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§ 11.1 Objection to a voice vote for lack of a quorum having been withdrawn and demand then being made for a division, an objection to the division vote for lack of a quorum is in order.

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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.

On Feb. 5, 1957,[2] the House resolved itself into the Committee of the Whole for the consideration of a bill (H.R. 4249) making appropriations for the fiscal year ending June 30, 1957. Discussion ensued, and the Committee eventually agreed to rise and to report the bill back to the House with various amendments and with the recommendation that the bill as amended, be passed.

Thereafter, the Speaker[3] inquired as to whether any Member demanded a separate vote on any amendment. In response thereto, Mr. James Roosevelt, of California, stated that he desired a separate vote on the amendment to Chapter III which had been adopted in the Committee. No other separate votes having been requested, the Chair put the remaining amendments en gros, and they were agreed to.

Immediately thereafter, the Chair directed the Clerk to report the amendment on which a separate vote had been demanded. The Clerk read the amendment, after which Mrs. Edith S. Green, of Oregon, demanded the yeas and nays. This request having been refused, the question was put, taken, and agreed to by voice vote.

At this point, Mrs. Green objected to the vote on the ground that a quorum was not present. After the Chair announced it would count, Mrs. Green immediately withdrew the point of order and asked for a division. The question was then taken on a division, and there were—ayes 118, noes 46.

Immediately thereafter, the following exchange took place:

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

MR. H. CARL ANDERSEN [of Minnesota]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. H. CARL ANDERSEN: The point of order is that that request has already been made in reference to this vote, and the gentlewoman withdrew it.

THE SPEAKER: The objection to the voice vote on the grounds that a quorum was not present was withdrawn. The objection to the vote by division, on the grounds that a quorum is not present, is in order.

Evidently a quorum is not present.

The Speaker then directed the Clerk to call the roll.

Repeated Points of No Quorum

§ 11.2 While a division vote following a quorum call is "intervening business" permitting an objection to the vote for lack of a quorum under Rule XV clause 4, the Chair is not bound by the result of

2. 103 CONG. REC. 1528, 1553, 85th Cong. 1st Sess.
3. Sam Rayburn (Tex.).

the division but may count the House to determine whether a quorum is in fact present.

On Nov. 17, 1975,[4] the House was considering motions to suspend the rules. Pending the Chair's putting the question on one of these motions, a point of order was made that a quorum was not present:

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

THE SPEAKER PRO TEMPORE:[5] Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

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

THE SPEAKER PRO TEMPORE: On this rollcall 372 Members have recorded their presence by electronic device, a quorum.

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

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from New Jersey (Mr. Dominick V. Daniels) that the House suspend the rules and pass the bill H.R. 8618.

The question was taken.

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

THE SPEAKER PRO TEMPORE: The Chair will point out to the gentleman that the quorum has been established, and there has been no intervening business.

MR. FORD of Michigan: Mr. Speaker, I therefore demand the yeas and nays.

The yeas and nays were refused.

MR. FORD of Michigan: Mr. Speaker, I demand a division.

The question was taken; and on a division (demanded by Mr. Ford of Michigan) there were—ayes 115, noes 15.

MR. FORD of Michigan: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present, as evidenced by the vote just cast.

[After counting the House:]

THE SPEAKER PRO TEMPORE: The Chair will point out to the gentleman that a quorum had been established just prior to the vote. The Chair determines that a quorum is still present.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

As Related to Adjournment

§ 11.3 A quorum not being required for purposes of adjournment, objection to an affirmative division vote on a motion to adjourn—when based on the absence of a

4. 121 CONG. REC. 36914, 94th Cong. 1st Sess.

5. John J. McFall (Calif.).

quorum—is not a proper point of order.

On July 25, 1949,[6] the House met at 12 o'clock noon, a prayer was offered, and the Speaker[7] directed the Clerk to read the Journal of the last day's proceedings.

Immediately following the Chair's instruction and before the Clerk proceeded, however, Mr. Ed Gossett, of Texas, moved that the House adjourn. This question was taken; and on a division there were—ayes 46, noes 30.

Mr. Wayne L. Hays, of Ohio, then rose and the following exchange took place:

> MR. HAYS of Ohio: Mr. Speaker, I object to the vote on the ground there is no quorum present.
>
> THE SPEAKER: That is not a proper point of order. The gentleman may ask for the yeas and nays.
>
> MR. HAYS of Ohio: I ask for the yeas and nays, Mr. Speaker.
>
> The yeas and nays were ordered.
>
> The question was taken; and there were—yeas 102, nays 243, not voting 87. . . .
>
> So the motion was rejected.

Parliamentarian's Note: In the absence of a quorum, only two motions are in order—a call of the House or a motion to adjourn.[8] In this particular instance, the motion to adjourn would have taken precedence over any simultaneously proposed motion for a call of the House;[9] hence no such motion was forthcoming despite the desire of the majority to avoid adjournment. Had the initial division vote been opposed to adjourning, however, an objection based on the lack of a quorum would have been in order, and—assuming the point of order were sustained—an "automatic" roll call would have followed.[10]

§ 11.4 While a quorum is not required to adjourn the House, a point of no quorum following a negative division vote on adjournment, when sustained, precipitates a call of the House under the rule (Rule XV clause 4).

