately following the refusal.[177]

A demand for the yeas and nays is in order during a division of the Senate on a motion to adjourn,[178] or prior to the announcement of the result of a division or voice vote on an amendment.[179] The yeas and nays may be requested and ordered after a voice vote has occurred if the result of the vote has not been announced.[180]

The yeas and nays having been ordered on an amendment after an announcement that it had been agreed to, the Presiding Officer in effect overruled a point of order that the demand came too late, on the ground that at the time of such announcement a Senator was demanding the yeas and nays.[181]

A Senator may request the yeas and nays after the Chair has made a tentative announcement of the result of a voice vote.[182]

The yeas and nays are not automatically ordered on a vote involving the constitutionality of a measure.[183]

The Vice President, in 1938, in connection with a demand for the yeas and nays, asked that Senators who desired to second the demand rise and stand until counted.[184]

The yeas and nays may be ordered on the question of the final passage of a bill while an amendment thereto is under consideration.[185]

A request for the yeas and nays on an amendment is not in order when an amendment to the amendment is pending.[186] The ordering of the yeas and nays on an amendment is not in order unless that amendment is the pending question, or until it has been called up, except by

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[176] *See* July 13, 1951, 82-1, *Record*, p. 8132.

[177] Mar. 7, 1941, 77-1, *Record*, pp. 1985-87; Mar. 24, 1944, 78-2; *Record*. p. 3061; Dec. 21, 1937, 75-2, *Record*, pp. 2013-14; June 2, 1938, 75-3, *Record*, p. 7956; July 24, 1939, 76-1, *Record*, p. 9846; July 25, 1939, 76-1, *Record*, p. 9906.

[178] June 9, 1950, 81-2, *Record*, p. 8408.

[179] July 16, 1947, 80-1, *Record*, p. 9026; *see also* Oct. 24, 1942, 77-2, *Record*, p. 8652; Apr. 29, 1969, 91-1, *Record*, p. 10732.

[180] Oct. 22, 1981, 97-1, *Record*, p. 25015.

[181] Apr. 16, 1940, 76-3, *Record*, pp. 4579-80.

[182] July 22, 1982, 97-2, *Record*, p. 17648.

[183] Aug. 20, 1940, 76-3, *Record*, p. 10642.

[184] Feb. 11, 1938, 75-3, *Record*, p. 1821.

[185] July 28, 1955, 84-1, *Record*, pp. 11772-73; Mar. 24, 1955, 84-1, *Record*, p. 3653.

[186] Feb. 26, 1947, 80-1, *Record*, p. 1443; Dec. 18, 1970, 91-2, *Record*, pp. 42414-22; July 20, 1968, 90-2, *Record*, p. 22449: *see* Apr. 12, 1967, 90-1, *Record*, p. 9293.

unanimous consent; [187] for example, if an amendment is pending, it is not in order to request the yeas and nays on a motion to table that amendment until the motion has been made.[188] Likewise, if an amendment has been offered to the unfinished business it is not in order to ask for the yeas and nays on that amendment until the unfinished business is before the Senate.[189]

The yeas and nays may not be ordered on a substitute while the pending question is on the adoption of perfecting amendments to the language proposed to be stricken out by the substitute.[190]

It is not in order to order the yeas and nays on any matter not the pending question before the Senate, except by unanimous consent; [191] for example, if an amendment to an amendment is pending, it is in order to get the yeas and nays on the amendment to the amendment but not to the first amendment, except by unanimous consent.[192]

It takes unanimous consent to make it in order to order the yeas and nays on a matter not then the pending question.[193]

It takes unanimous consent to ask for the yeas and nays on an amendment before it has been called up.[194] It takes unanimous consent to ask for the yeas and nays on an amendment that has been set aside.[195]

It requires unanimous consent to order the yeas and nays on a proposition that is not the actual pending question; [196] therefore, it takes unanimous consent to order the yeas and nays on a first degree amendment to which a second degree amendment is pending.[197] It is not in order to ask for the yeas and nays on an amendment to which a motion to table is pending, since the amendment though pending is not the pending question.[198]

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[187] Sept. 22, 1976, 94-2, *Record*, pp. 31850-51; Dec. 7, 1970, 91-2, *Record*, p. 40086; Feb. 21, 1968, 90-2, *Record*, p. 3805; June 29, 1970, 91-2, *Record*, p. 22023; Dec. 20, 1973, 93-1, *Record*, p. 42767; Dec. 7, 1979, 96-1, *Record*, pp. 35085-86; *see* May 17, 1971, 92-1, *Record*, pp. 15338-41; Apr. 12, 1967, 90-1, *Record*, p. 9293; Mar. 1, 1971, 92-1, *Record*, p. 4467.

[188] Dec. 7, 1970, 91-2, *Record*, p. 40086.

[189] Feb. 21, 1968, 90-2, *Record*, p. 3805.

[190] Aug. 10, 1967, 90-1, *Record*, p. 22207.

[191] Aug. 6, 1971, 92-1, *Record*, p. 30408; Mar. 9, 1972, 92-2, *Record*, p. 7814: *see* Apr. 12, 1967, 90-1, *Record*, p. 9293.

[192] Nov. 12, 1980, 96-2, *Record*, p. 29341; July 1, 1977, 95-1, *Record*, pp. 22223-24.

[193] Mar. 10, 1978, 95-2, *Record*, pp. 6422-24, 6432-33.

[194] Dec. 17, 1982, 97-2, *Record*, p. 31513.

[195] Dec. 15, 1982, 97-2, *Record*, pp. 31163-64.

[196] Nov. 12, 1980, 96-2, *Record*, p. 29341.

[197] May 11, 1988, 100-2, *Record*, p. S 5449; Oct. 2, 1987, 100-1, *Record*, p. S 13448; Dec. 15, 1982, 97-2, *Record*, p. 31054; Aug. 10, 1982, 97-2, *Record*, pp. 20063-67.

[198] Apr. 16, 1986, 99-2, *Record*, p. 7745.

