

THE CHAIRMAN: The Chair will state to the gentleman that the amendment has been rejected. Therefore, a request for a division comes too late.

MR. HOSMER: I thank the Chair.

Immediately following the Chair's reply to the Hosmer inquiry, Mr. Pepper withdrew his point of order, and the Committee proceeded to the next section of the bill.

§ 9.11 When the Chair has announced that an amendment has been rejected, and a Member makes the point of order that a quorum is not present, it is too late, even prior to the point of no quorum, to demand a division vote on the amendment.

On Sept. 24, 1970,⁽¹⁰⁾ the House resolved itself into the Committee of the Whole for the purpose of considering certain drug legislation.

Following the rejection of an amendment which he had offered, Mr. Claude D. Pepper, of Florida, raised the point of order that a quorum was not present. As the Chair⁽¹¹⁾ started to count, a parliamentary inquiry was posed by Mr. Craig Hosmer, of California.

Mr. Hosmer stated that he was on his feet to demand a division

before Mr. Pepper had raised his point of order pertaining to the lack of a quorum. Accordingly, he inquired as to whether he would be recognized to demand a division.

The Chair responded initially by reminding Mr. Hosmer that the Chair had already announced that the noes appeared to have it on the amendment; that tellers had been requested; that an insufficient number supported the demand for tellers, hence they were refused,⁽¹²⁾ and that the amendment had been rejected.

The Chair further elaborated by stating that it was in the midst of counting to determine whether a quorum was present, and, finally, that the amendment having been rejected, the request for a division came too late.

§ 10. Interruption of Division Vote

For Parliamentary Inquiry

§ 10.1 A Member may not interrupt the actual count on a division vote by a parliamentary inquiry.

On Feb. 13, 1946,⁽¹³⁾ Mr. Howard W. Smith, of Virginia, offered

10. 116 CONG. REC. 33603, 33618, 91st Cong. 2d Sess.

11. William S. Moorhead (Pa.).

12. For the entire exchange, see § 9.10, *supra*.

13. 92 CONG. REC. 1274, 1275, 79th Cong. 2d Sess.

a privileged resolution (H. Res. 523) which called for the striking from the Record of all the matter spoken and inserted by the Member from Washington (Mr. Charles R. Savage) on page 1267 of the [daily] Record of Tuesday, Feb. 12, 1946. Mr. Smith's resolution stated that the insertion of extraneous matter in the Record, without previous specific authorization from the House constituted a violation of the rules, thereby mandating the removal of such matter.

With the exception of a brief parliamentary inquiry posed by Mr. John E. Rankin, of Mississippi, Mr. Smith held the floor until such time as he moved the adoption of the resolution. The Speaker⁽¹⁴⁾ then put the question, immediately, and the question having been taken, he announced that the ayes seemed to have it.

At this point, Mr. Smith demanded a division, and the House proceeded to divide. In the midst of that procedure, Mr. Hugh De Lacy, of Washington, addressed the Chair, and the following exchange transpired:

MR. DE LACY (interrupting the division): Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The House is dividing now. Nothing else is in order now.

14. Sam Rayburn (Tex.).

MR. DE LACY: Are there not two sides to a debate, Mr. Speaker?

THE SPEAKER: The Chair is putting the question. The Chair is going to be fair to everybody in this House; the Chair wants the gentleman from Washington and everybody else to understand that. The Chair has always thought that each man, being elected by his own State has a right to speak.

The division was concluded.

THE SPEAKER: On this vote by division the ayes are 74 and the noes are 2.

So the resolution was agreed to.

§ 10.2 A parliamentary inquiry may not interrupt a division; but such inquiries are entertained until the Chair asks those in favor of the proposition to rise.

On Sept. 29, 1966,⁽¹⁵⁾ the Committee of the Whole having met to further consider the Economic Opportunity Amendments of 1966 (H.R. 15111), Mr. John N. Erlenborn, of Illinois, offered an amendment to an amendment offered by Mrs. Edith S. Green, of Oregon. Following some discussion of the Erlenborn proposal, the Chair⁽¹⁶⁾ put the question, it was taken; and the Chairman announced that the Chair was in doubt.

Immediately thereafter, the following discussion took place:

15. 112 CONG. REC. 24455-57, 89th Cong. 2d Sess.

16. Daniel J. Flood (Pa.).

MR. ERLENBORN: Mr. Chairman, I ask for a division.