On Dec. 11, 1963,[11] Mr. John L. McMillan, of South Carolina, sought unanimous consent to take from the Speaker's desk a bill (H.R. 4276) to provide for the creation of horizontal property regimes in the District of Columbia,

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6. 95 CONG. REC.. 10092, 81st Cong. 1st Sess.

7. Sam Rayburn (Tex.).

8. See *House Rules and Manual* § 769 (note); and Rule XV clause 2(a), *House Rules and Manual* § 768 (1995).

9. *Id.*

10. Rule XV clause 4, *House Rules and Manual* § 773 (1995); see also § 11.4, infra.

11. 109 CONG. REC. 24212, 24217, 24218, 88th Cong. 1st Sess.

with a Senate amendment thereto, and concur in the Senate amendment.

Following the reading of the Senate amendment, Mr. Steven B. Derounian, of New York, rose to make the point of order that a quorum was not present. The Speaker[12] then asked the gentleman if he would withhold his point until the Chair could obtain the unanimous-consent request desired by Mr. McMillan. Mr. Derounian insisted on his point of order, however, whereupon Mr. Carl Albert, of Oklahoma, offered a preferential motion that the House adjourn.

The question of adjournment was taken; a division was demanded by Mr. Derounian and Mr. Silvio O. Conte, of Massachusetts; and, there were—ayes 60, noes 63. Immediately following the announcement of the vote, Mr. Joe D. Waggonner, Jr., of Louisiana, objected to the vote on the ground that a quorum was not present. The Speaker sustained the point of order and ordered the Clerk to call the roll. The motion was agreed to, and the House adjourned.[13]

§ 11.5 While a quorum is not required on an affirmative motion to adjourn, a negative vote on that motion by division may precipitate an "automatic" roll call pursuant to Rule XV clause 4.

In the 100th Congress, on Nov. 2, 1987,[14] a similar instance occurred, where an automatic call pursuant to clause 4, Rule XV occurred when, following a vote by division, the House refused to adjourn but a quorum failed to respond on the vote. A quorum also failed to respond on the automatic vote, and the House found itself in that unenviable position where it could conduct no business and had only two alternatives, to persuade a majority to vote to adjourn in the absence of the required quorum or to obtain the presence of absentees so business could continue. A motion to direct the Sergeant at Arms to compel attendance of absent Members was also defeated, with a quorum still not responding on the vote. A sec-

12. John W. McCormack (Mass.).

13. For similar instances, see 97 CONG. REC. 6621, 82d Cong. 1st Sess., June 15, 1951; and 97 CONG. REC. 6097, 82d Cong. 1st Sess., June 4, 1951. For a comparable instance involving a point of no quorum with respect to an affirmative division vote [on a motion to adjourn] see § 11.3, supra. And, for other instances of objections to division votes precipitating automatic roll calls, see §§ 11.5, 11.10, infra.

14. 133 CONG. REC. 30386–90, 100th Cong. 1st Sess.

ond motion to adjourn was then made, the yeas and nays were taken, and the House continued to refuse to adjourn. Another yea and nay vote, on a motion to direct Speaker James C. Wright, Jr., of Texas, who was presiding, to compel the attendance of absentees, was then adopted by less than a quorum; but under the operation of this order, additional Members finally entered the Chamber and recorded their presence. After some three hours, enough Members finally responded to make a quorum and a motion to adjourn taken by the yeas and nays was finally adopted.[15]

15. The various steps taken to adjourn the House on Nov. 2, 1987, are summarized above but annotations describing the various actions in more detail are included here for clarity:

The Speaker may in his discretion entertain parliamentary inquiries relating to the pending parliamentary situation during the pendency of a record vote although prior to the announcement of the result where a quorum has not appeared.

Where less than a quorum rejects a motion to adjourn, the House may not consider business but may dispose of motions to secure the attendance of absent Members.

A privileged motion to compel the attendance of absent Members is in order after the Chair has announced that a quorum has not responded on a negative record vote to adjourn.

Less than a quorum of the House rejected a motion directing the Sergeant at Arms to arrest absent Members.

Less than a quorum of the House rejected a second motion to adjourn and then adopted a motion authorizing the Speaker to compel the attendance of absent Members.

The motion to compel the attendance of absent Members being neither debatable nor amendable is not subject to a motion to lay on the table.

The House having authorized the Speaker to compel the attendance of absent Members, the Speaker announced that the Sergeant at Arms would proceed with necessary and efficacious steps, and that pending the establishment of a quorum no further business, including unanimous-consent requests for recess authority, could be entertained.