The yeas and nays may be ordered on an amendment, or a question, not immediately pending before the Senate or even before it is offered if a unanimous consent agreement is reached that it be in order to order the yeas and nays on such a proposition.[199] The yeas and nays may be ordered on final passage of a bill at any time the bill is before the Senate.[200]

An order for the yeas and nays on an amendment continues in effect from day to day until the amendment is disposed of.[201]

It is not in order to ask for the yeas and nays on a printed amendment that has not been submitted to the Senate for consideration,[202] nor on the question of recommittal of a nomination prior to its being made.[203]

A rollcall vote is not vitiated when unanimous consent is granted to modify an amendment on which the yeas and nays had been previously ordered.[204]

An order for the yeas and nays on a motion to recommit with instructions will carry over when the instructions contained in the motion have been modified by unanimous consent.[205]

The ordering of the yeas and nays on an amendment will not prevent the Senate from taking up another matter; [206] nor will the ordering of the yeas and nays on an amendment affect a motion to lay that amendment on the table.[207]

The yeas and nays can be ordered while time remains on an amendment, and the ordering of the yeas and nays on an amendment does not preclude a motion to table the amendment or a request for the yeas and nays on that motion to table.[208]

When the vote upon a question on which the yeas and nays were taken is reconsidered, the order for the yeas and nays is still in effect; it is automatic when the vote is taken.[209]

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[199] Sept. 29, 1970, 91-2, *Record*, p. 34055; *see* May 17, 1971, 92-1, *Record*, pp. 15338-41.
[200] Dec. 7, 1970, 91-2, *Record*, p. 40086.
[201] Sept. 22 and 23, 1942, 77-2, *Record*, p. 7313.
[202] Apr. 24, 1956, 84-2, *Record*, p. 6854.
[203] Aug. 24, 1961, 87-1, *Record*, p. 17011.
[204] June 2, 1987, 100-1, *Record*, p. S 7412.
[205] July 2, 1954, 83-2, *Record*, p. 9607.
[206] *See* Mar. 10, 1958, 85-2, *Record*, p. 3765.
[207] *See* Aug. 29, 1960, 86-2, *Record*, pp. 18153-54.
[208] May 3, 1989, 101-1, *Record*, pp. S 4711-12.
[209] Nov. 22, 1974, 93-2, *Record*, p. 37083; *see* Dec. 8, 1919, 66-2, *Journal*, pp. 20-21, *Record*, p. 287.

There is no motion in the Senate to vitiate the yeas and nays.[210]

An order for the yeas and nays can be rescinded or vitiated only by unanimous consent,[211] and the rescinding of such an order does not prevent a subsequent ordering thereof on the same question.[212]

A motion to reconsider the action of the Senate in ordering the yeas and nays on a question is not in order as one-fifth of the Members present have a constitutional right to demand the yeas and nays.[213]

In one instance in 1923, prior to the announcement of the result of a yea and nay vote on a motion to adjourn, the order therefor was rescinded by unanimous consent, and the motion was withdrawn.[214]

A Senator who requests the yeas and nays may withdraw that request before the Chair determines if there is a sufficient second.[215]

The ordering of the yeas and nays does not preclude further debate on the question on which the yeas and nays were ordered,[216] or on a motion to refer.[217]

Pending a demand for the yeas and nays on a motion to lay on the table an amendment, a motion to proceed to the consideration of executive business, is in order and takes precedence.[218]

A demand for the yeas and nays having been made prior to the announcement of the result of a *viva voce* vote, the Vice President, on this fact being called to his attention, put the demand for the yeas and nays and ordered a rollcall.[219]

A demand for the yeas and nays, made after an announcement of the result of a *viva voce* vote thereon, is not in order as having been made too late; [220] nor is such

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[210] Mar. 13, 1986, 99-2, *Record*, p. 4774.

[211] July 19, 1983, 98-1, *Record*, p. 10333; Mar. 27, 1942, 77-2, *Record*, p. 3053; July 1, 1954, 83-2, *Record*, pp. 9465-67; Aug. 26, 1959, 86-1, *Record*, p. 16995; Apr. 24, 1959, 86-1, *Record*, p. 6672; *see also* May 4, 1950, 81-2, *Record*, pp. 6331-32.

[212] Feb. 26, 1923, 67-4, *Journal*, p. 198, *Record*, pp. 4646-47.

[213] Aug. 4, 1886, 49-1, *Record*, p. 7956.

[214] Feb. 22, 1923, 67-4, *Journal*, p. 182, *Record*, pp. 4267-68.

[215] Aug. 3, 1983, 98-1, *Record*, p. 22428.

[216] July 19, 1912, 62-2, *Record*, p. 9289; Jan. 19, 1915, 63-3, *Record*, p. 1815; *see also* Feb. 18, 1925, 68-2, *Record*, p. 4008.

[217] *See* Feb. 12, 1915, 63-3, *Record*, p. 3628.

[218] Sept. 21, 1893, 53-2, *Record*, p. 1639.

[219] Dec. 16, 1937, 75-2, *Record*, p. 1640.

[220] June 17, 1982, 97-2, *Record*, p. 14154; Oct. 22, 1981, 97-1, *Record*, p. 25087; Jan. 30, 1907, 59-2, *Record*, p. 1956; Apr. 9, 1894, 53-2, *Record*, p. 3574.

a request in order after the result of a division vote has been announced.[221]

A motion to adjourn having been agreed to on a division vote, the Senate stood adjourned, and a demand for the yeas and nays was not in order.[222]

Where the yeas and nays are ordered on an amendment they cannot automatically be transferred to a substitute offered for such amendment; [223] nor can such order for a vote on a motion to reconsider be transferred to lay such motion to reconsider on the table.[224]

## Pairs and Vote:

*See* "Pairs," pp. 968–970.

## Pairs To Make Up Quorum:

*See* "Vote of Less Than Quorum Not Valid," pp. 1431–1432.

## Parliamentary Inquiry May Not Interrupt a Vote:

*See* "Parliamentary Inquiry," pp. 977–980; "Interruption of a Rollcall Vote Out of Order," pp. 1411–1415.

## Preamble, Vote on:

*See* "Vote on Preamble," p. 1007.

## Present—Voting Present:

*See* "Excused From Voting," pp. 1409–1411.

