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ATTENDANCE OF SENATORS

Under Senate Rule VI, paragraph 2, Senators are required to attend all sessions of the Senate unless they are excused. The Senate operates on the assumption that a quorum is present regardless of how few or how many are in attendance, until someone suggests the absence of a quorum. Since the Chair is not authorized to count whether or not a quorum is present, regardless of whether just a few or a hundred Senators are present, he "shall forthwith direct the Secretary to call the roll" when any Senator raises the question "as to the presence of a quorum," and "shall announce the result." When the Senate finds itself without a quorum, it may take such action as it deems necessary to obtain the presence of a quorum. Any other action in the absence of a quorum, except the motion to adjourn, or to recess if a previous order to that effect had been made, is out of order.

When a quorum call is had and a quorum fails to respond, a motion to direct the Sergeant at Arms *to request* the attendance of absent Senators is generally made and adopted. Such a motion would be in order after the Clerk has concluded his first call of the roll and the Chair has announced that a quorum is not present, and even before the Clerk calls the roll of the absentees. After a duration of time, if a quorum has not been developed following the adoption of a motion to request the attendance of absent Senators, an order is usually adopted to direct the Sergeant at Arms *to compel* the attendance of absent Senators. Again, if a quorum is not obtained in a reasonable length of time, the Senate could resort to the adoption of a motion to direct the Sergeant at Arms or his deputies *to arrest* absent Senators and bring them to the bar of the Senate. The forms of these motions and of arrest are set forth on pages 1451–1453.

Article I, Sec. 5 of Constitution

[Compel Attendance]

SECTION 5. Each House shall be the Judge of the Elections, Returns, and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Rule VI

[Absentees, Quorum Call; Request and Compel Attendance]

1. A quorum shall consist of a majority of the Senators duly chosen and sworn.

2. No Senator shall absent himself from the service of the Senate without leave.

3. If, at any time during the daily sessions of the Senate, a question shall be raised by any Senator as to the presence of a quorum, the Presiding Officer shall forthwith direct the Secretary to call the roll and shall announce the result, and these proceedings shall be without debate.

4. Whenever upon such roll call it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant at Arms to request, and, when necessary, to compel the attendance of the absent Senators, which order shall be determined without debate; and pending its execution, and until a quorum shall be present, no debate nor motion, except to adjourn, or to recess pursuant to a previous order entered by unanimous consent, shall be in order.

Absent Senators and Senate's Right To Compel Attendance:

See also "Quorum," pp. 1038-1078.

The Senate in the absence of a quorum has an inherent right to request the attendance of absent Senators or to compel the attendance of absent Senators in order to have a quorum present,[1] and a quorum being present, the Senate is empowered under the Constitution and its rules, to direct the Sergeant at Arms to request or compel the attendance of its absent Members.[2]

On one occasion, when a quorum was not established by a roll call vote on a motion to instruct the Sergeant at Arms to request the presence of absent Senators, and a roll call vote on a motion to instruct the Sergeant at Arms to arrest absent Senators and bring them to the chamber,

[1] June 21, 1975, 94-1, *Record*, p. 20212; Sept. 18, 1914, 63-2, *Record*, pp. 15361-62; Sept. 5 and 8, 1914, 63-2, *Record*, pp. 14773, 14784; May 17, 1894, 53-2, *Record*, p. 4879; Sept. 26, 1973, 93-1, *Record*, p. 31569; Sept. 27, 1973, 93-1, *Record*, p. 31805; *see* Nov. 14, 1975, 94-1, *Record*, pp. 36764-65.

[2] *Ibid, also* Mar. 3, 1893, 52-2, *Journal*, p. 164, *Record*, p. 2534; Feb. 8, 1915, 63-3, *Journal*, pp. 95-96, *Record*, pp 3275-80; Feb. 2, 1883, 47-2, *Journal*, p. 279, *Record*, p. 2535; Sept. 5 and 8, 1914, 63-2, *Record*, pp. 14773, 14784; *see* Nov. 14, 1975, 94-1, *Record*, pp. 36764-65.

the legislative clerk continued to call the names of the absent Senators.[3]

Call of Absentees, a Quorum Being Absent:

See also "Quorum May Be Established by Yea and Nay Vote on Motion To Request Attendance," pp. 222–223.