The House having authorized the Speaker to compel the attendance of absent Members and having then obtained a quorum by recording the names of additional Members who appeared subsequent to the previous roll call on a negative motion to adjourn, the motion to adjourn was then renewed and adopted by roll call vote.

Precedence Over Tellers

§ 11.6 An objection to a division vote on the ground that a quorum is not present takes precedence over a demand for tellers on the question.

On June 18, 1953,[16] Mr. Robert B. Chiperfield, of Illinois,

16. 99 CONG. REC. 6840, 83d Cong. 1st Sess.

moved that the House resolve itself into the Committee of the Whole for the consideration of a bill (H.R. 5710) to amend further the Mutual Security Act of 1951, as amended. The question was taken; and Mr. H. R. Gross, of Iowa, having demanded a division, there were—ayes 122, noes 10. Immediately following the announcement of this result, Mr. Gross objected to the vote on the ground that a quorum was not present. Mr. Charles A. Halleck, of Indiana, then rose and demanded tellers.

Faced with these two requests, the Speaker[17] stated that the point of order of Mr. Gross took precedence over Mr. Halleck's demand for tellers. The Chair then counted, and a quorum having been determined, the motion was agreed to.[18]

A Point of No Quorum Is in Order Where a Pending Question Is Put to a Vote

§ 11.7 In the House, where the question of resolving into the Committee of the Whole for consideration of a bill is taken by a division vote, and the announcement of the result of the division is followed by a point of order that a quorum is not present (but not coupled with an objection to the vote for lack of a quorum under Rule XV clause 4), the question is put de novo following the quorum call.

Rule XV clause 6(e) was adopted by the House in January 1977. It severely limited the right to make a point of order that a quorum is not present and specified that such a point of order can be made or entertained only when a pending question has been put to a vote. Since the adoption of this new rule, it has been the practice of the Speaker to put de novo a decisive question initially decided by fewer than a quorum, where the lack of a quorum was announced by the Chair in response to a point of order that a quorum was not present and a call of the House was thereafter ordered and taken, producing a quorum. This practice is disclosed by the proceedings of Sept. 22, 1977,[19] which were as follows:

> MR. [E] DE LA GARZA [of Texas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7073) to extend the Federal Insecticide,

17. Joseph W. Martin, Jr. (Mass.).

18. See also § 15, infra.

19. 123 CONG. REC. 30289, 30290, 95th Cong. 1st Sess.

Fungicide, and Rodenticide Act, as amended.

THE SPEAKER PRO TEMPORE:[20] The question is on the motion offered by the gentleman from Texas (Mr. de la Garza).

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

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, so that we may have some record of the attendance of the House, as the Constitution requires, in order to do business, I demand a division.

THE SPEAKER PRO TEMPORE: The gentleman from Maryland (Mr. Bauman) demands a division.

Those in favor of the motion will rise and remain standing until counted. The Chair will count all Members standing.

The ayes will be seated and the noes will rise.

On this vote, there are 18 ayes and no noes.

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

THE SPEAKER PRO TEMPORE: Does the gentleman object to the vote on the ground that a quorum is not present?

MR. BAUMAN: No, Mr. Speaker.

THE SPEAKER PRO TEMPORE: Will the gentleman allow the Chair, then, to announce the vote?

MR. BAUMAN: Mr. Speaker, the gentleman insists on his point of order, and hopes that the point will be entertained by the Chair.

THE SPEAKER PRO TEMPORE: Does the gentleman from Maryland (Mr. Bauman) desire an automatic rollcall?

MR. BAUMAN: No, Mr. Speaker, the gentleman from Maryland simply makes the point of order that a quorum is not present and the Constitution does require a quorum to do business in the House.

PARLIAMENTARY INQUIRY

MR. DE LA GARZA: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.

MR. DE LA GARZA: Mr. Speaker, is the gentleman from Maryland (Mr. Bauman) objecting to a quorum not being present or to the vote as announced by the Chair?

THE SPEAKER PRO TEMPORE: The Chair will state that the Chair was in the process of announcing the vote and that the Chair did not count for a quorum. The Chair was simply taking count of the Members who were standing. It was the Chair's understanding that the gentleman from Maryland (Mr. Bauman) in making his point of order that a quorum was not present, was doing so in order that a quorum be called in order to establish the presence of a quorum.

Will the gentleman from Texas, Mr. de la Garza, withdraw his motion and move a call of the House?

MR. DE LA GARZA: Mr. Speaker, if it is permissible to withdraw my motion without asking unanimous consent then I will do so, and if it is not, then I will ask unanimous consent to withdraw my motion.

PARLIAMENTARY INQUIRY

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

20. James C. Wright, Jr. (Tex.).

THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.

MR. BAUMAN: Mr. Speaker, has the Chair entertained my point of order of no quorum?

THE SPEAKER PRO TEMPORE: The Chair is in the process of entertaining the gentleman's point of order.

MR. BAUMAN: I object to the withdrawal of the motion.

