

Journal and voting records were also corrected to conform to this announcement.

§ 33. Demand for Vote

While the mechanics of taking a recorded vote by electronic device are the same as those required for taking a vote by the yeas and nays, the process for ordering the two votes is different. The demand for the yeas and nays is constitutional in origin⁽⁴⁾ while the recorded vote is a creature of the House rules.⁽⁵⁾ While the yeas and nays are in order only in the House, a recorded vote can be demanded both in the House and in the Committee of the Whole.⁽⁶⁾ The yeas and nays are ordered by one-fifth of those present (so if only ten Members are in attendance, two can order the yeas and nays) whereas one-fifth of a quorum (44 in the House) is required to get a recorded vote. In Committee of the Whole, the number for a recorded vote is fixed by rule.⁽⁷⁾ Originally set at one-fifth of a quorum (20 in Committee), the requirement for a second was

4. U.S. Const. art. I, §.5.

5. Rule I clause 5(a); Rule XXIII clause 2(b), *House Rules and Manual* §§ 629 and 864 (1995).

6. *Id.*

7. *Id.*

changed in the 96th Congress to the fixed number of 25.⁽⁸⁾

In the House, a demand for a recorded vote can be made following a demand for the yeas and nays which does not receive a sufficient second. But where a vote is taken in the House by one method and concluded, either positively or negatively, the other method can no longer be demanded.⁽⁹⁾ Where, on the other hand, an amendment is adopted by a recorded vote in Committee of the Whole, and is reported back to the House where it is subject to a demand for a “separate vote,” that separate vote can be concluded by either a recorded vote or the yeas and nays.

Single-Step Demands; Nonelectronic “Backup” Procedure

§ 33.1 In the 92d Congress, the rules were amended to pro-

8. Rule XXIII clause 2(b), *House Rules and Manual* § 864 (1995).

9. See Rule I clause 5(a), *House Rules and Manual* § 629 (1995), as amended by H. Res. 5, 105th Cong. 1st Sess., Jan. 7, 1997. The following sentence was added to Rule I clause 5(a): “A recorded vote taken pursuant to this paragraph shall be considered a vote by the yeas and nays.” This amendment was inserted to prevent an issue decided by a recorded vote from being revisited by a demand for the yeas and nays on the same question.

vide for a “back-up” nonelectronic procedure for recorded votes by which clerk tellers may be appointed under a single-step demand for a “recorded vote.”

On Oct. 13, 1972,⁽¹⁰⁾ Mr. B. F. Sisk, of California, by direction of the Committee on Rules, called up House Resolution 1123 and asked for its immediate consideration. The resolution read, in part, as follows:

Resolved, That (a) clause 5 of Rule I of the Rules of the House of Representatives is amended to read as follows:

“5. He shall rise to put a question, but may state it sitting; and shall put questions in this form, to wit: ‘As many as are in favor (as the question may be), say “Aye”.’; and after the affirmative voice is expressed, ‘As many as are opposed, say “No”.’; if he doubts or a division is called for, the House shall divide; those in the affirmative of the question shall first rise from their seats, and then those in the negative; if he still doubts, or a count is required by at least one-fifth of a quorum, he shall name one or more from each side of the question to tell the Members in the affirmative and negative; which being reported, he shall rise and state the decision. However, if any Member requests a recorded vote and that request is supported by at least one-fifth of a quorum, such vote shall be taken by electronic device, unless the Speak-

er in his discretion orders clerks to tell the names of those voting on each side of the question, and such names shall be recorded by electronic device or by clerks, as the case may be, and shall be entered in the Journal, together with the names of those not voting. Members shall have not less than fifteen minutes to be counted from the ordering of the recorded vote or the ordering of clerks to tell the vote. . . .”⁽¹¹⁾

In the course of the ensuing discussion, Mr. Sisk explained some of the procedural changes being proposed as well as the nature of the “backup” procedures, as follows:⁽¹²⁾

I would briefly like to comment in connection with the fallback or fail-safe position with regard to the voting and other matters contained in the resolution.

In brief we propose that machinery be used in all appropriate voting situations, that is, whenever names of Members are to be recorded. We also propose to put in the rules substitution of present procedures as a backup in case the machinery becomes unavailable for whatever the reason may be. We also propose that we use the backup procedures at the discretion of the Chairman of the Committee of the Whole.

We also are suggesting two additional changes in the backup proce-

10. 118 CONG. REC. 36005, 92d Cong. 2d Sess.

11. Other segments of the resolution pertaining to electronic voting may be found in §.31.1, *supra*.

12. 118 CONG. REC. 36006, 36007, 92d Cong. 2d Sess.

ture. The first occurs in the procedure for tellers with clerks or what is called the recorded teller vote.

I want to emphasize that the amendments we offer do not in any way alter the basic substance of that procedure. What we are trying to do is to simplify the process.

I might add what we propose is substantially the way the Democratic caucus asked for during the past year. As the rules now stand a Member must make two separate requests to get a recorded teller vote, and we know the procedures.

We propose that that two-step procedure be dropped and that a single-step procedure be substituted therefor. A Member will simply request a recorded teller vote, and that will take care of any situation.

We further propose doing away with the time-consuming process of making Members act as tellers in the recording of the teller votes. There is no reason why Members must be found to stand at the head of the aisle to record the vote. Clerks will simply be required to do that in the future in the event that there are teller votes.

