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:

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

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.

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.

Wisconsin, demanded the yeas and nays.

The yeas and nays having been refused, Mr. Marcantonio then demanded tellers which were also refused. The latter refusal prompted him to seek a division. This request was subsequently honored following a brief, intervening inquiry from Mr. Joseph W. Martin, Jr., of Massachusetts. The Speaker[19] put the question; it was taken;[20] and there were—ayes 99, noes 81. Accordingly, the House adjourned until the following day, May 16, 1946, at 12 o'clock noon.

§ 13.2 A demand for a teller vote in the Committee of the Whole having been refused, a second demand for such a vote following a division vote on the pending question was not in order.

On June 13, 1957,[1] the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 6127) to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

In the course of the bill's consideration, Mr. William M. Tuck, of Virginia, offered an amendment. Following debate, the Chair[2] put the question, and the Chairman announced that the ayes appeared to have it. Mr. John D. Dingell, Jr., of Michigan, was recognized immediately thereafter, and demanded tellers. This request having been refused, Mr. Kenneth B. Keating, of New York, then rose to ask for a division.

Following a brief discussion between the Chair and two Members as to whether a division was permissible, the Chair held Mr. Keating was within his rights. Accordingly, the Committee divided; and there were—ayes 106, noes 114.

This turn of events prompted the following colloquy:

> MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Chairman, a parliamentary inquiry.
>
> THE CHAIRMAN: The gentleman will state it.
>
> MR. COLMER: Would it be in order to have tellers?
>
> THE CHAIRMAN: Tellers have been refused.
>
> MR. [ROSS] BASS of Tennessee: Mr. Chairman, a point of order.
>
> THE CHAIRMAN: The gentleman will state it.
>
> MR. BASS of Tennessee: Mr. Chairman, the tellers were refused after the Chair had ruled and said that the amendment was agreed to. Then tell-

19. Sam Rayburn (Tex.).

20. 92 CONG. REC. 5068, 79th Cong. 2d Sess.

1. 103 CONG. REC. 9018, 9030, 9034, 9035, 85th Cong. 1st Sess.

2. Aime J. Forand (R.I.).

ers were demanded, and those people who now want tellers felt that the amendment was agreed to, so they did not rise to ask for tellers; and I can get the House to agree with me. I make that point of order and ask the Chair to rule on it.

THE CHAIRMAN: The Chair will rule that on the demand for tellers an insufficient number of Members rose to their feet.

MR. BASS of Tennessee: I disagree with the ruling of the Chair and ask for a vote on the ruling of the Chair. I say that he had already ruled on the vote.

THE CHAIRMAN: Does the gentleman appeal from the ruling of the Chair?

MR. BASS of Tennessee: I appeal from the ruling of the Chair.

MR. [WILLIAM J.] GREEN [Jr.] of Pennsylvania: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. GREEN of Pennsylvania: Mr. Chairman, it is too late for the gentleman to appeal from the ruling of the Chair.

THE CHAIRMAN: The gentleman has appealed from the ruling of the Chair.

The question is, Shall the decision of the Chair stand as the judgment of the Committee?

The question was taken, and the Chairman announced that the ayes apparently had it.

MR. BASS of Tennessee: Mr. Chairman, I demand a division.

The Committee divided; and there were—ayes 222, noes 4.

So the decision of the Chair stands as the judgment of the Committee.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state the parliamentary inquiry.

MR. HOFFMAN: Mr. Chairman, is it now in order to ask for tellers after the rising vote?

THE CHAIRMAN: It is not in order. The question was taken on the amendment and the question was decided.

Accordingly, the amendment was rejected.

Where Tellers Sought Following Division and Parliamentary Inquiry

§ 13.3 A demand for tellers did not come too late where the Member was on his feet when the division was announced but first propounded a parliamentary inquiry before making the demand.

On Sept. 20, 1967,[3] the House resolved itself into the Committee of the Whole for the purpose of further considering a bill (H.R. 6418) to amend the Public Health Service Act.

In the course of the bill's consideration, Mr. John Jarman, of Oklahoma, offered a perfecting amendment to section 12 of the bill. Mr. Jarman's amendment was discussed, and upon the expiration of the time allotted for its consideration, the Chairman put

3. 113 CONG. REC. 26119, 26120, 26130, 90th Cong. 1st Sess.

the question, the question was taken, and, on a division demanded by Mr. Richard L. Ottinger, of New York, there were—ayes 43, noes 102. Thereafter, the following discussion transpired:

MR. OTTINGER: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. OTTINGER: Mr. Chairman, was that vote on the Jarman perfecting amendment?