THE SPEAKER PRO TEMPORE: While the motion may be withdrawn if the gentleman from Texas asks, the House having taken no final action on the motion, the gentleman from Maryland (Mr. Bauman) must in the meantime decide within his own mind—and the Chair will protect the gentleman's rights, and is so doing—whether the gentleman from Maryland wants to object to the vote on the ground that a quorum is not present or the Chair would recognize someone for a motion for a call of the House. If the Chair sustains the point of order, the gentleman from Maryland may have one but he may not have both.

MR. BAUMAN: The only point of order that the gentleman from Maryland has made is that a quorum is not present, and there is pending a motion at this time regarding resolving into the Committee of the Whole House on the State of the Union.

THE SPEAKER PRO TEMPORE: Under the rules of the House, if a quorum is not present, the motion on a call of the House would still take precedence over the pending motion to resolve into Committee.

The gentleman from Maryland makes the point of order that a quorum is not present and evidently a quorum is not present.

MR. [DAN] ROSTENKOWSKI [of Illinois]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

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

THE SPEAKER PRO TEMPORE: On this rollcall 286 Members have recorded their presence by electronic device, a quorum.

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

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AUTHORIZATION

THE SPEAKER PRO TEMPORE: The pending business is the motion offered by the gentleman from Texas (Mr. de la Garza) that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 7073, on which the Chair will again put the question.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 7073, with Mr. Danielson in the chair.

Parliamentarian's Note: The practice was otherwise before the adoption of clause 6(e), Rule XV. A division vote having been taken on an amendment pending in the House, even though immediately followed by a point of no quorum and a call of the House, a second

demand for a division would not have been entertained. While the yeas and nays or a recorded vote could yet be demanded after the call of the House, the issue could be decided by the division vote unless so challenged.

Practice Before 1977; Precipitation of Automatic Roll Calls

§ 11.8 A point of no quorum, following announcement of the result of a division vote on an amendment as to which less than a quorum voted, does not precipitate an automatic roll call under the rules; and unless objection to the vote on the ground that a quorum is not present is made and such objection sustained, a call of the House solely on the point of order that a quorum is not present precludes a vote de novo on agreeing to the amendment.

On Feb. 21, 1967,[1] Mr. Richard Bolling, of Missouri, by direction of the Committee on Rules, called up House Resolution 83 and asked for its immediate consideration. The resolution authorized the Committee on Agriculture to investigate and make studies into a variety of matters.

Following debate, the Chair[2] put the question on agreeing to the committee amendments. The question was taken; and, Mr. Paul C. Jones, of Missouri, having demanded a division, there were—ayes 34, noes 13.

Immediately following the announcement of the vote, Mr. Jones rose to make a point of order, and the following colloquy ensued:

> THE SPEAKER: Does the gentleman make the straight point of order that a quorum is not present?
>
> MR. JONES of Missouri: Mr. Speaker, the gentleman makes the point of order. I want to get a quorum here and then I will have a division.
>
> THE SPEAKER: The gentleman from Missouri makes the point of order that a quorum is not present.
>
> The Chair will state that the vote is automatic at this point.
>
> MR. JONES of Missouri: The vote on the resolution is not automatic. At this point we are only voting on the amendments.
>
> THE SPEAKER: Does the gentleman from Missouri make the point of order that a quorum is not present and objects to the vote on the ground that a quorum is not present?
>
> Evidently, a quorum is not present.
>
> MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state the parliamentary inquiry.

1. 113 CONG. REC. 4137, 4139, 4140, 90th Cong. 1st Sess.

2. John W. McCormack (Mass.).

MR. HALL: Mr. Speaker, the parliamentary inquiry is whether or not the gentleman from Missouri did object to the vote on the basis that a quorum was not present as was stated by the Speaker.

THE SPEAKER: The Chair would like to understand clearly what the gentleman from Missouri is demanding.

Is the gentleman from Missouri demanding a straight quorum call?

MR. JONES of Missouri: I was demanding a straight quorum call, and then I am going to ask for a division when we come to adopting the resolution.

THE SPEAKER: Evidently a quorum is not present.

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

A call of the House was ordered.

Over 300 Members having answered to their names, a quorum was established,[3] and pursuant to unanimous consent, further proceedings under the call were dispensed with.

Shortly thereafter, the Speaker put the question on agreeing to the resolution as amended. The question was taken; and on a division demanded by Mr. Jones, there were—ayes 128, noes 25.

At this point, Mr. Jones rose again, prompting the following exchange and resultant roll call:

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

THE SPEAKER: The gentleman from Missouri objects to the vote on the ground that a quorum is not present, and makes the point of order that a quorum is not present.

Evidently a quorum is not present.

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

The question was taken; and there were—yeas 306, nays 18, not voting 108.

§ 11.9 In Committee of the Whole, only one demand for a vote by division on a pending question is in order.