Mr. Speaker, we are also proposing a new method for recording Members during quorum calls. At the present time, as you know, the Clerk calls the roll twice and recognizes Members in the House in a time-consuming process. Again we have a recommendation from the caucus in connection with this matter. In effect this method would have the Clerks tell the Members just as they do in a recorded teller vote, for instance, in recording the presence of the Members.

Instead of calling the roll, the Clerks would merely record the names of the

Members as they came up the aisle in the Chamber, or in any other fashion that the Speaker made known.

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, will the gentleman yield?

MR. SISK: I will be glad to yield to the gentleman from Ohio.

MR. HAYS: You could use the electronic system for a quorum call.

MR. SISK: Certainly. In almost all cases I think the electronic system will be used. What I am explaining is the so-called backup procedure in the event that we did not desire to use the electronic system.

Discussion proceeded after which Mr. Sisk yielded his remaining time to Mr. H. Allen Smith, of California, who summarized those changes in the rules which would be brought about by passage of House Resolution 1123. In the course of doing so, he stated, in part:⁽¹³⁾

Mr. Speaker, the purpose of House Resolution 1123 is to make the changes in the House rules which will be required in order to use the electronic voting equipment installed in the House Chamber. Changes are made at four different points in the rules.

The first change [is] in rule I, clause 5, which deals with how votes may be taken in the House. House Resolution 1123 adds language, which provides that a recorded vote may be taken by electronic device. The procedure would be as follows: A Member may request a recorded vote at any time after the

13. *Id.* at p. 36008.

question has been put by the Speaker. The intent is that a request for a recorded vote shall be in order before or after a voice vote, a division vote or a teller vote. If a Member requests a recorded vote and is supported by one-fifth of a quorum, the vote will be taken by electronic device. A Member may no longer demand a vote by tellers with clerks. However, once a recorded vote is ordered, the Speaker in his discretion may order a recorded vote with clerks. This would be similar to the present vote by tellers with clerks, except that the Speaker will appoint clerks to count, rather than Members. A Member shall have not less than 15 minutes to be counted. The time begins to run from the ordering of the recorded vote or the ordering of clerks to tell the vote. . . .

Mr. Sisk later offered an amendment⁽¹⁴⁾ providing that the resolution would become effective immediately before noon on Jan. 3, 1973. The amendment was agreed to, and the resolution, as amend-ed, was also agreed to.

As Related to Demand for Yeas and Nays

§ 33.2 A demand for a recorded vote may be made following a demand for the yeas and nays, providing the latter demand is first withdrawn.

On June 28, 1972,⁽¹⁵⁾ following discussion of a motion to concur in

14. *Id.* at p. 36012.

15. 118 CONG. REC. 22981, 92d Cong. 2d Sess.

a Senate amendment with a House amendment to a bill (H.R. 13955) pertaining to legislative branch appropriations, the Speaker⁽¹⁶⁾ put the question on the motion, it was taken; and the Chair announced that the yeas appeared to have it.

Immediately thereafter, the following discussion ensued:

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, on that I demand the yeas and nays.

Mr. Speaker, is it in order for me to ask that we have tellers with clerks to record this vote?⁽¹⁷⁾

THE SPEAKER: It is in order.

MR. YATES: Mr. Speaker, I ask that we have the vote by tellers with clerks.

THE SPEAKER: It would be necessary first to withdraw the demand for yeas and nays.

MR. YATES: Mr. Speaker, I withdraw my demand that the vote be taken by the call of the yeas and nays, and demand that this vote be taken by tellers.⁽¹⁸⁾

Tellers were ordered.

16. Carl Albert (Okla.).

17. Tellers with clerks—the original formulation for what has become “the recorded vote”—were first adopted in the 92d Congress. (See H. Res. 5, Jan. 22, 1971.)

18. If Mr. Yates’ initial demand for the yeas and nays had been seconded by one-fifth of those present, it would have been procedurally impermissible for him to withdraw the demand in the absence of unanimous consent. See § 24.8, *supra*.

MR. YATES: Mr. Speaker, I demand tellers with clerks.

Tellers with clerks were ordered; and the Speaker appointed as tellers Messrs. Casey of Texas, Stratton, Cederberg, and Yates.

Where Yeas and Nays Refused

§ 33.3 Where one-fifth of the Members present have refused to order the yeas and nays on a motion, a recorded vote remains a viable option.

Where the question is put on a motion, and the yeas and nays are refused, one-fifth of those present not supporting the demand, a request that the vote be taken by a record vote may still be made and such a vote can be ordered if seconded by one-fifth of a quorum of the House, or 44 Members. This situation frequently arises when the yeas and nays are refused, the vote is then objected to under Rule XV clause 4, on the ground that a quorum is not present and the vote is then postponed by the Chair. When the bill is thereafter taken up at the appointed time, a recorded vote is often the best option for getting Members on record. The proceedings of Sept. 21, 1976,⁽¹⁹⁾ are illustrative:

THE SPEAKER:⁽²⁰⁾ The question is on the motion offered by the gentleman

19. 122 CONG. REC. 31640, 31641, 31668, 94th Cong. 2d Sess.

20. Carl Albert (Okla.).

from Alabama (Mr. Flowers) that the House suspend the rules and pass the bill H.R. 12048, as amended.

MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Speaker, on that I demand the yeas and nays.

THE SPEAKER: Twelve Members have arisen, an insufficient number.