## Presiding Officer Directs the Roll To Be Called:

It is the duty of the Clerk to call the roll when ordered by the Presiding officer.[225]

In the case of a vote, a point of order was made, upon a direction to the Clerk to call the roll, that in such cases it should always be preceded by a statement of the question by the Presiding Officer; the regular order having been called for, the Presiding Officer again directed the roll to

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[221] Mar. 1, 1923, 67–4, *Record*, p. 5001; June 19, 1914, 63–2, *Record*, p. 10729; Mar. 23, 1918, 65–2, *Record*, p. 3945; *see also* Aug. 11, 1914, 63–2, *Record*, p. 13612.

[222] June 17, 1914, 63–2, *Record*, p. 10600.

[223] *See* July 1, 1954, 83–2, *Record*, p. 9467.

[224] *See* June 25, 1959, 86–1, *Record*, p. 11904.

[225] May 28, 1909, 61–1, *Record*, pp. 2493–94.

be called, thus inferentially overruling the point of order.[226]

## Quorum Call:

A quorum call is in order at request of any Senator before a vote can be taken. *See* "Suggestion of the Absence of a Quorum When in Order," pp. 1062–1065.

## Quorum, Call for, When Quorum Not Voting:

*See* "Counting of Quorum by Chair," pp. 1051–1052; "Suggestion of the Absence of a Quorum When in Order," pp. 1062–1065; "Vote of Less Than Quorum Not Valid," pp. 1431–1432.

## Quorum Call, in Order During a Voice or Division Vote:

*See* "Suggestion of the Absence of a Quorum When in Order," pp. 1062–1065.

## Quorum Call, Order for After Yeas and Nays, But Before a Senator Responds:

*See* "Suggestion of the Absence of a Quorum When in Order," pp. 1062–1065.

## Quorum Call To Fix Time for Vote:

*See* pp. 1071–1074.

## Quorum Questioned—Too Late After Vote Announced:

*See* "Assumption That Quorum Is Present, Unless Question Raised," pp. 1041–1042.

## Recapitulation of a Vote:

A recapitulation of a vote is not in order prior to the announcement of the result,[227] and a point of order against a demand for a recapitulation of a vote prior to the announcement of the result in 1941 was sustained,[228]

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[226] Apr. 21, 1910, 61–2, *Record*, p. 5114.

[227] May 2, 1951, 82–1, *Record*, pp. 4703–04; July 29, 1954, 83–2, *Record*, pp. 12549–50; Aug. 17, 1954, 83–2, *Record*, p. 14800; May 24, 1956, 84–2, *Record*, p. 8896; Aug. 17, 1965, 89–1, *Record*, p. 20664; *see also* Mar. 23, 1950, 81–2, *Record*, p. 3935; Feb. 9, 1955, 84–1, *Record*, p. 1414; Mar. 23, 1949, 81–1, *Record*. p. 2996.

[228] Nov. 7, 1941, 77–1, *Record*, p. 8680.

and it was held in 1940 that a recapitulation of a vote is not in order upon objection.[229]

There have been instances of recapitulation when the correctness of the vote was challenged where no objection was made,[230] and without objection or a point of order being made a recapitulation has been had prior to the announcement of the result of the vote.[231] The Chair has some discretion as to the granting of a request for a recapitulation.[232]

After a vote has been announced, the Chair can order a recapitulation when there is doubt as to the results, but no Senator could change his vote at that point.[233]

In 1941, the Vice President when in doubt of the vote requested a recapitulation.[234]

A vote on a motion having been announced as agreed to by one majority, a demand for a recapitulation of the vote was sustained, notwithstanding the fact that a motion had been made in the meantime to take up another matter.[235]

The recapitulation of a previous vote will take precedence over a request immediately after the vote is announced to proceed to vote on a question recurring.[236]

In 1952 a demand by a Senator for the recapitulation of a tie vote was denied by the Presiding Officer on the ground that the result had been announced.[237]

After a request for a recapitulation has been granted and the Clerk proceeds to make the same, an objection comes too late.[238]

A Senator who did not vote on the first call or before the result of a yea and nay vote had been announced cannot vote on a recapitulation, the original result having been announced,[239] nor can he change his vote on a recapitulation where objection is made.[240]

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[229] Nov. 26, 1940, 76-3, *Record*, p. 13748.

[230] Mar. 22, 1938, 75-3, *Record*, p. 3824; Apr. 17, 1939, 76-1, *Record*, p. 4346; July 24, 1947, 80-1, *Record*, pp. 10003, 10012; *see also* Feb. 12, 1915, 63-3, *Record*, pp. 3628-29.

[231] Feb. 28, 1947, 80-1, *Record*, p. 1552.

[232] *See* June 12, 1941, 77-1, *Record*, p. 5070.

[233] June 7, 1976, 94-2, *Record*, pp. 16837-39; Dec. 4, 1967, 90-1, *Record*, pp. 34979-80.

[234] Dec. 16, 1941, 77-1, *Record*, p. 9835.

[235] July 6, 1918, 65-2, *Record*, p. 8777.

[236] Aug. 17, 1965, 89-1, *Record*, p. 20665.

[237] Apr. 23, 1952, 82-2, *Record*, p. 4287.

[238] June 12, 1941, 77-1, *Record*, p. 5070.

[239] Jan. 27, 1920, 66-2, *Record*, pp. 2108-09; Mar. 3, 1947, 80-1, *Record*, p. 1584; May 7, 1947, 80-1, *Record*, pp. 4676-77; May 6, 1964, 88-2, *Record*, pp. 10200-03; *see also* Sept. 12, 1950, 81-2, *Record*, p. 14594; May 11, 1949, 81-1, *Record*, p. 6038.

[240] Apr. 7, 1922, 67-2, *Record*, p. 5168; Dec. 4, 1967, 90-1, *Record*, pp. 34979-80.

Where the automatic recapitulation is had and the vote announced, and a second recapitulation is ordered, a Senator cannot vote, but by unanimous consent he may withdraw or change his vote.[241]

## Recognition in Order Until Senator Responds to Call:

A Senator who addresses the Presiding Officer prior to the ordering by him of a rollcall vote is entitled to recognition notwithstanding the rollcall had started.[242]

## Recognition To Vote:

After a rollcall vote has been had on a question, a Senator on his feet seeking recognition to vote at the conclusion of the vote should be recognized before the announcement of the result by the Presiding Officer.[243]

## Recognition, Senator Cannot Hold Floor While Vote Is Being Taken:

*See also* "Voice Vote," pp. 1429–1430; "Yeas and Nays," pp. 1436–1437.