In the 98th Congress, during consideration of the Education Amendments of 1984 (H.R. 11) in the Committee of the Whole, Chairman Abraham Kazen, Jr., of

3. It should be noted that Mr. Jones intended to demand a second division vote on the amendments following the quorum call. During the call, however, he was advised that a vote de novo would not be in order. Accordingly, when the call established the presence of a quorum, Mr. Jones did not choose to press the point. The gentleman could have obtained a second vote on agreeing to the amendments through the automatic roll call provision of Rule XV clause 4 [Rule XV clause 4, *House Rules and Manual* § 773 (1995)], if he had not decided to pursue a "straight quorum call" under Rule XV clause 2(b) [Rule XV clause 2(b), *House Rules and Manual* § 771b (1995)].

Texas, put the question on a pending amendment offered by Mr. Pat Williams, of Montana. On a division vote, the Chair announced the result to be 19 in the affirmative, 21 in the negative. After intervening business—a quorum call and an unsuccessful attempt to get a recorded vote on the amendment—a second request for a division vote was denied. The proceedings of July 26, 1984,[4] were as follows:

THE CHAIRMAN PRO TEMPORE: The question is on the amendment offered by the gentleman from Montana [Mr. Williams].

The question was taken; and on a division (demanded by Mr. Williams of Montana) there were—ayes 19, noes 21.

MR. WILLIAMS of Montana: Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

THE CHAIRMAN PRO TEMPORE: The Chair will count. Forty-four Members are present, not a quorum.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

THE CHAIRMAN PRO TEMPORE: Three hundred and ninety-six Members have answered to their names, a quorum is present, and the Committee will resume its business.

The pending business is the demand of the gentleman from Montana [Mr. Williams] for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

PARLIAMENTARY INQUIRY

MR. WILLIAMS of Montana: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN PRO TEMPORE: The gentleman will state it.

MR. WILLIAMS of Montana: Mr. Chairman, may I request the yeas and nays on that last vote?

THE CHAIRMAN PRO TEMPORE: A recorded vote had been requested and refused.

MR. WILLIAMS of Montana: May I ask for the yeas and nays?

THE CHAIRMAN PRO TEMPORE: Not at this time.

The Chair will tell the gentleman from Montana that that would not be permitted in the Committee of the Whole.

MR. WILLIAMS of Montana: Mr. Chairman, a further parliamentary inquiry; may I ask for a division?

THE CHAIRMAN PRO TEMPORE: There has already been one.

MR. WILLIAMS of Montana: I understand that. My question is, May I ask for another?

THE CHAIRMAN PRO TEMPORE: No.

MR. WILLIAMS of Montana: I thank the Chairman.

A similar sequence of events occurred in the Committee of the Whole in the 103d Congress. On June 29, 1994,[5] the House had

4. 130 CONG. REC. 21259, 98th Cong. 2d Sess.

5. 140 CONG. REC. p. _____, 103d Cong. 2d Sess.

under consideration the Department of Defense Appropriation Act of 1995. Mrs. Carolyn B. Maloney, of New York, offered an amendment which was debated. When the question on adoption of the amendment was put by the Chair it appeared that the amendment was rejected on a voice vote. Mrs. Maloney then asked for a recorded vote and made a point of order that a quorum was not present. The Chair counted the Committee and announced that a quorum was present in the Chamber. Mrs. Maloney did not renew her demand for a recorded vote at this point, but instead asked for a division. After counting those standing in support of and in opposition to the amendment, the Chair announced that the ayes were 20, the noes 69. Mrs. Maloney again made a point of no quorum and the Chair announced that after again counting the Members present a quorum was still present.[6] When Mrs. Maloney again asked for a vote by division, the Chair ruled that a second request was not in order. Mrs. Maloney then renewed her demand for a recorded vote but an insufficient number of Members rose to second her demand. The amendment was thus rejected.

AMENDMENT OFFERED BY MRS. MALONEY

MRS. MALONEY: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mrs. Maloney: Page 14, strike lines 4 through 22.

MRS. MALONEY: Mr. Chairman, I offer an amendment to cut the single most ridiculous item in the budget.

Let me make this simple and quick. Three simple facts: The Civilian Marksmanship Program is obsolete. Created in 1903 during the Spanish-American War, it is no longer needed to train men and women to shoot straight. It is time to declare victory and cut this boondoggle out of the budget. It is a boondoggle.

It hands out millions of rounds of ammunition to private gun clubs. The Army does not want it. The Department of Defense does not want it. The Office of Management and Budget does not want the money.

If we cannot cut here, where? Where are we going to cut?

MR. [JOHN P.] MURTHA [of Pennsylvania]: Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I yield back the balance of my time, and I ask for a vote on the amendment.

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6. In response to Mrs. Maloney's argument that the Chair should have called for a quorum call when the vote by division showed less than a quorum voting, she was advised that a vote by division takes no cognizance of Members present but not voting, and consequently the number of votes counted by division has no tendency to establish a lack of quorum. See *House Rules and Manual* § 630a (1995), June 29, 1988.