The yeas and nays were refused.

MR. STEIGER of Wisconsin: I am sorry, Mr. Speaker. I could not hear what the Speaker said.

THE SPEAKER: I said that 12 Members have arisen, an insufficient number.

MR. STEIGER of Wisconsin: 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: Pursuant to the provisions of clause 3(b) of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

Does the gentleman from Wisconsin withdraw his point of order that there is no quorum?

MR. STEIGER of Wisconsin: Mr. Speaker, I withdraw my point of order.

. . .

THE SPEAKER PRO TEMPORE:⁽¹⁾ The unfinished business is the question of suspending the rules and passing the bill, H.R. 12048, as amended.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Alabama (Mr. Flowers) that the House suspend the rules and pass the bill, H.R. 12048, as amended.

1. John J. McFall (Calif.).

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

RECORDED VOTE

MR. [BOB] ECKHARDT [of Texas]: Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

POINT OF ORDER

MR. [WALTER] FLOWERS [of Alabama]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE: The gentleman will state the point of order.

MR. FLOWERS: Mr. Speaker, on the last recorded vote there were 400 Members present. Twenty percent of that would be 80.

THE SPEAKER PRO TEMPORE: The Chair will advise the gentleman that on recorded vote the rules require one-fifth of a quorum, which is 44.

A recorded vote is ordered.

§ 33.4 After withdrawing a demand for the yeas and nays on an amendment in the House, a Member may request that the vote be taken by a recorded vote.

On Nov. 4, 1971,⁽²⁾ Mrs. Edith S. Green, of Oregon, demanded a separate vote on an amendment to a committee amendment in the nature of a substitute to a bill (H.R. 7248) to amend and extend the Higher Education Act of 1965 and other acts relating to higher education.

As soon as the Speaker⁽³⁾ put the question on the amendment,

2. 117 CONG. REC. 39352, 92d Cong. 1st Sess.

3. Carl Albert (Okla.).

Mrs. Green demanded the yeas and nays, and the following exchange took place:

MRS. GREEN of Oregon: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentlewoman will state the parliamentary inquiry.

MRS. GREEN of Oregon: Mr. Speaker, when we are in the House, is it possible to ask for tellers with clerks?

THE SPEAKER: It is.

MRS. GREEN of Oregon: Then, Mr. Speaker, I withdraw the other request.⁽⁴⁾

Mr. Speaker, I demand tellers.

Tellers having been ordered, Mrs. Green then demanded tellers with clerks⁽⁵⁾ which were also ordered; and the Speaker appointed Mrs. Green and three other Members to serve as tellers for the recorded vote.⁽⁶⁾

Counting Those Standing To Demand Recorded Vote

§ 33.5 The Chair's count of Members standing to support

4. As one-fifth of those present had not yet seconded Mrs. Green's demand for the yeas and nays when she withdrew it, she was not obliged to seek unanimous consent in order to do so. See § 24.8, *supra*, for an instance in which a Member was not permitted to withdraw his demand for the yeas and nays.
5. 117 CONG. REC. 39353, 92d Cong. 1st Sess.
6. See Rule I clause 5, *House Rules and Manual* § 630 (1995); see also § 30.1, *supra*.

the demand for a recorded vote is not subject to appeal.

During consideration of an appropriation bill in Committee of the Whole on June 24, 1976,⁽⁷⁾ a vote was taken on an amendment. The Chair announced that on a voice vote, the amendment was rejected. A Member then demanded a record vote and pending that, made a point of order that a quorum was not present.

A quorum not being present, a call of the Committee was taken by electronic device; and pursuant to the rule, the Chair announced that he would vacate proceedings under the call when a quorum appeared. When 100 Members had responded, the Chair terminated the call and asked those desiring a recorded vote to stand.

THE CHAIRMAN PRO TEMPORE: ⁽⁸⁾ The question is on the amendment offered by the gentleman from New York (Mr. Scheuer).

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

MR. [JAMES H.] SCHEUER [of New York]: 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. Thirty-four Members are present, not a quorum.

7. 122 CONG. REC. 20390, 20391, 94th Cong. 2d Sess.

8. Clement J. Zablocki (Wis.).

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

THE CHAIRMAN PRO TEMPORE: One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from New York (Mr. Scheuer) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

THE CHAIRMAN PRO TEMPORE: The Clerk will read.

The Clerk read as follows:

NATIONAL INSTITUTE OF CHILD
HEALTH AND HUMAN DEVELOPMENT

To carry out, except as otherwise provided, titles IV and X of the Public Health Service Act with respect to child health and human development, \$140,343,000.

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

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

MR. SCHEUER: Mr. Chairman, under the set of facts which took place a few minutes ago, would it be possible to appeal the ruling of the Chair on the count of the Members standing? It was the impression of many Members on this side that we had substantially more Members than 19 standing.

THE CHAIRMAN PRO TEMPORE: An appeal from the Chair's count is not in order.

Repeated Requests for Recorded Vote

§ 33.6 A request for a recorded vote, having been made and refused, may not be made again on the same question.

In Nov. 18, 1975,⁽⁹⁾ during consideration of H.R. 30 (to establish the Hells Canyon National Recreation Area) in the Committee of the Whole, the following occurred:

THE CHAIRMAN:⁽¹⁰⁾ The question is on the amendments offered by the gentleman from Oregon (Mr. Duncan).