MR. WILLIAM D. FORD [of Michigan]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. WILLIAM D. FORD: In the event that the amendment offered by the gentleman from Illinois [Mr. Erlenborn] which is offered to the amendment offered by the gentlewoman from Oregon [Mrs. Green] is defeated at this time and the amendment offered by the gentlewoman from Oregon [Mrs. Green] is also defeated, would the Erlenborn amendment then be in order if offered separately?

MR. [HAROLD R.] COLLIER [of Illinois]: Mr. Chairman, a point of order. Is a parliamentary inquiry in order at this time during the vote?

THE CHAIRMAN: The parliamentary inquiry was made before the Chair put the question pursuant to the demand of the gentleman from Illinois [Mr. Erlenborn] for a division.

In response to the parliamentary inquiry by the gentleman from Michigan, the Chair will state that the amendment may be offered later as a separate amendment.

Having permitted the parliamentary inquiry, the Chair then put the question on the Erlenborn proposal, it was taken; and on a division demanded by Mr. Erlenborn, there were—ayes 69, noes 27.

To Demand Yeas and Nays

§ 10.3 A demand for the yeas and nays is not in order

while the Chair is counting on a division vote.

On June 10, 1937,⁽¹⁷⁾ the House resolved itself into the Committee of the Whole for the purpose of considering a bill (H.R. 6391) to authorize the prompt deportation of [alien] criminals and certain other aliens, and for other purposes. Following considerable discussion of the bill, the Committee rose and its Chairman⁽¹⁸⁾ reported the bill back to the House with an amendment agreed to in committee.

Shortly thereafter, the Speaker⁽¹⁹⁾ put the question on the passage of the bill, whereupon Mr. Thomas A. Jenkins, of Ohio, offered a motion to recommit. The following colloquy then ensued:

THE SPEAKER: The question is on the motion to recommit offered by the gentleman from Ohio [Mr. Jenkins].

MR. JENKINS of Ohio: Mr. Speaker, I demand a division.

THE SPEAKER: The gentleman from Ohio demands a division. All those in favor of the motion will rise and stand until counted.

MR. JENKINS of Ohio (interrupting the count): Mr. Speaker, I ask for the yeas and nays.

THE SPEAKER: The gentleman's request is not in order while the House is dividing.

17. 81 CONG. REC. 5547, 5573, 5574, 75th Cong. 1st Sess.

18. William B. Umstead (N.C.).

19. William B. Bankhead (Ala.).

MR. [CARL E.] MAPES [of Michigan]: Mr. Speaker, a point of order.

THE SPEAKER: The Chair thinks it has discretion to conclude the count on a division before entertaining another request.

MR. MAPES: I never knew the Chair to make such a ruling before.

THE SPEAKER: The Chair now makes it.

The Chair continued his count and announced the totals in both the affirmative and negative columns⁽²⁰⁾ before entertaining another demand for the yeas and nays from Mr. Jenkins.

By Demand for Record Vote

§ 10.4 Where a vote by division is in progress, it cannot be interrupted by a demand for a recorded vote.

On June 10, 1975,⁽¹⁾ the Chairman of the Committee of the Whole, William H. Natcher, of Kentucky, had put the question on a pending amendment and being in doubt as to the result of a voice vote, he directed a division vote. While the Members in the affirmative were standing to be counted, Mr. Sam Gibbons, of

20. It should be noted, parenthetically, that in the Senate the Chair does not announce the number of Members voting "aye" and "no" on a division vote. See §.14.4, *infra*.

1. 121 CONG. REC. 18048, 94th Cong. 1st Sess.

Florida, asked for a recorded vote. The Chair declined to interrupt his count and the proceedings were as follows:

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Florida (Mr. Gibbons).

The question was taken; and the Chairman being in doubt, the Committee divided.

MR. GIBBONS: Mr. Chairman, I ask for a recorded vote.

THE CHAIRMAN: The Chair is counting, and a division vote in progress cannot be interrupted by a demand for a recorded vote.

The Chairman having announced that he was in doubt, and the Committee having divided, there were—ayes 77, noes 66.

RECORDED VOTE

MR. [AL] ULLMAN [of Oregon]: Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

§ 11. Objections to Division Vote: Lack of Quorum

Generally

§ 11.1 Objection to a voice vote for lack of a quorum having been withdrawn and demand then being made for a division, an objection to the division vote for lack of a quorum is in order.