THE CHAIRMAN:[7] Do other Members seek to be recognized for debate on the amendment?

The question is on the amendment offered by the gentlewoman from New York [Mrs. Maloney].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

MRS. MALONEY: Mr. Chairman, I demand a recorded vote, and I make the point of order that a quorum is not present.

THE CHAIRMAN: The gentlewoman from New York has requested a recorded vote.

Those in favor of a recorded vote will rise and remain standing until counted. The Chair will count for a recorded vote.

MRS. MALONEY: Mr. Speaker, I note the absence of a quorum.

THE CHAIRMAN: The gentlewoman makes a point of order that a quorum is not present. The Chair will count for a quorum.

A quorum is present.

MRS. MALONEY: Mr. Chairman, I demand a division.

THE CHAIRMAN: The gentlewoman from New York has demanded a division.

Those in favor of the amendment will rise and remain standing until counted.

Those opposed will rise and remain standing until counted.

On this vote, in the affirmative: 20; opposed: 69.

MRS. MALONEY: In the absence of a quorum, I asked for a quorum.

MR. MURTHA: Regular order.

MRS. MALONEY: Notice of a quorum.

THE CHAIRMAN: The gentlewoman has made a point of order of no quorum. The Chair must again count for a quorum since there has been a division vote.

The Chair has counted more than 100 Members for a quorum. A quorum is present.

MRS. MALONEY: Division; I ask for a division.

MR. [GERALD B. H.] SOLOMON [of New York]: Regular order.

THE CHAIRMAN: The gentlewoman is not able to ask for a division again. A division vote has been conducted.

MR. MURTHA: Regular order.

§ 11.10 Objection to a voice vote taken in the House 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 and, if a quorum is not present the roll call is automatic.

On Feb. 5, 1957,[8] the House entertained consideration[9] of an amendment to a bill (H.R. 4249) making appropriations for the fiscal year ending June 30, 1957. The amendment having been agreed to by voice vote, Mrs. Edith S. Green, of Oregon, ob-

7. Robert G. Torricelli (N.J.).

8. 103 CONG. REC. 1553, 85th Cong. 1st Sess.

9. For greater detail see § 11.1, supra.

jected to the vote on the ground that a quorum was not present. The Speaker[10] then announced he would count, after which Mrs. Green immediately withdrew her point of order and asked for a division. The division then being taken, there were—ayes 118, noes 46.

At this point, the following discussion ensued:

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

MR. H. CARL ANDERSEN [of Minnesota]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. H. CARL ANDERSEN: The point of order is that that request has already been made in reference to this vote, and the gentlewoman withdrew it.

THE SPEAKER: The objection to the voice vote on the grounds that a quorum was not present was withdrawn. The objection to the vote by division, on the grounds that a quorum is not present, is in order.

Evidently a quorum is not present.

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

§ 11.11 An objection to a division vote taken in the Committee of the Whole and based on the absence of a quorum may not precipitate an "automatic" roll call under the rules; "automatic" roll calls are not in order in the Committee of the Whole.

On June 7, 1973,[11] the House resolved itself into the Committee of the Whole for the consideration of a bill (H.R. 7446) to establish the American Revolution Bicentennial Administration.

In the course of the bill's consideration, Mr. Lawrence G. Williams, of Pennsylvania, offered several amendments en bloc and, following debate on these amendments, the Chair[12] put the question before the Committee. The question was taken; and the Chair announced that the noes appeared to have it. Mr. Williams then demanded a recorded vote.

Thereafter, the following discussion ensued:

THE CHAIRMAN: A recorded vote has been demanded.

MR. WILLIAMS: Mr. Chairman, I withdraw that. I make the point of order that a quorum is not present, and I object to the vote on that basis.

THE CHAIRMAN: The Chair advises the gentleman from Pennsylvania that that procedure is not in order in the Committee of the Whole.

MR. WILLIAMS: Mr. Chairman, I make a point of order. I object to the

10. Sam Rayburn (Tex.).

11. 119 CONG. REC. 18509, 18518, 18521, 93d Cong. 1st Sess.

12. Henry B. Gonzalez (Tex.).

vote on the ground that a quorum is not present, and I request a rollcall vote.

I can object to the vote on the ground that a quorum is not present, and insist on my point of order.

THE CHAIRMAN: Not in the Committee of the Whole, the Chair wishes to advise.

The gentleman may be advised that he may wish to raise a point of order that a quorum is not present.

MR. WILLIAMS: That is exactly what I have done.

THE CHAIRMAN: But the gentleman must be advised that during proceedings of the Committee of the Whole, an automatic vote is not a proper request.

MR. WILLIAMS: Mr. Chairman, I make a point of order against the vote previously taken on the basis that a quorum is not present.

THE CHAIRMAN: The gentleman from Pennsylvania raises the point of order that a quorum is not present. Is that what the gentleman wishes?(13)

MR. WILLIAMS: No. I demand a recorded vote.