MR. [ROBERT] DUNCAN of Oregon: Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count. One hundred and five Members are present, a quorum.

MR. DUNCAN of Oregon: Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

The question was taken; and on a division (demanded by Mr. Symms) there were—ayes 27, noes 43.

So the amendments were rejected.

MR. DUNCAN of Oregon: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

9. 121 CONG. REC. 37061, 94th Cong. 1st Sess.

10. Morgan F. Murphy (Ill.).

MR. DUNCAN of Oregon: Mr. Chairman, can I still get a recorded vote on that?

THE CHAIRMAN: A recorded vote has been refused.

§ 33.7 A request for a recorded vote on a pending question having been refused, a second request is not in order following a division vote on that question.

On Jan. 21, 1976,⁽¹¹⁾ the Chair had put the question on an amendment under consideration in Committee of the Whole and had announced that on a voice vote the “ayes had it” and that the amendment was agreed to. A recorded vote was then ordered.

MRS. [PATSY T.] MINK [of Hawaii]: Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

MRS. MINK: Mr. Chairman, on that I demand a division.

MR. [PHILIP E.] RUPPE [of Michigan]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN:⁽¹²⁾ The gentleman will state his parliamentary inquiry.

MR. RUPPE: Mr. Chairman, my parliamentary inquiry is this, did not the Chairman announce that he thought there was an insufficient number of Members who had risen for a recorded vote, and that, therefore, the amendment had been agreed to?

11. 122 CONG. REC. 508, 94th Cong. 2d Sess.

12. Charles H. Wilson (Calif.).

THE CHAIRMAN: The Chair will state that in the meantime, before the Chair had announced the vote, a division was demanded and the Chair has instructed those Members in favor of the amendment to stand and remain standing until counted.

Those Members against the amendment will stand and remain standing until counted.

On this vote by division the ayes are 14 and the noes are 17.

MR. [JOE] SKUBITZ [of Kansas]: Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

THE CHAIRMAN: A recorded vote has been refused.

MR. RUPPE: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. RUPPE: Is it not possible to call for a recorded vote inasmuch as we did call for one previous to that and an insufficient number of Members stood? In his decision, the Chair stated it was agreed to, and then changed it. Would we not have a change as well as far as having the opportunity to have a recorded vote?

THE CHAIRMAN: A recorded vote had already been refused, and it is not possible on the same amendment to have a second request for a recorded vote.

The amendment is, therefore, rejected.

§ 33.8 A request for a recorded vote, if not supported by 25 Members in Committee of the Whole, cannot be repeated following a quorum

call; but a division and/or teller vote may be demanded if the Chair has not finally announced the result of the voice vote on the question.

On July 22, 1980,⁽¹³⁾ the State, Justice, Commerce, and Judiciary appropriation bill was under consideration in Committee of the Whole. The following sequence of votes and quorum calls illustrate the options available where a demand for a recorded vote fails to achieve a sufficient second.

MR. [BARBER B.] CONABLE [Jr., of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conable: Page 38, line 22, strike out "\$321,300,000" and insert in lieu thereof "\$312,700,000." . . .

Amendment offered by Mr. Huckaby as a substitute for the amendment offered by Mr. Conable: On page 38, line 22, strike out "\$321,300,000." and insert in lieu thereof "\$300,000,000." . . .

THE CHAIRMAN:⁽¹⁴⁾ The question is on the amendment offered by the gentleman from Louisiana (Mr. Huckaby) as a substitute for the amendment offered by the gentleman from New York (Mr. Conable).

The question was taken; and on a division (demanded by Mr. Huckaby) there were—yes 24, noes 10.

13. 126 CONG. REC. 19067, 19068, 19070, 19071, 96th Cong. 2d Sess.

14. George E. Brown, Jr. (Calif.).

So the amendment offered as a substitute for the amendment was agreed to.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from New York (Mr. Conable), as amended.

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

MR. [NEAL] SMITH of Iowa: Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

MR. SMITH of Iowa: Mr. Chairman, I make the point of order that a quorum is not present.

MR. [THOMAS J.] HUCKABY [of Louisiana]: Regular order, Mr. Chairman.

THE CHAIRMAN: The Chair has already announced that an insufficient number of Members arose to order a recorded vote.

Does the gentleman from Iowa (Mr. Smith) still insist on his point of order?

MR. SMITH of Iowa: Yes, Mr. Chairman, I still insist on my point of order.

THE CHAIRMAN: The gentleman insists on his point of order.

Evidently a quorum is not present.

MR. SMITH of Iowa: Mr. Chairman, I ask for a division, too, and pending that I make the point of order that a quorum is not present.

THE CHAIRMAN: A quorum call is ordered.

MR. HUCKABY: Regular order, Mr. Chairman.

THE CHAIRMAN: The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

THE CHAIRMAN: A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence. Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members responded to their names: . . .

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

When the point of no quorum was made the Chair had announced the result of the voice vote on the amendment offered by the gentleman from New York (Mr. Conable), as amended by the substitute offered by the gentleman from Louisiana (Mr. Huckaby), and had stated that the ayes prevailed.

For what purpose does the gentleman from Iowa rise?

MR. SMITH of Iowa: Mr. Chairman, on that I demand a division.

MR. HUCKABY: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HUCKABY: Mr. Chairman, pending the outcome of the division, will it be possible at that time to request a recorded vote?

