

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,

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

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

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

10. *Id.* at p. 10257.

11. *Id.* at p. 10258.

12. William B. Bankhead (Ala.).

quorum was present, and said that the Chair was not responsible if all Members did not vote.

On Apr. 2, 1943,⁽¹³⁾ the House entertained further consideration of the war security bill (H.R. 2087) which was intended to provide for the punishment of certain hostile acts against the United States, among other things.

In the course of the bill's consideration, Mr. Harry Sauthoff, of Wisconsin, offered an amendment to strike out certain portions of the bill which he believed to present a threat to civil liberties.⁽¹⁴⁾

Following debate on the Sauthoff amendment, the question was put by the Speaker,⁽¹⁵⁾ whereupon Mr. Clare E. Hoffman, of Michigan, raised the point of order that a quorum was not present.⁽¹⁶⁾ The Chair counted and having found 219 Members present, proceeded to put the question. A division was had, and the vote resulted in 62 ayes, and 112 noes.

Immediately thereafter, Mr. Sauthoff rose to object to the vote, as follows:

13. 89 CONG. REC. 2877, 78th Cong. 1st Sess.

14. *Id.* at p. 2879.

15. Sam Rayburn (Tex.).

16. 89 CONG. REC. 2886, 78th Cong. 1st Sess.

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

THE SPEAKER: The Chair has just counted, and a quorum was present. The Chair is not responsible if all Members in the House do not vote. The Chair must hold that a quorum is present.

So, the amendment was rejected.⁽¹⁷⁾

§ 13. Division Vote as Related to Demand for Tellers

Where Tellers Refused Prior to Division

§ 13.1 The House has agreed to adjourn by division vote after refusing both the yeas and nays and a teller vote on the motion.

On May 15, 1946,⁽¹⁸⁾ Mr. Graham A. Barden, of North Carolina, was recognized and moved that the House adjourn.

Immediately thereafter, Mr. Vito Marcantonio, of New York, and Mr. Andrew J. Biemiller, of

17. For a comparable instance in which a quorum was ascertained immediately following a division vote of less than a quorum, see 86 CONG. REC. 10258, 76th Cong. 3d Sess., Aug. 13, 1940.

18. 92 CONG. REC. 5067, 79th Cong. 2d Sess.