Under the practices of the Senate, if a quorum does not appear on the first call of the roll, the Chair makes the announcement that a quorum is not present and the names of the absentees will be called in consecutive order until the end of the roll, even though a quorum may have actually appeared before the second call has been concluded; [4] it is the practice in the Senate for the Presiding Officer to direct the Clerk to call the names of the absent Senators [5] prior to the adoption of an order directing the Sergeant at Arms to request, and, when necessary, to compel their attendance,[6] but such practice is based on custom, and not on the requirement of any rule.[7]

If a quorum does not appear at the end of the second call of a quorum call, the usual next step is for some Senator to move that the Sergeant at Arms be directed to request the attendance of the Senators still absent.[8]

After a call of the absentees, a quorum not having been developed, and pending the execution of an order to request or compel the attendance of absent Senators, it is not in order to have the names of the absentees read from the desk.[9]

On one occasion, a call of the Senate having disclosed the absence of a quorum, which was shown by a yea and nay vote on a rejected motion to adjourn, the Presiding Officer held that, pending the execution of an order then agreed to requesting the attendance of the absent Senators, a second call of the Senate was not in order.[10]

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[3] Feb. 23, 1988, 100–2, *Record*, pp. S 1153–55.
[4] *See* Apr. 10, 1964, 88–2, *Record*, p. 7502.
[5] Mar. 20, 1926, 69–1, *Journal*, p. 247, *Record*, p. 5976; Jan. 6, 1938, 75–3, *Record*, p. 121; Feb. 27, 1929, 70–2, *Record*, p. 4569; Mar. 3, 1927, 69–2, *Journal*, p. 268; *see* June 4, 1920, 66–2, *Journal*, p. 371, *Record*, p. 8501.
[6] Mar. 20, 1926, 69–1, *Journal*, p. 247, *Record*, p. 5976; Mar. 3, 1927, 69–2, *Journal*, p. 268; Feb. 27, 1929, 70–2, *Record*, p. 4569; *see* June 4, 1920, 66–2, *Journal*, p. 371, *Record*, p. 8501.
[7] Jan. 29, 1915, 63–3, *Record*, pp. 2586–87.
[8] *See* Apr. 10, 1964, 88–2, *Record*, p. 7502.
[9] July 27, 1914, 63–2, *Record*, p. 12780; *see also* June 17, 1914, 63–2, *Record*, p. 10600.
[10] Jan. 6, 1903, 57–2, *Record*, p. 527.

Compel or Request Attendance:

See also "Recapitulation," p. 1058.

Attendance Asked or Requested:

See also "Quorum," pp. 1038–1078.

Form: "Senator. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators."

Under the rule providing that, in the absence of a quorum, the Sergeant at Arms may be directed to request, and, when necessary, to compel attendance of the absent Senators, the practice of the Senate is first to move to request their attendance, and if a quorum does not appear upon a request, a second motion may be made to compel their attendance,[11] which motion is in order as soon as the Chair first announces that a quorum is not present following the first call of a quorum call.[12]

The absence of a quorum having been announced, and following the call of the absentees, a motion to direct the Sergeant at Arms to request the attendance of absent Senators is in order, even during the absence of a quorum [13] and a further call of the roll is not in order.[14]

Such a motion is in order prior to a call of the absentees and has precedence over a request that the absentees be called.[15]

In the absence of a quorum, a request for unanimous consent that the Sergeant at Arms be directed to request the attendance of absent Senators is not in order.[16]

The Chair, in 1894, when less than a quorum voted on a motion to proceed to the consideration of executive business, ruled that a call of the Senate had precedence over a motion to direct the Sergeant at Arms to request the presence of absent Senators.[17]

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[11] Rule V; Feb. 25, 1929, 70–2, *Journal*, p. 212, *Record*, pp. 4242–43; Feb. 27, 1929, 70–2, *Record*, p. 4569; Mar. 20, 1926, 69–1, *Journal*, p. 247, *Record*, p. 5976; Sept. 5 and 8, 1914, 63–2, *Record*, pp. 14773, 14784, 14798–99, 14801–02, 14835; Sept. 26, 1973, 93–1, *Record*, p. 31569; Sept. 27, 1973, 93–1, *Record*, p. 31805.