THE CHAIRMAN: The request for a recorded vote has already been made and rejected for lack of a sufficient number standing. It cannot be repeated.

MR. HUCKABY: Does not the request for a recorded vote in the hierarchy precede a division and, hence, the Chairman is reverting back to a division, since the Chairman has already denied a request for a recorded vote and the Chair has ruled upon that?

THE CHAIRMAN: Regardless of the type of vote requested, a request for a recorded vote cannot be repeated. It has already been rejected. However, a division may now be requested.

MR. HUCKABY: Would a request for a teller vote be in order?

THE CHAIRMAN: A request for a teller vote would be in order.

On a division (demanded by Mr. Smith of Iowa) there were—ayes 107, noes 110.

MR. HUCKABY: Mr. Chairman, would the Chair please repeat the numbers?

THE CHAIRMAN: The ayes were 107 and the noes were 110.

MR. HUCKABY: Mr. Chairman, 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 CHAIRMAN: The gentleman makes a point that a quorum is not present and objects to the vote. That is not in order in the Committee of the Whole.

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

Tellers were ordered, and the Chairman appointed as tellers Mr. Smith of Iowa and Mr. Conable.

The Committee again divided, and the tellers reported that there were—ayes 134, noes 116.

So the amendment, as amended, was agreed to.

Renewed Requests for Recorded Vote

§ 33.9 Where the Committee of the Whole has refused a request for a recorded vote on an issue, the request cannot be renewed, even following a quorum call and a vote by division on the issue, except by unanimous consent.

The proceedings of June 2, 1977,⁽¹⁵⁾ when the House had under consideration in Committee of the Whole the Department of Energy Reorganization Act, were as follows:

THE CHAIRMAN:⁽¹⁶⁾ The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. Erlernborn).

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

MR. [JOHN N.] ERLERNBORN [of Illinois]: Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

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

THE CHAIRMAN: The Chair will count. Eighty-one Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

15. 123 CONG. REC. 17292, 95th Cong. 1st Sess.

16. Lucien N. Nedzi (Mich.).

Members will record their presence by electronic device.

The call was taken by electronic device.

THE CHAIRMAN: One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

At the time the point of order of no quorum was made, the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. Erlernborn) was before the Committee, a recorded vote had been refused, and in the opinion of the Chair the amendment in the nature of a substitute had not carried.

For what purpose does the gentleman from Illinois (Mr. Erlernborn) rise?

MR. ERLERNBORN: Mr. Chairman, on the question of my amendment in the nature of a substitute, I demand a division.

On a division (demanded by Mr. Erlernborn) there were—ayes 29, noes 51.

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, on that I ask unanimous consent for a recorded vote.

THE CHAIRMAN: Is there objection to the request of the gentleman from Idaho?

MR. [LLOYD] MEEDS [of Washington]: Mr. Chairman, I object.

THE CHAIRMAN: Objection is heard.

So the amendment in the nature of a substitute was rejected.

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. BROWN of Ohio: Mr. Chairman, is it appropriate to ask for the yeas and nays at this point?

THE CHAIRMAN: The Chair will state in response to the gentleman's parliamentary inquiry that it is not in order to ask for the yeas and nays in Committee of the Whole.

Are there amendments to title I?

§ 33.10 A recorded vote having been refused in Committee of the Whole, a point of no quorum may lie under Rule XXIII clause 2 if the pending question has not been disposed of by a division (or teller) vote, but a demand for a recorded vote cannot be renewed.

On May 27, 1982,⁽¹⁷⁾ during consideration of the First Concurrent Resolution on the Budget for fiscal 1983, a closely contested amendment was pending in the Committee of the Whole. After the Chair announced that the amendment was agreed to on a voice vote, a recorded vote was demanded and refused for lack of a sufficient second. When a Member then made a point of no quorum, and pending that, again asked for a recorded vote, the Chair explained the parliamentary situation:

THE CHAIRMAN PRO TEMPORE:⁽¹⁸⁾ The question is on the amendment offered by the gentleman from Mis-

17. 128 CONG. REC. 12470, 97th Cong. 2d Sess.

18. Leo C. Zeferetti (N.Y.).

issippi (Mr. Whitten) to the amendment in the nature of a substitute offered by the gentleman from Wisconsin (Mr. Aspin).

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

MR. [RALPH] REGULA [of Ohio]: Mr. Chairman, I demand a recorded vote.

THE CHAIRMAN PRO TEMPORE: A recorded vote is demanded.

All those in favor of taking this vote by a recorded vote will rise and be counted.

Twenty-four Members, an insufficient number.

So a recorded vote was refused.

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

THE CHAIRMAN PRO TEMPORE: The Chair has already announced an insufficient number.

The gentleman can make a point of order but he cannot ask for a recorded vote.

MR. REGULA: Mr. Chairman, I demand a division.

On a division (demanded by Mr. Regula) there were—ayes 42, noes 43.

MR. [JAMES J.] HOWARD [of New Jersey]: Mr. Chairman, I demand tellers.

Tellers were ordered and the Chairman pro tempore appointed as tellers Mr. Whitten and Mr. Jones of Oklahoma.

The Committee again divided, and the tellers reported that there were—ayes 72, noes 72.

THE CHAIRMAN PRO TEMPORE: The Chair votes “aye.”

§ 33.11 A request for a recorded vote on an amend-

ment once denied may not be renewed in Committee of the Whole, even where the absence of a quorum is disclosed immediately following the refusal to order the recorded vote.