THE CHAIRMAN: The Chair will remind the gentleman from Pennsylvania that that demand has been withdrawn.

MR. WILLIAMS: I did withdraw it before. I am now requesting a recorded vote.

THE CHAIRMAN: The gentleman from Pennsylvania now demands a recorded vote on his amendments.

Mr. Williams' request for a recorded vote was refused, and the amendments were rejected.

Where Parliamentary Inquiry Precedes Objection

§ 11.12 Although preceded by a parliamentary inquiry, an objection to a division vote in the House on the ground that a quorum was not present, does not come too late and is in order.

On Mar. 7, 1956,(14) the House entertained consideration of a bill (H.R. 9739) making appropriations for various executive bureaus and bodies, for the fiscal year ending June 30, 1957.

In the course of debate, it was agreed that one of the proposed amendments to the bill would be voted on separately. The Chair being in doubt upon the taking of the question, a division was had, and there were ayes 17, noes 31.

Immediately following the Chair's announcement to that effect, Mr. Gordon Canfield, of New Jersey, propounded a parliamen-

13. Since an objection to a division vote in the Committee of the Whole on the ground of no quorum will not lie, the only proper way to obtain a record vote under the circumstances would have been to raise a point of no quorum pending a demand for a recorded vote.

For additional information as to points of no quorum, see Ch. 20, supra.

14. 102 CONG. REC. 4215, 84th Cong. 2d Sess.

tary inquiry asking if it were too late to request that that amendment be read to the House. The Speaker Pro Tempore[15] informed Mr. Canfield that the amendment having been read, the Chair assumed that every Member was aware of its content. Hence, the amendment was not reread by the Clerk.

Following the Chair's ruling on the Canfield inquiry, Mr. H. R. Gross, of Iowa, rose to object to the vote on the ground that a quorum was not present. Mr. Gross' objection prompted the following exchange:

> MR. [JOHN] TABER [of New York]: Mr. Speaker, I make the point of order that the gentleman's point comes too late. There was a parliamentary inquiry submitted since the division.
>
> THE SPEAKER PRO TEMPORE: The gentleman from New Jersey [Mr. Canfield] addressed the Chair on a point of order. The gentleman from Iowa [Mr. Gross] was justified in waiting until that point of order had been determined by the Chair. Immediately upon that determination the gentleman from Iowa made the point of order that a quorum was not present and objected to the vote on the ground that a quorum was not present. The Chair feels that the gentleman from Iowa exercised his rights under the rules in such manner that a point of order against his point of order would not lie.

Where Yeas and Nays Refused

§ 11.13 Less than a quorum having voted on a division and a yea and nay vote having been refused, it is not too late to object to the division vote on the ground that a quorum is not present.

On June 1, 1942,[16] Mr. Joseph J. Mansfield, of Texas, moved to suspend the rules and pass a bill (H.R. 6999) to authorize the construction and operation of a pipeline and a navigable barge canal across Florida, among other things.

After debate, the Speaker[17] put the question.[18] The question was taken; and Mr. John D. Dingell, of Michigan, having demanded a division, there were 85 ayes and 121 noes.

Mr. Mansfield thereupon requested the yeas and nays-prompting the Speaker to count those Members in favor. An insufficient number having arisen, the yeas and nays were refused.

Mr. Herman P. Kopplemann, of Connecticut, then commenced the following discussion:

> MR. KOPPLEMANN: Mr. Speaker, I raise the point of order that there is no quorum present, and I object to the vote on that ground.
>
> THE SPEAKER: The Chair will count.

15. John W. McCormack (Mass.).

16. 88 CONG. REC. 4767, 77th Cong. 2d Sess.

17. Sam Rayburn (Tex.).

18. 88 CONG. REC. 4774, 77th Cong. 2d Sess.

MR. [ALBERT E.] CARTER [of California]: Mr. Speaker, I make the point of order that the gentleman's point of order comes too late.

THE SPEAKER: The Chair will hold that it does not come too late. The Chair will count. [After counting.] More than 218 Members are present, a quorum.

Two-thirds of those present not having voted in favor thereof, the motion to suspend the rules and pass the bill was rejected.

Objection Resulting in Postponement of Roll Call Vote

§ 11.14 Objection having been raised to a division vote on the ground that a quorum was not present, the point of order that a quorum was not present was made and further proceedings were postponed pursuant to a previous unanimous-consent agreement that any roll call votes would be put over until a later day.

On Oct. 5, 1965,[19] Mr. Clement J. Zablocki, of Wisconsin, moved to suspend the rules and pass the Senate joint resolution (S.J. Res. 106) to allow the showing in the United States of the U.S. Information Agency film "John F. Kennedy-Years of Lightning, Day of Drums."

After some discussion pertaining to the precedential nature of such an authorization as well as certain other concerns of various Members, the Speaker Pro Tempore[20] put the question. It was taken; and, on a division demanded by Mr. H. R. Gross, of Iowa, there were—ayes 55, noes 12.