THE CHAIRMAN: The Chair will state that is correct.

MR. OTTINGER: Mr. Chairman, I demand tellers.

MR. [JAMES J.] PICKLE [of Texas]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state his point of order.

MR. PICKLE: Mr. Chairman, I make the point of order that the demand comes too late; the Chairman had already announced the vote.

THE CHAIRMAN: The Chair will state that the point of order is overruled.

Accordingly, tellers were ordered, and the Chairman appointed Mr. Jarman and Mr. William L. Springer, of Illinois, as tellers.

Where Tellers Sought Following Division and Point of No Quorum

§ 13.4 The right to demand tellers was not prejudiced by the fact that a point of no quorum and a call of the House intervened following a division vote on the question on which tellers were requested.

On Sept. 25, 1969,[4] the House resolved itself into the Committee of the Whole for the consideration of a bill (H.R. 12884) to amend title 13, United States Code, to assure confidentiality of information furnished in response to inquiries of the Bureau of the Census.

In the course of the bill's consideration, Mr. Jackson E. Betts, of Ohio, offered an amendment, and the question was subsequently put by the Chair.[5] The question was taken; and, Mr. Betts demanding a division, there were—ayes 32, noes 22. Mr. Thaddeus J. Dulski, of New York, then raised a point of no quorum. The Chair's count revealing only 75 Members present, the Clerk was directed to call the roll; the Committee rose, and the Speaker[6] resumed the chair.

When a quorum responded to the call, the Committee resumed its sitting, and the following discussion then ensued:

MR. CHARLES H. WILSON [of California]: Mr. Chairman——

THE CHAIRMAN: The Committee will be in order.

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4. 115 CONG. REC. 27018, 27036, 27041, 27042, 91st Cong. 1st Sess.

5. George W. Andrews (Ala.).

6. John W. McCormack (Mass.).

MR. CHARLES H. WILSON: Mr. Chairman——

THE CHAIRMAN: For what purpose does the gentleman from California rise?

MR. CHARLES H. WILSON: Mr. Chairman, on the Betts amendment I demand tellers.

MR. [G. V.] MONTGOMERY [of Alabama]: Mr. Chairman, I make a point of order that the demand for tellers is out of order. The time is past for that. The Chair asked for a division vote and the vote was 32 to 22, and the amendment was agreed to. The Chairman announced that the amendment was agreed to. Then the chairman of the full Committee on Post Office and Civil Service made the point of order that a quorum was not present and there was a call of the House.

My point of order is that when the chairman of the Committee on Post Office and Civil Service made the point of order that a quorum was not present, that that cut off the teller vote.

Therefore, Mr. Chairman, I insist upon my point of order.

THE CHAIRMAN: Does the gentleman from California desire to be heard on the point of order?

MR. CHARLES H. WILSON: Mr. Chairman, I just ask for tellers and I assume I am following the correct procedure in asking for tellers. There has been no intervening business, and it is my understanding that——

MR. MONTGOMERY: There was intervening business. There was a 20-minute delay.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Chairman, may I be heard on this point of order?

MR. GERALD R. FORD [of Michigan]: Mr. Chairman——

THE CHAIRMAN: Does the gentleman from Michigan desire to be heard on the point of order?

MR. GERALD R. FORD: May I be heard on the point of order?

THE CHAIRMAN: The gentleman from Michigan is recognized on the point of order.

MR. GERALD R. FORD: There was no intervening business between the division vote and the point of order being made that a quorum was not present. We went through the quorum call immediately, and subsequently the gentleman from California asked for tellers.

THE CHAIRMAN: The Chair will state that is the way the Chair recalls the procedure.

MR. HALL: Mr. Chairman, may I be heard on the point of order?

THE CHAIRMAN: The Chair will recognize the gentleman from Missouri to be heard on the point of order.

MR. HALL: Mr. Chairman, I submit that the point of order should not be sustained inasmuch as the record will indicate that the Chair had announced the division vote, but it had not said that the amendment was agreed to. The Chair had not made the final decision. The right of any Member of the House to ask for a teller vote, to ask for a reconsideration, or to ask for any other privileged motion had not inured; therefore the request, because the quorum call could not be interrupted, to ask for tellers is quite in order.