On June 6, 1979,⁽¹⁹⁾ the Committee of the Whole had under consideration the Housing and Community Development Act of 1979, and Chairman George E. Brown, Jr., of California, had put the question on a pending amendment. On a voice vote, the Chair announced that the ayes appeared to have it. A recorded vote was then requested, and when an insufficient number stood to second the demand, a recorded vote was refused. A point of order was then made that a quorum was not present, and on a count the Chair found only 77 Members in attendance, not a quorum. When Mr. J. William Stanton, of Ohio, understood that he could not renew his request for a recorded vote, even if a call of the Committee produced a quorum, he moved that the Committee rise.

The question is on the amendment offered by the gentleman from South Carolina (Mr. Campbell).

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

19. 125 CONG. REC. 13648, 96th Cong. 1st Sess.

MR. [THOMAS L.] ASHLEY [of Ohio]: Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

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

THE CHAIRMAN: The Chair will count.

The Chair has already ruled that an insufficient number stood for a recorded vote. A separate point of order has been made that no quorum is present, and the Chair is counting; 77 Members are present, not a quorum.

MR. STANTON: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. STANTON: Under the rules of the House, is it applicable to make this point of order after the vote has been over with?

THE CHAIRMAN: The Chair will state to the gentleman it is always in order to make a point of order of no quorum. The Chair has already ruled, however, that there was an insufficient number standing to order a recorded vote. If the chairman of the committee desires to call for a separate vote in the House after the bill is disposed of, he may do so.

MR. STANTON: Mr. Chairman, then no vote can be taken at this particular time?

THE CHAIRMAN: A recorded vote on the amendment is not in order.

MR. ASHLEY: Mr. Chairman, I ask unanimous consent to withdraw the point of order.

THE CHAIRMAN: The Chair has already announced that a quorum is not present.

MR. STANTON: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. STANTON: Mr. Chairman, could I move that the Committee do now rise?

THE CHAIRMAN: It would be in order to do so.

MR. ASHLEY: Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

When the Committee resumed its consideration on the following day,⁽²⁰⁾ the Chair stated the pending business, and the Committee then took first a division vote on the amendment, then a teller vote.⁽¹⁾ The proceedings were as follows:

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 3875, with Mr. Brown of California in the chair.

The Clerk read the title of the bill.

THE CHAIRMAN: When the Committee of the Whole rose on Wednesday, June 6, 1979, title IV had been considered as having been read and open to amendment at any point. Pending was an amendment offered by the gentleman from South Carolina (Mr. Campbell). The Chair had announced that on a voice vote the ayes

20. 125 CONG. REC. 13925, 96th Cong. 1st Sess., June 7, 1979.

1. Teller votes were eliminated from the menu of choices for voting in the 103d Congress, with the adoption of H. Res. 5 on Jan. 5, 1993.

appeared to have it and a recorded vote had been refused.

The Chair recognizes the chairman of the subcommittee, the gentleman from Ohio (Mr. Ashley).

MR. ASHLEY: Mr. Chairman, I demand a division.

MR. STANTON: Mr. Chairman, I wonder if before we take this vote we could have complete order in the House, because some will want to stand for an aye vote and some will want to sit, so if we could start off with the House in order, I would appreciate it.

THE CHAIRMAN: The Chair will call attention to the fact that on this very important vote which occurred last evening, there was considerable debate as to which side actually prevailed. It is very important that all Members understand the situation and be prepared to vote in accordance with their own wishes. The Committee will be in order. The gentleman from Ohio has demanded a division.

MR. STANTON: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. STANTON: Is it the understanding of the Chair that we are taking a vote on the Campbell amendment?

THE CHAIRMAN: The gentleman is correct.

MR. STANTON: Those in favor, then, of the procedural vote, who are in favor of the Campbell amendment, will then rise first as those who are in favor of it?

THE CHAIRMAN: That is correct.

The question is on the amendment offered by the gentleman from South Carolina (Mr. Campbell).

The question was taken; and on a division (demanded by Mr. Ashley), there were—ayes 106, noes 61.

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

Tellers were ordered, and the Chairman appointed as tellers Mr. Ashley and Mr. Campbell.

The Committee again divided, and the tellers reported that there were—ayes 129, noes 73.

So the amendment was agreed to.

§ 33.12 A request for a recorded vote, if not supported by the required second, cannot be repeated following a quorum call on the pending question, but a division vote may yet be had if the Chair has not finally announced the voice vote on the question.

In one instance in the 96th Congress, when teller votes were still permitted under Rule I, both a division and a teller vote were taken following the initial refusal to order a recorded vote. The proceedings of July 22, 1980,⁽²⁾ were as follows:

MR. [BARBER B.] CONABLE [Jr., of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conable: Page 38, line 22, strike out “\$321,300,000” and insert in lieu thereof “\$312,700,000.” . . .

2. 126 CONG. REC. 19067, 19068, 19070, 19071, 96th Cong. 2d Sess.

Amendment offered by Mr. Huckaby as a substitute for the amendment offered by Mr. Conable: On page 38, line 22, strike out "\$321,300,000." and insert in lieu thereof "\$300,000,000:". . . .

THE CHAIRMAN:⁽³⁾ The question is on the amendment offered by the gentleman from Louisiana (Mr. Huckaby) as a substitute for the amendment offered by the gentleman from New York (Mr. Conable).