Mr. Gross then rose immediately to object to the vote on the ground that a quorum was not present.[1]

In response thereto, the Chair stated that pursuant to the order of the House of Oct. 1, 1965, further proceedings on the Senate joint resolution would be put over until Oct. 7, 1965.[2]

When Untimely

§ 11.15 Objection to a division vote on the ground that a

19. 111 CONG. REC. 25941, 89th Cong. 1st Sess.

20. John W. McCormack (Mass.).

1. 111 CONG. REC. 25944, 89th Cong. 1st Sess.

2. The postponement of such proceedings was a result of a unanimous-consent agreement reached on Oct. 1, 1965. In light of impending religious holidays, the House agreed that any roll call votes, other than on questions of procedure, would be put over until October 7. See 111 CONG. REC. 25797, 89th Cong. 1st Sess., Oct. 1, 1965.

quorum was not present comes too late after the vote has been announced, the bill passed, and a motion to reconsider has been laid on the table.

On Sept. 17, 1962,[3] Mrs. Gracie B. Pfost, of Idaho, moved to suspend the rules and pass the bill (H.R. 12761) to provide relief for residential occupants of unpatented mining claims. The Speaker Pro Tempore[4] following debate, put the question. Mr. John D. Dingell, of Michigan, having demanded a division, the question was taken, and there were 49 ayes and 13 noes.

The Speaker Pro Tempore then announced that two-thirds having voted in the affirmative, the rules were suspended and the bill passed. He further stated that if there were no objection, a motion to reconsider would be laid on the table. The Record indicates there was no immediate objection.

Shortly thereafter, however, Mr. Dingell objected to the vote on the ground that a quorum was not present. In response thereto, Mr. Charles A. Halleck, of Indiana, rose to a point of order that the Dingell objection came too late. The Speaker Pro Tempore concurring in that conclusion, Mr. Dingell withdrew the point of order.

In the Committee of the Whole

§ 11.16 In the Committee of the Whole, objection will not lie to a division vote on the ground that a quorum is not present.

On Aug. 1, 1966,[5] the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 14765) to assure nondiscrimination in federal and state jury selection, to facilitate desegregation of public education and other public facilities, to provide judicial relief against discriminatory housing practices, to prescribe penalties for certain acts of intimidation, and for other purposes.

In the course of the bill's consideration, Mr. Byron G. Rogers, of Colorado, moved that all debate on title II and all amendments thereto terminate at 4 o'clock that day.[6] The Chair[7] put the question; it was taken, and on a division demanded by Mr. Joe D. Waggonner, Jr., of Louisiana, there were-ayes 51, noes 42.

Mr. John V. Dowdy, of Texas, thereupon rose to object, as follows:

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3. 108 CONG. REC. 19650, 87th Cong. 2d Sess.

4. Carl Albert (Okla.).

5. 112 CONG. REC. 17831, 89th Cong. 2d Sess.

6. *Id.* at p. 17844.

7. Richard Bolling (Mo.).

MR. DOWDY: Mr. Chairman, I object to the vote on the ground that a quorum is not present.

THE CHAIRMAN: The Chair will advise the gentleman that such an objection is not valid in the Committee of the Whole.

Parliamentarian's Note: A point of order that a quorum is not present will lie in the Committee of the Whole; however, objection will not lie to any vote in the Committee on the ground that a quorum is not present. See, for example, the proceedings of Dec. 17, 1970,[8] where the Chairman ordered a quorum call following a point of order that a quorum was not present, but ruled an objection to a voice vote on the same ground to be out of order.

§ 12. Determining Presence of Quorum as Related to Division Vote

Counting Those Present

§ 12.1 In determining the presence of a quorum on a division vote, the Chair counts those Members who are present but not voting.

On Aug. 13, 1940,[9] Mr. William M. Colmer, of Mississippi, called up House Resolution 406 which provided that upon the adoption of the resolution, the House would resolve itself into the Committee of the Whole in order to consider H.R. 8157, a bill to establish a national land policy and to provide homesteads free of debt for farm families.

Following debate on the resolution, the previous question was ordered[10] and the question taken on the resolution;[11] and there were on a division (demanded by Mr. Colmer)—ayes 47, noes 123. This result prompted Mr. Knute Hill, of Washington, to object to the vote on the ground that a quorum was not present. The Speaker[12] counted and announced that the count disclosed 235 Members present—a quorum. The yeas and nays were requested and refused; so the resolution was rejected.

§ 12.2 The Speaker having counted a quorum after putting the question on a pending amendment, and less than a quorum having voted by division on the same question immediately thereafter, the Speaker, in reply to a point of order, ruled that a

8. 116 CONG. REC. 42232, 91st Cong. 2d Sess.

9. 86 CONG. REC. 10251, 76th Cong. 3d Sess.

10. *Id.* at p. 10257.

11. *Id.* at p. 10258.

12. William B. Bankhead (Ala.).