A Senator cannot hold the floor while a vote is being taken.[244]

## Recognition, Voice Vote:

*See also* "Recognition, Voice Vote," p. 1103.

A Senator who is attempting to obtain recognition while the Presiding Officer is putting the question is entitled to recognition.[245]

## Reconsider, Vote on:

*See* "Reconsideration," pp. 1124–1149.

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[241] Mar. 3, 1947, 80–1, *Record*, p. 1584; May 7, 1947, 80–1, *Record*, pp. 4676–77; *see also* Mar. 23, 1949, 81–1, *Record*, p. 2996.
[242] June 17, 1964, 88–2, *Record*, p. 14237.
[243] June 16, 1964, 88–2, *Record*, p. 13942.
[244] Oct. 12, 1949, 81–1, *Record*, pp. 14349–50; *see also* Oct. 10, 1942, 77–2, *Record*, p. 8055; Apr 15, 1948, 80–2, *Record*, p. 4489.
[245] Nov. 23, 1985, 99–1, *Record*, pp. 33365–66.

## Reconsideration for Vice President To Vote in Case of Failure To Vote in First Instance:

*See* "Vote by Vice President," pp. 1394–1396.

## Reference, Withdrawal of Motion After Yeas and Nays Ordered on:

*See* "Withdrawal of Motion To Refer," p. 1169.

## Regular Order, Call for:

A call for regular order requires the Chair to announce the vote, *see* "Yeas and Nays," pp. 1436–1437.

## Reorganization Plans, Vote on:

*See* "Reorganization Plans," pp. 1170–1175.

## Report, Vote on by Committee:

*See* "Vote of Committee To Report," pp. 1197–1200.

## Resolution Over Under the Rule, Vote on:

*See* "Vote on, To Go Over Another Day," p. 967.

## Rollcall Vote, When It Begins:

*See* "Yeas and Nays," pp. 1436–1437; "Interruption of Rollcall Vote Out of Order," pp. 1411–1415.

## Rules, Majority Vote Required To Change:

*See* "Rules," "Changes in, Power To Make," pp. 1219–1220.

## Seat, Senator Required To Vote From:

Before 1984, there was nothing in the rules or precedents requiring a Senator to vote from his seat, or prohibiting a Senator from voting just because he was not in his seat.[246] However, in 1984, the Senate adopted S. Res. 480 to impose this requirement.[247]

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[246] May 21, 1971, 92–1, *Record*, pp. 16442–44.
[247] S. Res. 480, 98–2, Oct. 11, 1984.

## Senator Cannot Hold Floor While Senate Votes:

*See* "Senator Loses Floor," pp. 775–778.

## Special Order, Vote Required To Make:

*See* "Displacement of," p. 1261; "Vote Required for Making a Special Order," p. 1264.

## Suspension of Rules, Vote Required for:

*See* "Vote Required," pp. 1271–1272.

## Table, Vote Required To:

*See* "Vote Required To Table Motion Relative to Veto," p. 1285.

## Table, Yeas and Nays on Motion To, in Order:

*See* "Yeas and Nays and the Motion To Table," pp. 1288–1289.

## Tie Vote Defeats the Question:

A tie vote on a question defeats it; [248] the vote may be reconsidered.[249]

## Treaty, Rollcall Vote Not Required:

*See* "Vote Required on Treaties," pp. 1309–1310.

## Treaty, Vote on:

*See* "Vote Required on Treaties," pp. 1309–1310.

## Two-Thirds Vote Required:

A two-thirds vote is required to act on a number of questions coming before the Senate. *See* under the following subjects: Constitutional Amendments, Cloture, Suspension of the Rules, Treaties, and Veto.

## Veto, Vote Required on:

*See* "Vote on Veto," pp. 1388–1389.

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[248] Oct. 1, 1986, 99–2, *Record*, p. 27597; Aug. 24, 1951, 82–1, *Record*, pp. 10617–18; July 18, 1979, 96–1, *Record*, pp. 19168–70; Sept. 26, 1978, 95–2, *Record*, pp. 31523–24; Feb. 21, 1951, 82–1, *Record*, pp. 1432–33; June 15, 1953, 83–1, *Record*, p. 6495.

[249] July 18, 1979, 96–1, *Record*, pp. 19168–70.

## Vice President, Vote by:

*See* "Vote by Vice President," pp. 1394-1396.

## Viva Voce Vote:

The tentative announcement of the results of a voice vote on a question does not preclude further debate, or a request for the yeas and nays on that question.[250]

After the result of a voice vote has been announced by the Presiding Officer, it is too late to ask for a division vote,[251] or yeas and nays.[252]

When a question is put to a *viva voce* vote, the Chair usually calls for those in favor first, and those opposed secondly, and such a vote is not effective where the affirmative side only of the question has been put.[253]

An announcement by the Chair that the "ayes" seem to have it, is not conclusive, nor is it a final declaration of the result; [254] nor is an announcement by the Chair that "the noes seem to have it." [255]

A motion to table can be made after the Chair starts to take a voice vote on the adoption of an amendment but before the results have been announced.[256]

Where the Presiding Officer announces that on a *viva voce* vote the "noes," or "ayes" seem to have it, which is inconclusive, it is in order to demand the yeas and nays,[257] and further debate is in order; [258] or where a quorum call is had during the process of action by *viva voce* vote on an amendment, debate would be in order thereafter.[259]

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[250] Dec. 2, 1987, 100-1, *Record*, p. S 16956.

[251] Oct. 6, 1978, 95-2, *Record*, p. 34342; May 10, 1926, 69-1, *Journal*, p. 387; Dec. 17, 1937, 75-2, *Record*, pp. 1764-65; Sept. 24, 1940, 76-3, *Record*, p. 12541; Dec. 4, 1950, 81-2, *Record*, p. 16063; Aug. 23, 1949, 81-1, *Record*, p. 12038; June 18, 1948, 80-2, *Record*, p. 8730; July 15, 1947, 80-1, *Record*, p. 8888; Mar. 21, 1930, 71-2, *Record*, p. 5833; May 10, 1926, 69-1, *Record*, pp. 9023, 9039; *see also* Jan. 13, 1949, 81-1, *Record*, p. 220; May 27, 1926, 69-1, *Record*, p. 10182; June 26, 1962, 87-2, *Record*, p. 11695.