The question was taken; and on a division (demanded by Mr. Huckaby) there were—ayes 24, noes 10.

So the amendment offered as a substitute for the amendment was agreed to.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from New York (Mr. Conable), as amended.

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

MR. [NEAL] SMITH of Iowa: Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

MR. SMITH of Iowa: Mr. Chairman, I make the point of order that a quorum is not present.

MR. [THOMAS J.] HUCKABY [of Louisiana]: Regular order, Mr. Chairman.

THE CHAIRMAN: The Chair has already announced that an insufficient number of Members arose to order a recorded vote.

Does the gentleman from Iowa (Mr. Smith) still insist on his point of order?

MR. SMITH of Iowa: Yes, Mr. Chairman, I still insist on my point of order.

THE CHAIRMAN: The gentleman insists on his point of order.

Evidently a quorum is not present.

MR. SMITH of Iowa: Mr. Chairman, I ask for a division, too, and pending that I make the point of order that a quorum is not present.

THE CHAIRMAN: A quorum call is ordered.

MR. HUCKABY: Regular order, Mr. Chairman.

THE CHAIRMAN: The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

THE CHAIRMAN: A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence. Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members responded to their names: . . .

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

When the point of no quorum was made the Chair had announced the result of the voice vote on the amendment offered by the gentleman from New York (Mr. Conable), as amended by the substitute offered by the gentleman from Louisiana (Mr. Huckaby), and had stated that the ayes prevailed.

3. George J. Brown, Jr. (Calif.).

For what purpose does the gentleman from Iowa rise?

MR. SMITH of Iowa: Mr. Chairman, on that I demand a division.

MR. HUCKABY: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HUCKABY: Mr. Chairman, pending the outcome of the division, will it be possible at that time to request a recorded vote?

THE CHAIRMAN: The request for a recorded vote has already been made and rejected for lack of a sufficient number standing. It cannot be repeated.

MR. HUCKABY: Does not the request for a recorded vote in the hierarchy precede a division and, hence, the Chairman is reverting back to a division, since the Chairman has already denied a request for a recorded vote and the Chair has ruled upon that?

THE CHAIRMAN: Regardless of the type of vote requested, a request for a recorded vote cannot be repeated. It has already been rejected. However, a division may now be requested.

MR. HUCKABY: Would a request for a teller vote be in order?

THE CHAIRMAN: A request for a teller vote would be in order.

On a division (demanded by Mr. Smith of Iowa) there were—ayes 107, noes 110.

MR. HUCKABY: Mr. Chairman, would the Chair please repeat the numbers?

THE CHAIRMAN: The ayes were 107 and the noes were 110.

MR. HUCKABY: Mr. Chairman, 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 CHAIRMAN: The gentleman makes a point that a quorum is not present and objects to the vote. That is not in order in the Committee of the Whole.

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

Tellers were ordered, and the Chairman appointed as tellers Mr. Smith of Iowa and Mr. Conable.

The Committee again divided, and the tellers reported that there were—ayes 134, noes 116.

So the amendment, as amended, was agreed to.

Point of No Quorum Takes Precedence of Demand for Recorded Vote

§ 33.13 In Committee of the Whole, where there is a demand for a recorded vote and a point of order that there is no quorum present, the point of order must be disposed of first.

During consideration in Committee of the Whole of H.R. 25, the Surface Mining and Reclamation Act, 1975, a Member desired to have a record vote on a pending amendment. The proceedings on Mar. 14, 1975,⁽⁴⁾ were as follows:

THE CHAIRMAN:⁽⁵⁾ The question is on the amendment offered by the gentleman from Ohio (Mr. Seiberling).

4. 121 CONG. REC. 6707, 6708, 94th Cong. 1st Sess.
5. Neal Smith (Ia.).

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

MR. [SAM] STEIGER of Arizona: Mr. Chairman, on that I demand a recorded vote and make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. STEIGER of Arizona: I am told Mr. Chairman, that you are not honoring my point of order that a quorum is not present.

THE CHAIRMAN: The Chair has counted 21 Members to this point.

MR. STEIGER of Arizona: Mr. Chairman—

THE CHAIRMAN: The Members will be seated. The Chair is counting for a quorum.

MR. STEIGER of Arizona: Mr. Chairman, another point of order. I do not want to confuse anyone here. I would ask the Chair this: Is it true that if 21 Members are standing, that is a sufficient number on which to base a rollcall vote and we would then avoid the necessity of demanding a quorum? It obviously is not here anyway.

THE CHAIRMAN: Is the gentleman from Arizona withdrawing his point of no quorum?

MR. STEIGER of Arizona: No. I am just asking if there are 21 Members who responded to my demand for a rollcall, which I coupled very cleverly with a point of order that a quorum was not present, that is sufficient if 20 were standing, but the Chair announced that 21 were standing.

THE CHAIRMAN: The point of no quorum must be disposed of first.

MR. STEIGER of Arizona: Even though the demand preceded the point of order?

THE CHAIRMAN: Yes.

MR. STEIGER of Arizona: This is very interesting. I want all the Members to remember that.

MR. [MORRIS K.] UDALL [of Arizona]: Mr. Chairman, if the gentleman will yield, I ask him to withdraw it and I will support his request for a vote and we will thereby save time.

MR. STEIGER of Arizona: All right. I think it is going to work out.