[12] *See* Oct. 12, 1978, 95–2, *Record*, pp. 35965–66.

[13] Jan. 22, 1946, 79–2, *Record*, p. 201; May 24, 1949, 81–1, *Record*, p. 6718.

[14] *See* Feb. 28, 1889, 50–2, *Record*, p. 2444.

[15] July 12, 1932, 72–1, *Record*, p. 15130; Feb. 8, 1915, 63–3, *Journal*, pp. 95–96, *Record*, pp. 3275–80; Jan. 29, 1915, 63–3, *Record*, pp. 2586–87; *see also* June 4, 1920, 66–2, *Journal*, p. 371, *Record*, p. 8501.

[16] May 24, 1949, 81–1, *Record*, p. 6718.

[17] Apr. 9, 1894, 53–2, *Record*, p. 3573.

In the absence of a quorum, it is not in order to make a motion to discharge the Sergeant at Arms from execution of an order requesting the absentees to attend.[18]

Attendance Compelled:

Form: "*Senator.* Mr. President, I move that the Sergeant at Arms be directed to compel the attendance of absent Senators."

During the absence of a quorum, an order may be adopted to direct the Sergeant at Arms to compel the attendance of absent Senators.[19] Such an order should not be resorted to until after an order requesting their attendance has been adopted,[20] and it has been held not in order prior to a motion to request.[21]

Likewise, pending the execution of an order requesting the attendance of absent Senators, with or without a quorum, a motion to compel their attendance is in order.[22]

On one occasion, when a quorum was not established by a roll call vote on a motion to instruct the Sergeant at Arms to request the presence of absent Senators, and a roll call vote on a motion to instruct the Sergeant at Arms to arrest absent Senators and bring them to the chamber, the legislative clerk continued to call the names of the absent Senators.[23]

Debate of Order To Require Attendance:

See also "Arrests of Senators, Order for Determined Without Debate," p. 727.

Motions to request or compel the attendance of absent Senators in the absence of a quorum are not debatable,[24]

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[18] Jan. 14, 1938, 75-3, *Journal*, p. 89.

[19] June 9, 1950, 81-2, *Record*, p. 8409; July 21 and 22, 1954, 83-2, *Record*, p. 11319; Feb. 8, 1915, 63-3, *Record*, p. 3278.

[20] Sept. 5 and 8, 1914, 63-2, *Record*, pp. 14773, 14784, 14798-99.

[21] Jan. 16, 1891, 51-2, *Record*, p. 1437; Feb. 24, 1879, 45-3, *Journal*, p. 365.

[22] Feb. 8, 1915, 63-3, *Journal*, pp. 95-96, *Record*, pp. 3275-80; July 15 and 23, 1890, 51-1, *Record*, pp. 7291, 7612.

[23] Feb. 23, 1988, 100-2, *Record*, pp. S 1153-55.

[24] Rule V; Jan. 21, 1946, 79-2, *Record*, p. 163; June 9, 1950, 81-2, *Record*, pp. 8407-08; Feb. 22, 1927, 69-2, *Journal*, p. 206, *Record*, pp. 4453, 4456; Feb. 23, 1927, 69-2, *Journal*, p. 206; *see also* Feb. 26, 1960, 86-2, *Record*, pp. 3595-96; Mar. 11, 1964, 88-2, *Record*, pp. 5015-16; May 11, 1964, 88-2, *Record*, p. 10579.

nor are orders to authorize the issuance of warrants for their arrest.[25]

A quorum having been obtained, notwithstanding the fact that the Sergeant at Arms had made no report pursuant to an order to request or compel attendance, debate may proceed.[26]

An order adopted by less than a quorum, authorizing the issuance of warrants of arrest for absent Senators not sick or excused, to be executed without delay, is in pursuance of the rule of the Senate and not debatable.[27]

Duration and Authority of Orders To Require Attendance:

See also "Vacate Order—Not Required," p. 222.