[252] Oct. 22, 1981, 97-1, *Record*, pp. 25015, 25087; Feb. 19, 1861, 36-2, *The Congressional Globe*, p. 1028.

[253] Jan. 25, 1930, 71-2, *Record*, p. 2372.

[254] Apr. 7, 1942, 77-2, *Record*, p. 3410; July 16, 1946, 79-2, *Record*, p. 9088; Aug. 23, 1935, 74-1, *Record*, p. 14240.

[255] Sept. 1, 1950, 81-2, *Record*, p. 14088; Apr. 21 and 22, 1920, 66-2, *Record*, pp. 5944, 5971; Sept. 30, 1942, 77-2, *Record*, p. 7630; Mar. 19, 1934, 73-2, *Record*, p. 4812; *see also* Nov. 11, 1929, 71-1, *Record*, p. 5411; Apr. 19, 1933, 73-1, *Record*, p. 1934.

[256] June 17, 1980, 96-2, *Record*, p. 15075.

[257] Dec. 2, 1987, 100-1, *Record*, p. S 16956; June 20, 1950, 81-2, *Record*, p. 8883; Mar. 2, 1931, 71-3, *Record*, p. 6712: Sept. 30, 1942, 77-2, *Record*, p. 7630.

[258] Dec. 2, 1987, 100-1, *Record*, p. S 16956; *See* Aug. 25, 1944, 78-2, *Record*, p. 7320.

[259] *See* July 17, 1953, 83-1, *Record*, p. 9045; July 18, 1953, 83-1, *Record*, p. 9140.

Following the above announcement that the "ayes or noes seem to have it," the Chair announces that the ayes or noes, as the case might be, have it, which is conclusive.[260]

Objection has been made to the Presiding Officer announcing the result of a *viva voce* vote prior to a declaration that the ayes or the noes seemed to prevail, as the case might be.[261]

After a motion to insist on amendments and agree to a conference is agreed to by a *viva voce* vote, it is too late to ask for the yeas and nays.[262]

Under the practice of the Senate, the result of a *viva voce* vote is not announced where a Senator in the meantime rises and desires to speak upon the subject.[263]

Where the Chair announces the result of a *viva voce* vote while a Senator is on his feet asking for a division, the right of the Senator is recognized and he might request the yeas and nays; [264] such a vote has been held invalid where certain Senators were demanding recognition; [265] and in other instances where a Senator was seeking recognition prior to the announcement, the vote was reconsidered or rescinded and the Senator recognized.[266]

A Senator who was addressing the Chair and attempting to get recognition while the Presiding Officer was announcing a vote is entitled to recognition and the action of the Presiding Officer, in announcing the result of such vote, is nullified.[267]

An announcement of the Presiding Officer, on a *viva voce* vote, that a motion to proceed to the consideration of a bill had been agreed to was rescinded upon the statement of a Senator that, prior to such announcement, he was seeking to prevent action upon the motion.[268]

## Vote, Disclosure of Vote Taken in Closed Session:

*See* "Closed Doors," pp. 275–281.

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[260] *See* Nov. 11, 1929, 71–1, *Record*, p. 5411.
[261] May 5, 1947, 80–1, *Record*, pp. 4527–28.
[262] June 26, 1952, 82–2, *Record*, p. 8157.
[263] July 11, 1932, 72–1, *Record*, p. 14988; *see also* July 7, 1932, 72–1, *Record*, p. 14753.
[264] July 31, 1937, 75–1, *Record*, p. 7948; Mar. 6, 1940, 76–3, *Record*, p. 2440.
[265] June 19, 1948, 80–2, *Record*, pp. 8996–97; July 9, 1954, 83–2, *Record*, p. 10178.
[266] June 18, 1948, 80–2, *Record*, p. 8771; July 30, 1954, 83–2, *Record*, p. 12732; July 9, 1954, 83–2, *Record*, p. 10178; July 1, 1954, 83–2, *Record*, pp. 9493–94; *see also* Aug. 20, 1958, 85–2, *Record*. pp. 18690–91.
[267] Apr. 17, 1950, 81–2, *Record*, p. 5251.
[268] Mar. 26, 1886, 49–1, *Record*, p. 2815.

## Vote of Less Than Quorum Not Valid:

Where less than a quorum votes, but the addition of names of Senators present and paired and announcing votes made a quorum, the vote is valid.[269]

A rollcall is valid where the number of Senators voting, in addition to those answering "Present" and those announcing pairs, and therefore not voting, make a quorum.[270]

A motion does not fail where the vote thereon is less than a quorum, but after the appearance of a quorum the vote is again taken (*de novo*) [271] on the motion or pending question.[272]

Where less than a quorum votes on a rollcall, and no pairs sufficient to make a quorum are announced, the vote is invalid,[273] and it is the practice of the Senate for the Presiding Officer to direct the roll to be called for the purpose of developing a quorum,[274] unless the Senate should adjourn immediately without transacting further business.[275] after which (a quorum present) another (*de*