MR. GERALD R. FORD: Mr. Chairman, would the Chair again recognize me for one other observation?

THE CHAIRMAN: The Chair recognizes the gentleman from Michigan on the point of order.

MR. GERALD R. FORD: Mr. Chairman, I was on my feet awaiting the opportunity to ask for tellers at the time the gentleman from New York made the point of order that a quorum was not present.

THE CHAIRMAN: The Chair is prepared to rule on the point of order.

The Chair will state that the gentleman from Missouri is correct in his recollection. The Chair had not said that the amendment was agreed to, therefore no intervening business had taken place when the point of order of no quorum was made.

The Chair will read from Cannon's Precedents of the House of Representatives, volume 8, page 646, section 3104:

> The right to demand tellers is not prejudiced by the fact that a point of no quorum has been made against a division of the question on which tellers are requested.

That precedent was established on December 13, 1917.

The Chair therefore overrules the point of order.[7]

§ 13.5 Where a point of no quorum was made and withdrawn immediately after a division vote, it was not then too late to demand a teller vote on the pending proposition.

On Mar. 8, 1946,[8] the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 5605) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1947.

In the course of the bill's consideration, Mr. John W. Heselton, of Massachusetts, offered an amendment pertaining to the distribution of funds for soil conservation in accordance with the conservation needs of the particular states.

Mr. Heselton's amendment was debated, and subsequently put before the Committee for a vote. The question was taken; and on a division demanded by Mr. Heselton, there were—ayes 42, noes 28.

Mr. Reid F. Murray, of Wisconsin, then rose to make the point of order that a quorum was not present. As the Chairman[9] announced his intent to count, Mr. Murray rose again to withdraw his point of no quorum.

Mr. George H. Mahon, of Texas, was then prompted to advance the following parliamentary inquiry:

MR. MAHON: Mr. Chairman, a parliamentary inquiry.

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7. It should also be noted that where a division vote has been followed by a point of no quorum which, in turn, is followed by agreement to a privileged motion that the Committee rise, neither of the foregoing constitutes "intervening business" which would preclude a demand for tellers on the pending question immediately following the resumption of business in the Committee. Generally, see Ch. 19, supra.

8. 92 CONG. REC. 2061, 2081, 2084, 79th Cong. 2d Sess.

9. William M. Whittington (Miss.).

THE CHAIRMAN: The gentleman will state it.

MR. MAHON: Mr. Chairman, is it too late to ask for tellers on this vote?

THE CHAIRMAN: No; it is not too late to ask for tellers.

MR. MAHON: Mr. Chairman, I ask for tellers.

Tellers having been ordered and appointed, the Committee again divided; and the tellers reported that there were—ayes 30, noes 43. Accordingly, the amendment was rejected.

Where Tellers Demanded Following Division and Point of No Quorum in the Committee of the Whole

§ 13.6 Where a point of no quorum was made in the Committee of the Whole and the roll was called as a demand for tellers on an amendment remained pending, the question of ordering tellers was put immediately after the Committee resumed its sitting, and a division vote taken prior to the demand for tellers was not final.

On May 10, 1946,[10] the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 6335) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1947.

In the course of the bill's consideration, Mr. Henry C. Dworshak, of Idaho, offered an amendment to an amendment offered by Mr. J. W. Robinson, of Utah. Mr. Dworshak's proposal sought to decrease certain expenditures contained within the Robinson amendment, and was ultimately embraced by Mr. Robinson prior to the vote.

The Chairman[11] subsequently put the question; it was taken; and, on a division demanded by Mr. John J. Rooney, of New York, there were—ayes 41, noes 29.

Immediately thereafter, Mr. Jed Johnson, of Oklahoma, demanded tellers whereupon Mr. Frank B. Keefe, of Wisconsin, made the point of order that a quorum was not present. The Chair then counting only 87 Members present, the Clerk was directed to call the roll.

A quorum having responded to the roll call, the Committee rose; the Chairman submitted the absentees' names to be spread upon the Journal; and the Speaker[12] directed the Committee to resume its sitting.

At this point, the following exchange transpired:

10. 92 CONG. REC. 4827, 4833, 4834, 4837, 4840, 79th Cong. 2d Sess.