Orders for the compulsory attendance of absent Senators, adopted by less than a quorum, continue in effect after the appearance of a quorum "or until their attendance is procured" unless further proceedings are dispensed with,[28] and the Presiding Officer, upon the appearance of a quorum, has no authority to suspend or modify such order on his own motion—such a question is one for Senate determination.[29] The same is true of an order to the Sergeant at Arms authorizing the issuance of warrants of arrest for absent Senators not sick or excused.[30]

The Chair, on one occasion, ruled that an order for the compulsory attendance of absent Senators was designed to develop a quorum at the time it was made, and is ineffective after a quorum has been obtained.[31]

Majority Vote Required for Adoption of Such Orders:

A majority of the Senators present, even though less than a quorum, may direct the Sergeant at Arms to request the attendance of absent Senators,[32] or to compel their attendance.[33] Under the constitutional provisions,

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[25] Jan. 29, 1915, 63-3, *Record*, pp. 2586-87; Feb. 22, 1927, 69-2, *Journal*, p. 206, *Record*, pp. 4453, 4456; Feb. 23, 1927, 69-2, *Journal*, p. 206.

[26] May 29, 1908, 60-1, *Journal*, p. 513, *Record*, p. 7194.

[27] Jan. 29, 1915, 63-3, *Record*, pp. 2586-87.

[28] Aug. 22, 23, and 24, 1894, 53-2, *Record*, pp. 8633-34, 8651; Jan. 29, 1915, 63-3, *Record*, pp. 2586-87; *see also* Sept. 18, 1914, 63-2, *Record*, pp. 15361-62.

[29] May 29, 1908, 60-1, *Journal*, p. 513, *Record*, p. 7194.

[30] Jan. 29, 1915, 63-3, *Record*, pp. 2586-87.

[31] Feb. 20, 1923, 67-4, *Record*, p. 4109.

[32] Aug. 20, 1894, 53-2, *Record*, p. 8620; May 24, 1949, 81-1, *Record*, p. 6718; Jan. 22, 1946, 79-2, *Record*, p. 201.

[33] Aug. 22 and 23, 1894, 53-2, *Record*, pp. 8633-34; Sept. 5 and 8, 1914, 63-2, *Record*, pp. 14773, 14784; May 17, 1894, 53-2, *Record*, p. 4879.

less than a quorum can take action to secure the presence of a quorum, and one-fifth of the Senators present may demand a roll-call vote on any such action.[34]

In the absence of a quorum, a request for unanimous consent that the Sergeant at Arms be directed to request the attendance of absent Senators is not in order; a quorum is required to give unanimous consent.[35]

If a motion is made in the absence of a quorum that the Sergeant at Arms be directed to request the attendance of absent Senators, a Senator who enters the Chamber during such a vote, before the result is announced, is entitled to vote, and if a quorum is still lacking at the time of the vote, the question will be determined by a majority of those voting.[36]

Orders of Arrest:

Form: "Ordered, That the Sergeant at Arms be directed to compel the attendance of absent Senators; that warrants for the arrests of all Senators not sick nor excused be issued under the signature of the Presiding Officer and attested by the Secretary, and that such warrants be executed without delay."

The above order or a modified form thereof, may be adopted by a majority of the Senators present, with or without a quorum, which is in pursuance of the rule of the Senate, and which is not debatable.[37]

Orders of arrest may be issued in the absence of a quorum, directing the Sergeant at Arms to bring certain Senators before the bar of the Senate.[38]

Such orders are not revoked by the appearance of a quorum [39] but the order may be rescinded, a quorum having appeared.[40]

Such an order for compulsory attendance of absentees, however, was designed to develop a quorum at the time it

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[34] *See* Feb. 26, 1960, 86-2, *Record*, pp. 3595-96.
[35] May 24, 1949, 81-1, *Record*, p. 6718; Jan. 6, 1950, 81-2, *Record*, p. 122.
[36] *See* Feb. 26, 1960, 86-2, *Record*, pp. 3595-96.
[37] Jan. 29, 1915, 63-3, *Record*, pp. 2586-87; *see also* June 9, 1950, 81-2, *Record*, p. 8409.
[38] Feb. 27, 1929, 70-2, *Journal*, p. 236, *Record*, p. 4605; Feb. 25, 1929, 70-2, *Journal*, p. 212, *Record*, p. 4248; Feb. 8, 1915, 63-3, *Journal*, p. 97, *Record*, pp. 3312-30; July 28, 1962, 87-2, *Record*, pp. 14952-53.
[39] Jan. 29, 1915, 63-3, *Record*, pp. 2586-87.
[40] June 9, 1950, 81-2, *Record*, p. 8409.