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[269] July 3, 1914, 63-2, *Journal*, p. 379, *Record*, pp. 11586-91; Aug. 17, 1914, 63-2, *Journal*, p. 464, *Record*, pp. 13858-59; Aug. 24, 1914, 63-2, *Journal*, p. 478, *Record*, pp. 14178-79; Aug. 14, 1941, 77-1, *Record*, p. 7144; Jan. 14, 1938, 75-3, *Journal*, p. 89; June 28, 1932, 72-1, *Journal*, p. 652, *Record*, p. 14163; June 27, 1932, 72-1, *Journal*, p. 647, *Record*, pp. 14039, 14041; Mar. 19, 1930, 71-2, *Journal*, p. 223, *Record*, p. 5622; May 18, 1928, 70-1, *Journal*, p. 480, *Record*, p. 9082; Dec. 11, 1926, 69-2, *Journal*, p. 32, *Record*, p. 290; June 19, 1918, 65-2, *Journal*, p. 263, *Record*, p. 8004; May 27, 1918, 65-2, *Journal*, p. 230, *Record*, p. 7126; May 16, 1918, 65-2, *Journal*, p. 212, *Record*, p. 6594; Feb. 19, 1917, 64-2, *Journal*, p. 168, *Record*, p. 3613; Feb. 17, 1917, 64-2, *Journal*, p. 161, *Record*, pp. 3476, 3479; May 20 and 22, 1916, 64-1, *Record*, pp. 8372, 8429; Jan. 27, 1915, 63-3, *Journal*, p. 75, *Record*, p. 2404; Oct. 22, 1914, 63-2, *Record*, p. 16922; Sept. 25, 1914, 63-2, *Record*, pp. 15663-64, 15683, 15687; Sept. 18, 1914, 63-2, *Record*, p. 15338; Sept. 11, 1914, 63-2, *Record*, p. 14988; Sept. 8, 1914, 63-2, *Journal*, p. 503, *Record*, p. 14802; *see also* July 13, 1914, 63-2, *Record*, p. 12026; Mar. 1, 1923, 67-4, *Journal*, p. 216, *Record*, pp. 5003-04.

[270] Jan. 14, 1938, 75-3, *Record*, pp. 511-14.

[271] *See* May 20 and 22, 1916, 64-1, *Record*, pp. 8372, 8429.

[272] Aug. 10, 1912, 62-2, *Journal*, pp. 530-31, *Record*, pp. 10648-49; Aug. 29 and 31, 1914, 63-2, *Record*, pp. 14420, 14451-58; Jan. 21, 1913, 62-3, *Record*, p. 1832; Apr. 14 and 15, 1916, 64-1, *Record*, pp. 6134, 6187; Aug. 11 and 15, 1917, 65-1, *Record*, pp. 5978, 6042-44; *see also* Feb. 19 and 20, 1917, 64-2, *Record*, pp. 3616, 3665; Feb. 17 and 18, 1919, 65-3, *Journal*, p. 150, *Record*, pp. 3576, 3632.

[273] May 20 and 22, 1916, 64-1, *Record*, pp. 8372, 8429; Oct. 3, 1913, 63-1, *Record*, pp. 5429-30; Apr. 17, 1968, 90-2, *Record*, pp. 9895-97; Oct. 22, 1965, 89-1, *Record*, pp. 28254-55; Aug. 21, 1970, 91-2, *Record*, p. 29753.

[274] Apr. 9, 1888, 50-1, *Journal*, p. 630; Oct. 3, 1913, 63-1, *Record*, pp. 5429-30; Sept. 21 and 22, 1978, 95-2, *Record*, pp. 30643-45, 30817-19; May 8, 1888, 50-1, *Journal*, pp. 787-88; July 15, 1942, 77-2, *Record*, p. 6191; Aug. 15, 1941, 77-1, *Record*, pp. 7174-75; Feb. 19 and 20, 1917, 64-2, *Record*, pp. 3616, 3665; Feb. 25, 1913, 62-3, *Record*, p. 3923; Sept. 7, 1888, 50-1, *Journal*, pp. 1395-96; Aug. 17, 1888, 50-1, *Journal*, p. 1305; Aug. 10, 1888, 50-1, *Journal*, p. 1266; Aug. 2, 1888, 50-1, *Journal*, p. 1234; July 27, 1888, 50-1, *Journal*, p. 1200; May 22, 1888, 50-1, *Journal*, p. 864; Jan. 14, 1938, 75-3, *Record*, pp. 511-13; Sept. 11, 1970, 91-2, *Record*, pp. 31394-95; Sept. 14, 1970, 91-2, *Record*, pp. 31502-03; Aug. 24, 1970, 91-2, *Record*, pp. 29764-65; Aug. 21, 1970, 91-2, *Record*, p. 29753.

[275] Sept. 21, 1978, 95-2, *Record*, pp. 30643-45.

*novo*) vote is had upon the question at issue at the direction of the Chair.[276]

In one instance where less than a quorum voted on a question, and the Sergeant at Arms, pursuant to an order, was endeavoring to develop a quorum, an absent Senator appeared and voted, making a quorum.[277]

Less than a quorum having voted on a motion for an executive session, unanimous consent is required, after the development of a quorum, to lay before the Senate a message from the President of the United States; the regular order is the calling of the roll a second time on the motion for an executive session.[278]

## Vote on Question May Not Be Mixed:

*See* "Vote on Majority and Two-Thirds Votes Cannot Be Mixed," pp. 111, 1415.

## Vote Out of Order While Senator Seeks Floor:

It is not in order to take a vote on an amendment while a Senator is seeking recognition.[279]

## Vote Rescinded:

If recognition is sought at a time the Chair announces the result of a voice vote or division vote, the vote thereon will not be binding. *See* "Viva Voce Vote," pp. 1429–1430; "Division Vote," pp. 1404–1409.

## Voting After Announcement Out of Order:

The Chair is specifically prohibited from entertaining a unanimous consent request to add the name of a Senator to a vote after the result of that vote has been announced [280]

After the result of a vote has been announced, it is against the rules, or it is too late for a Senator to vote or to

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[276] Jan. 14, 1938, 75–3, *Record*, pp. 511–13; Apr. 17, 1884, 48–1, *Record*, pp. 3042, 3052; May 13, 1884, 48–1, *Record*, p. 4105; Aug. 24, 1970, 91–2, *Record*, pp. 29764–65; Sept. 14, 1970, 91–2, *Record*, pp. 31502–03; Apr. 17, 1968, 90–2, *Record*, pp. 9895–97; Oct. 22, 1965, 89–1, *Record*, pp. 28254–55.

[277] May 21, 1935, 74–1, *Journal*, p. 365, *Record*, pp. 7942–43.

[278] Dec. 23, 1914, 63–3, *Record*, p. 626.

[279] Sept. 8, 1961, 87–1, *Record*, p. 18738.