11. Jere Cooper (Tenn.).

12. Sam Rayburn (Tex.).

THE CHAIRMAN: The gentleman from Oklahoma [Mr. Johnson] demands tellers on the amendment offered by the gentleman from Idaho [Mr. Dworshak] to the amendment offered by the gentleman from Utah [Mr. Robinson].

MR. [WALTER K.] GRANGER [of Utah]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. GRANGER: As I understood the situation when the quorum was called, the Chair had already announced that the amendment offered by the gentleman from Idaho to the amendment had been agreed to; and the request comes too late.

THE CHAIRMAN: The Chair had announced that on a division the amendment to the amendment had been agreed to. Thereupon, the gentleman from Oklahoma [Mr. Johnson] demanded tellers. At that point a point of order was made that a quorum was not present.

The gentleman's demand for tellers is now pending.

Having clarified the situation, the Chairman proceeded to order tellers, and the amendment to the amendment was subsequently rejected.

§ 13.7 The demand for tellers on an amendment did not come too late where the absence of a quorum had prevented the Chair from announcing the adoption of the amendment by division vote.

On Sept. 24, 1970,[13] the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 18583) to amend the Public Health Service Act and other laws in order to deal more comprehensively with the problems attendant upon drug abuse prevention and control.

In the course of the bill's consideration, Mr. Richard H. Poff, of Virginia offered an amendment. Following debate, the question was taken on the amendment, and, on a division demanded by Mr. Robert C. Eckhardt, of Texas, there were—ayes 35, noes 22. This result prompted Mr. James C. Corman, of California, to raise the point of order that a quorum was not present. The Chair[14] then counting only 71 Members, a quorum call was ordered.

A quorum having responded, the Committee rose; the Chairman reported the results to the Speaker,[15] and the Committee resumed its sitting. Thereafter, a subsequent demand for tellers was honored as the following excerpt reveals:

THE CHAIRMAN: When the point of order was made on the absence of a quorum, the Chair had just announced the vote by division on the amendment offered by the gentleman from Virginia (Mr. Poff)—35 ayes, 22 noes.

MR. ECKHARDT: Mr. Chairman, I demand tellers.

13. 116 CONG. REC. 33603, 33628, 33634, 91st Cong. 2d Sess.

14. William S. Moorhead (Pa.).

15. John W. McCormack (Mass.).

Tellers were ordered, and the Chairman appointed as tellers Mr. Poff and Mr. Eckhardt.

The Committee again divided, and the tellers reported that there were—ayes 147, noes 61.

So the amendment was agreed to.

§ 13.8 Where the Chair had announced the result of a division vote on an amendment but was precluded from announcing the adoption of the amendment by a point of order of no quorum, it was in order to demand tellers on the amendment upon the resumption of proceedings in the Committee of the Whole.

On Sept. 24, 1970,[16] the House having resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 18583) to amend the Public Health Service Act and other laws, an amendment was offered and, subsequently, put to a vote by the Chairman.[17]

A division having been demanded, there were—ayes 35, noes 22. Before the Chair could announce the adoption of the amendment, however, a point of order of no quorum was raised whereupon the Chair was obliged to count.

The count revealing the absence of a quorum, the Clerk was directed to call the roll, and 335 Members responded to their names. The Committee rose; the Chairman informed the Speaker[18] of the preceding events—entering the names of absentees on the Journal—and, in accordance with the rules,[19] the Committee resumed its sitting.

Immediately thereafter, Mr. Robert C. Eckhardt, of Texas, demanded tellers which were ordered as requested.

§ 14. Division Vote as Related to Demand for Yeas and Nays

In General

§ 14.1 A demand for the yeas and nays in the House takes precedence of a request for a division.

Where the vote on the approval of the Journal was postponed to follow debate on certain motions to suspend the rules, the yeas and nays were demanded when the Chair eventually put the question. The proceedings of Mar. 29, 1993,[20] were as follows:

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16. 116 Cong. Rec. 33634, 91st Cong. 2d Sess.

17. William S. Moorhead (Pa.).

18. John W. McCormack (Mass.).

19. See Rule XXIII clause 2, *House Rules and Manual* § 863 (1973).

20. 139 Cong. Rec. 6666, 103d Cong. 1st Sess.