was made, and is ineffective after a quorum has been obtained.[41]

In the absence of a quorum, a motion to reconsider the vote adopting such an order is not in order; the only courses open to the Senate are: to execute the order and obtain a quorum or adjourn, unless a previous unanimous consent agreement to recess had been entered into.[42]

Points of Order During Such Procedure:

A point of order may not be raised pending the execution of an order to compel the attendance of absent Senators to develop a quorum.[43]

Precedence of Such Motions:

A motion to direct the Sergeant at Arms to request the attendance of absent Senators is in order immediately after the Chair announces that a quorum is not present and previous to a call of the absentees,[44] and has precedence over a request that the absentees be called.[45] A motion to adjourn in the absence of a quorum has precedence over a motion to direct the Sergeant at Arms to request the attendance of absent Senators.[46]

In the absence of a quorum, a motion to request the attendance of absent Senators has precedence over a motion for a recess in pursuance of a unanimous consent agreement, previously adopted by a quorum, that at the conclusion of the day's business the Senate take a recess until 12 o'clock the next day.[47]

Less than a quorum having voted on a motion to proceed to the consideration of executive business on one occasion, the President of the Senate held that a call of the Senate had precedence over a motion to direct the Sergeant at Arms to request the presence of absent Senators.[48]

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[41] Feb. 20, 1923, 67-4, *Record*, p. 4109.
[42] Feb. 25, 1929, 70-2, *Journal*, p. 212, *Record*, p. 4248.
[43] Jan. 21, 1891, 51-2, *Journal*, p. 88, *Record*, p. 1626.
[44] *See* Sept. 24, 1977, 95-1, *Record*, p. 30735; July 12, 1932, 72-1, *Record*, p. 15130; June 4, 1920, 66-2, *Journal*, p. 371, *Record*, p. 8501.
[45] Feb. 8, 1915, 63-3, *Journal*, pp. 95-96, *Record*, pp. 3275-80; Jan. 29, 1915, 63-3, *Record*, pp. 2586-87.
[46] May 28, 1890, 51-1, *Record*, p. 5392.
[47] Feb. 22, 1927, 69-2, *Journal*, p. 206, *Record*, pp. 4453, 4456.
[48] Apr. 9, 1894, 53-2, *Record*, p. 3573.

Reconsider:

A motion to reconsider a vote directing the Sergeant at Arms to compel attendance of absent Senators is not in order in the absence of a quorum.[49]

Table—Motion To Get Attendance—Not in Order:

A motion, in the absence of a quorum, to lay on the table a motion directing the Sergeant at Arms to request the attendance of absent Senators is not in order.[50]

Vacate Order—Not Required:

An order directing the Sergeant at Arms to request the attendance of absent Senators is not required to be vacated upon the appearance of a quorum.[51]

Yeas and Nays To Get Quorum:

See "Yeas and Nays on," p. 1436.

Leave of Absence:

Under Rule VI, paragraph 2, "no Senator shall absent himself from the service of the Senate without leave." [52]

Less than a quorum of the Senate cannot excuse attendance of absentees, and hence cannot excuse absent Senators from attendance under an order directing the Sergeant at Arms to request their attendance [53]—it has been done by unanimous consent in the case of certain Senators; and in the absence of points of order being made against such proceedings.[54]

Quorum May Be Established by Yea and Nay Vote on Motion To Request Attendance:

See also "Call of Absentees, A Quorum Being Absent," p. 223.