[280] Rule XII, par. 1; Oct. 24, 1985, 99–1, *Record*, p. 28953; June 15, 1982, 97–2, *Record*, p. 13679.

have his vote recorded,[281] and under Rule XII, unanimous consent cannot be granted to record a Senator as voting after the result has been announced.[282] It is not in order for the Presiding Officer to entertain such a unanimous consent request,[283] and a motion to suspend the rule relative to voting to permit Senators to vote after the result has been announced is not in order.[284]

On one occasion, the Majority Leader preempted a unanimous consent request to allow a Senator to vote after the results of that vote had been announced by stating that such a request could not be entertained by the Chair.[285]

The failure of the electric bell system to notify Senators holding a committee meeting of a vote being taken in the Senate whereby certain Senators missed such vote does not invalidate the rollcall.[286]

If a Senator is present who did not vote, he may do so prior to the announcement of the decision; [287] in fact, if a Senator were seeking recognition to vote prior to the announcement by the Chair, he is entitled to cast his vote.[288]

After announcement of the vote, where less than a quorum voted, it is not in order to call the names of those not voting upon their appearance in the Chamber to have their names recorded.[289]

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[281] Mar. 13, 1914, 63-2, *Record*, p. 4815; Mar. 3, 1905, 58-3, *Record*, p. 3937; June 10, 1912, 62-2, *Record*, p. 7908; Apr. 26, 1955, 84-1, *Record*, p. 5109; Dec. 11, 1950, 81-2, *Record*, p. 16402; June 26, 1950, 81-2, *Record*, p. 9178; May 7, 1947, 80-1, *Record*, p. 4676; May 7, 1945, 79-1, *Record*, pp. 4256-57; Dec. 11, 1941, 77-1, *Record*, p. 9653; Dec. 7, 1937, 75-3, *Record*, p. 987; Feb. 22, 1923, 67-4, *Record*, p. 4266; Feb. 22, 1923, 67-4, *Record*, p. 4266; Feb. 8, 1917, 64-2, *Record*, p. 2810; Sept. 4, 1890, 51-1, *Record*, p. 9645; June 10, 1884, 48-1, *Record*, p. 4951; Aug. 23, 1961, 87-1, *Record*, p. 16806; June 9, 1965, 89-1, *Record*, p. 13037; Nov. 13, 1969, 91-1, *Record*, p. 34029; May 27, 1965, 89-1, *Record*, p. 11913; *see also* Sept. 12, 1950, 81-2, *Record*, p. 14594; May 11, 1949, 81-1, *Record*, p. 6038; Mar. 14, 1958, 85-2, *Record*, pp. 4470-71; July 13, 1932, 72-1, *Record*, p. 15179; Dec. 15, 1969, 91-1, *Record*, pp. 39200-01.

[282] Rule XII; July 12, 1978, 95-2, *Record*, p. 20383; Sept. 29 and 30, 1978, 95-2, *Record*, pp. 32578, 32820; Feb. 1, 1977, 95-1, *Record*, pp. 2935-36; Dec. 7, 1937, 75-3, *Record*, p. 987; June 10, 1933, 73-1, *Record*, p. 5578; May 27, 1965, 89-1, *Record*, p. 11913; Nov. 13, 1969, 91-1, *Record*, p. 34029; Feb. 21, 1973, 93-1, *Record*, p. 4915; *see also* Aug. 19, 1960, 86-2, *Record*, p. 16777; Feb. 29, 1960, 86-2, *Record*, p. 3801; Mar. 20, 1933, 73-1, *Record*, p. 625.

[283] *Ibid.*, Aug. 23, 1961, 87-1, *Record*, p. 16806; May 6, 1964, 88-2, *Record*, pp. 10200-203; Feb. 20, 1861, 36-2, *Record*, p. 1049; Feb. 25, 1861, 36-2, *Record*, p. 1164; June 9, 1965, 89-1, *Record*, p. 13037.

[284] Oct. 21, 1963, 88-1, *Record*, p. 19900.

[285] Oct. 7, 1987, 100-1, *Record*, p. S 13691.

[286] Oct. 21, 1963, 88-1, *Record*, p. 19900.

[287] Aug. 27, 1914, 63-2, *Record*, p. 14330.

[288] June 12, 1973, 93-1, *Record*, p. 19229.

[289] Feb. 25, 1913, 62-3, *Record*, p. 3923; Feb. 19 and 20, 1917, 64-2, *Record*, pp. 3616, 3665; Oct. 3, 1913, 63-1, *Record*, pp. 5429-30.

A rollcall will be vacated where a Senator was attempting to get recognition for the purpose of voting at the time the result of the vote was announced by the Presiding Officer.[290]

On September 30, 1978, the Majority Leader (Mr. Byrd) made the following announcement:

VOTING PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I have instituted what I hope will become the practice of the Chair, that being to obtain order in the Senate and ascertain whether any Senators present have not voted before announcing a vote. Increasingly, Senators are complaining that they were not able to vote. We had a Senator yesterday who said he was seeking recognition at the time the Chair announced the vote. Not long ago the Senator from Michigan (Mr. Griffin) said that he was coming through the door when the vote was announced, and he did not get to vote.

This is not the Chair's fault, and neither is it the Senator's fault, but I just feel that if we institute the practice that the Chair obtain order before he announces the result, and ascertain that all Senators have voted, then we will not have any more of this problem where Senators seek recognition and are not able to get it, and then, because of the Senate rules, cannot vote, because once that vote is announced the Chair cannot even entertain a unanimous consent request to let the Senator vote.

So I think that is a good practice, and I hope the Parliamentarian and the clerks will assist the Chair in the future—because we have various Senators in the Chair at the time that happens—in reminding the Chair to get order and to see if Senators have voted.

The PRESIDING OFFICER (Mr. Harry F. Byrd, Jr.). The Chair commends the distinguished Majority Leader for making this suggestion.[291]

Where less than a quorum votes on a rollcall, and a call of the Senate is being had to determine the presence of a quorum, it is too late for a Senator who did not vote to have his name recorded on the original vote.[292]

In one instance in 1935 where less than a quorum voted on a rollcall, a quorum call was ordered and a Senator entered the Chamber and voted, and the result was announced by the Vice President as carried.[293]

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[290] Sept. 27, 1951, 82-1, *Record*, pp. 12210-11; *see also* June 22, 1932, 72-1, *Record*, p. 13666.

[291] *See* Sept. 30, 1978, 95-2, *Record*. p. 32820.

[292] Dec. 18, 1912, 62-3, *Record*, pp. 832-33.

[293] May 21, 1935, 74-1, *Record*, p. 7943.

## Voting During Announcement in Order:

When a Senator is attempting to get recognition for the purpose of voting at the time the Presiding Officer is announcing the vote, he is entitled to cast his vote.[294]

## Voting, Methods Available to a Senator:

If a Senator is not satisfied with a voice vote, he may call for a division vote when the Chair says "the ayes or noes appear to have it," and if the Senator is dissatisfied with the results of the division vote before the result of that vote is announced, he may request the yeas and nays. If the yeas and nays should not be seconded, the Chair will again put the question by division on agreeing to the amendment.[295]

## "Without Objection" Announcement of Approval:

Where the Presiding Officer announces that "without objection" an amendment is adopted, such an announcement is not binding when a Senator immediately thereafter rises and makes an objection,[296] or the entering of an objection withholds agreement to the amendment, and a vote of the Senate is required.[297]

An announcement by the Presiding Officer in one instance that a resolution was adopted without objection was subsequently withdrawn upon statements by Senators as to their misunderstanding of the request submitted.[298]

Again, the Vice President withdrew his announcement that a conference report had been agreed to without objection, when an objection appeared to be forthcoming to the report.[299]

On another occasion, soon after the Chair announced "without objection, it is so ordered" in response to a motion to table a motion to reconsider a vote, the Chair recognized a Senator who claimed that he had sought recognition before the Chair's announcement, thereby vacating action on the motion to table.[300]

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[294] Sept. 16, 1981, 97-1, *Record*, pp. 20786-87.
[295] *See* Sept, 24, 1973, 93-1, *Record*, p. 31107.
[296] *See* May 13, 1912, 62-2, *Record*, p. 6316.
[297] Mar. 19, 1947, 80-1, *Record*, p. 2242; Apr. 22, 1949, 81-1, *Record*, p. 4938; Apr. 27, 1949, 81-1, *Record*, p. 5129.
[298] May 26, 1913, 63-1, *Record*, pp. 1743-44.
[299] Jan. 2, 1951, 81-2, *Record*, p. 17090.
[300] Dec. 19, 1982, 97-2, *Record*, p. 32497.

## Yeas and Nays:

*See also* "Interruption of a Rollcall Vote Out of Order," pp. 1411–1415; "Ordering of the Yeas and Nays," pp. 1415–1423; "Vote of Less Than Quorum Not Valid," pp. 1431–1432.

The yeas and nays are in order on all questions upon a request of one-fifth of the Senators present, a quorum being present, as authorized by the Constitution. *See* "Ordering of the Yeas and Nays," pp. 1415–1423.

The yeas and nays may be ordered even though a voice vote has started but the results have not been announced.[301]

The yeas and nays are not in order after the result of a vote by another method has been announced,[302] or after the announcement of the passage of the bill.[303]

A demand for the yeas and nays after an announcement of the results of a voice vote is not in order as having been made too late; but the yeas and nays may be requested and ordered after a voice vote has occurred if the result of the vote has not been announced.[304]

When an amendment has been rejected (the Chair having announced the vote) on a division vote, a request for the yeas and nays is not in order.[305]

At the end of a rollcall vote, after the recapitulation when Senators are delaying the announcement by inquiring how they are recorded, such procedure may be terminated by any Senator demanding the regular order even though he has not been recognized, and a demand for the regular order requires the Presiding Officer to announce the vote if there is no Senator on the floor who has not had the chance to vote and is seeking recognition to vote; [306] or that the clerk "proceed with the call of the roll in a regular fashion." [307]

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[301] *See* Apr. 29, 1969, 91-1, *Record*, p. 10732.

[302] July 3, 1960, 86-2, *Record*, p. 15729; June 17, 1960, 86-2, *Record*, pp. 13077-78; *see also* June 9, 1948, 80-2, *Record*, pp. 7589, 7594-95.

[303] Mar. 23, 1948, 80-2, *Record*, p. 3288; Jan. 27, 1937, 75-1, *Record*, p. 498.

[304] Oct. 22, 1981, 97-1, *Record*, pp. 25015, 25087.

[305] Sept. 1, 1950, 81-2, *Record*, p. 14101; Aug. 16, 1958, 85-2, *Record*, p. 17979; *see* footnote 61 above in this chapter.

[306] Aug. 24, 1967, 90-1, *Record*, pp. 23898-99.

[307] May 21, 1971, 92-1, *Record*, pp. 16442-44.

### Yeas and Nays, Amendments in Order After Ordering:

*See* "Yeas and Nays Ordered on, Amendments in Order," pp. 124-125.

### Yeas and Nays, Debate in Order After Ordering:

*See* "Rollcall Vote, Ordering Yeas and Nays Does Not Exclude Debate," p. 774.

### Yeas and Nays—Interruption Out of Order:

*See* "Interruption of a Rollcall Vote Out of Order," pp. 1411-1415.

### Yeas and Nays, Postponed by Unanimous Consent:

During a call of the yeas and nays, on one occasion in 1945, the Senate took an unusual action when the vote was postponed by unanimous consent until the following day; under such circumstances a new rollcall would be had; a quorum call would be in order prior to the vote.[308]

### Yeas and Nays Rescinded:

Ordering of the yeas and nays may be rescinded by unanimous consent.[309]

### Yeas and Nays, When Begin:

*See* "Interruption of a Rollcall Vote Out of Order," pp. 1411-1415.

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# WASHINGTON'S FAREWELL ADDRESS

On January 24, 1901, the Senate adopted an order providing for the reading of Washington's Farewell Address to the Senate on the 22d day of February of each year,[1] as follows:

*Ordered*, That, unless otherwise directed, on the twenty-second day of February in each year, or if that day shall be on Sunday, then on the day following, immediately after the reading of the *Journal*,

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[308] *See* July 20, 1945, 79-1, *Record*, p. 7870; this action was contrary to the intent of the rule.

[309] June 9, 1965, 89-1, *Record*, p. 13063.

[1] Jan. 24, 1901, 56-2, *Journal*, p. 103, *Record*, p. 1385.