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[49] Jan. 21, 1891, 51-2, *Journal*, p. 88.
[50] Mar. 4, 1960, 86-2, *Record*, p. 4452.
[51] *See* Jan. 14, 1938, 75-3, *Record*, pp. 507-08.
[52] Rule VI, par. 2. Mar, 2, 1983, 98-1, *Record* p. 3479; Sept. 18, 1984, 98-2, *Record* p. 25807. Under the practices of the Senate, such requests are regularly made and granted. *See* Senate proceedings for Apr. 10 and 11, 1945, 79-1, *Record*, pp. 3235, 3239, 3247-48, 3277-78; Apr. 12, 1945, 79-1, *Record*, pp. 3290, 3297. *See also* proceedings for Apr. 16, 17, 18, 19, 20, 24, 25, 26, 30, and May 3, 7, 10, 14, 15, and 17, 1945. These illustrations are used since an issue was made of the question by several Senators on Apr. 10 and 11, 1945, and the practice of getting excused was suddenly revived.
[53] Mar. 5, 1890, 51-1, *Record*, p. 1933.
[54] Jan. 16, 1891, 51-2, *Record*, p. 1438; Jan. 21, 1891, 51-2, *Record*, p. 1617.

The Chair having announced the absence of a quorum following the first call of a quorum call, any Senator may immediately move that the Sergeant at Arms be instructed to request the "attendance of the absent Senators" ("and, when necessary, to compel the attendance of absent Senators"), and if the yeas and nays are ordered and taken on the motion to request the attendance of absent Senators, and the vote on that motion discloses the presence of a quorum, the Chair informs the Senate that "with the addition of Senators voting who did not answer the quorum call, a quorum is now present." Then no further action on the quorum call is necessary, a quorum having been established.[55]

In one instance in 1960, the vote on a motion, in the absence of a quorum, to direct the Sergeant at Arms to request the attendance of absent Senators, having disclosed the presence of a quorum, the Presiding Officer announced that fact, and the Senate proceeded with its pending business.[56]

Quorum Not Present—Adjourn:

Less than a quorum having responded on a rollcall, a motion to adjourn has precedence over a call of the absentees.[57]

Sergeant at Arms Report:

The Sergeant at Arms is authorized to make a report on absentees during proceedings to compel the attendance of absent Senators.[58]

A report by the Sergeant at Arms on the execution of an order directing him to compel the attendance of absent Senators should be made in writing to the Presiding Officer and be laid before the Senate, but a motion to refer

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[55] June 19, 1980, 96-2, *Record* p. 15687; Dec. 12, 1979, 96-1, *Record*, pp. 35672-73; Dec. 11, 1979, 96-1, *Record*, p. 35343; Nov. 27, 1979, 96-1, *Record*, pp. 33576-77; Oct. 14, 1978, 95-2, *Record*, pp. 37386-90, 37427-28, 37448-49, 37392; Oct. 12, 1978, 95-2, *Record*, pp. 35965-66; Oct. 5, 1978, 95-2, *Record*, pp. 33944-45; Sept. 25 and 26, 1978, 95-2, *Record*, pp. 31367-68, 31586-89, 31542; Oct. 26, 1977, 95-1, *Record*, pp. 35137-38; Oct. 3, 1977, 95-1, *Record*, p. 31939; Oct. 4, 1977, 95-1, *Record*, pp. 32205, 32284; Sept. 30, 1977, 95-1, *Record*, pp. 31752-53; Sept. 24, 1977, 95-1, *Record*, p. 30735; Sept. 23, 1976, 94-2, *Record*, pp. 32166-67; Sept. 22, 1976, 94-2, *Record*, pp. 31851-52.

[56] Mar. 8, 1960, 86-2, *Record*, pp. 4851, 4857.

[57] Dec. 22, 1916, 64-2, *Record*, p. 676; Jan. 27, 1917, 64-2, *Record*, p. 2118.

[58] Nov. 14, 1942, 77-2, *Record*, p. 8838; June 28, 1945, 79-1, *Record*, pp. 6926-27.

such report is not in order in the absence of a quorum, it being in the nature of business.[59]

The reading of a report of the Sergeant at Arms pursuant to an order to compel the attendance of absent Senators, submitted during the absence of a quorum, was held, upon the development of a quorum, to have precedence over the recognition of a Senator.[60]

[59] Jan. 16, 1891, 51-2, *Record*, p. 1441.
[60] Feb. 8, 1915, 63-3, *Journal*, p. 97, *Record*, pp. 3312-30.