THE CHAIRMAN: Sixty-eight Members are present, evidently not a quorum.

The Chair announces that he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

THE CHAIRMAN: One hundred and two Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is a demand for a recorded vote.

A recorded vote was ordered.

Motion To Rise Preferential

§ 33.14 In Committee of the Whole, a motion that the Committee rise takes preference over a demand for a recorded vote on a pending amendment.

On Mar. 5, 1980,⁽⁶⁾ during consideration in Committee of the

6. 126 CONG. REC. 4801, 4802, 96th Cong. 2d Sess.

Whole of H.R. 3829, a bill dealing with International Financial Institutions, an amendment to a pending amendment was agreed to by a voice vote. An opponent of the amendment then asked for a recorded vote, and pending that, made a point of order that a quorum was not present. The manager of the bill, Mr. Henry B. Gonzalez, of Texas, then moved that the Committee rise. A demand for a recorded vote and a point of no quorum were made after the Chair announced that the affirmative position prevailed on the motion to rise. The Chair declined to entertain the point of no quorum, since the motion that the Committee rise does not require a quorum for adoption. The proceedings were as indicated below:

THE CHAIRMAN: ⁽⁷⁾ The question is on the amendment offered by the gentleman from Nebraska (Mr. Cavanaugh) to the amendment offered by the gentleman from Ohio (Mr. Ashbrook).

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

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

MR. GONZALEZ: Mr. Chairman, I move that the Committee do now rise.

. . .

7. Robert Duncan (Oreg.).

THE CHAIRMAN: The question is on the motion offered by the gentleman from Texas (Mr. Gonzalez).

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

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

THE CHAIRMAN: Does the gentleman from Ohio demand a recorded vote and make the point of order that a quorum is not present under the motion for the Committee to rise?

MR. ASHBROOK: Yes, Mr. Chairman.

THE CHAIRMAN: The Chair will advise the gentleman that a quorum is not required on a preferential motion that the Committee rise.

Does any Member join in the demand for a recorded vote? The Chair will count. Twelve Members have arisen, an insufficient number.

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Chairman, I demand a division.

THE CHAIRMAN: On the motion that the Committee do now rise?

MR. ROUSSELOT: Yes, Mr. Chairman.

MR. GONZALEZ: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. GONZALEZ: Mr. Chairman, may I ask of the distinguished Chairman what the motion is?

THE CHAIRMAN: The Chair will advise the gentleman that the motion is a preferential motion offered by the gentleman from Texas (Mr. Gonzalez) that the Committee do now rise. A division has been demanded.

The Chair will now count for a division.

On a division (demanded by Mr. Ashbrook) there were—ayes 15, noes 14.

So the motion was agreed to.

§ 33.15 Where the preferential motion to rise takes precedence over a pending request for a recorded vote, and the Committee rises, the request for a recorded vote remains pending business when the Committee of the Whole resumes consideration of the bill.

On July 15, 1981,⁽⁸⁾ before putting the question on a preferential motion that the Committee rise, Chairman Paul Simon, of Illinois, stated the parliamentary situation as follows:

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

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

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I demand a recorded vote.

MR. [MELVIN] PRICE [of Illinois]: Mr. Chairman, I move that the Committee do now rise.

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

THE CHAIRMAN: The gentleman will state it.

MR. STRATTON: Mr. Chairman, is the vote on the motion to rise or is it a vote on the Hillis amendment?

THE CHAIRMAN: This is the vote on the motion to rise.

The request of the gentleman from New York to have a recorded vote will be pending when we go into the Committee of the Whole tomorrow.

MR. STRATTON: The request for a recorded vote on the Hillis amendment will be the first order of business tomorrow?

THE CHAIRMAN: That is correct.

The question is on the motion offered by the gentleman from Illinois (Mr. Price) that the Committee do now rise.

The motion was agreed to.

When Timely

§ 33.16 Generally, a demand for a recorded vote is timely if made before other business intervenes.

On Oct. 5, 1994,⁽⁹⁾ the House was considering the American Heritage Areas Partnership Program Act in Committee of the Whole. Pending was an amendment offered by Mr. W. J. Tauzin, of Louisiana, and a perfecting amendment thereto offered by Mr. Nick J. Rahall, of West Virginia. When the question was put on the perfecting amendment, Chairman Robert Menendez, of New Jersey, announced that the ayes had it on a voice vote. Mr. Tauzin, momentarily distracted in a conversation with a colleague, failed to stand

8. 27 CONG. REC. 15921, 97th Cong. 1st Sess.

9. 140 CONG. REC. p. ____, 103d Cong. 2d Sess.

immediately to ask for a recorded vote but when he insisted, the Chair permitted his demand to be entertained since there had been no intervening business. The proceedings were as follows:

THE CHAIRMAN: The question is on the amendment offered by the gentleman from West Virginia (Mr. Rahall) to the amendment offered by the gentleman from Louisiana (Mr. Tauzin).

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

MR. TAUZIN: Mr. Chairman, I demand a recorded vote.

MR. RAHALL: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. RAHALL: Mr. Chairman, how long a time does one have after a vote has been declared one way or another?

THE CHAIRMAN: There had been no intervening business when the gentleman from Louisiana, who was standing, asked for a recorded vote.

A recorded vote was ordered.

When Untimely

§ 33.17 It is too late to demand a recorded vote on an amendment agreed to by the House by voice vote after the Speaker has put the question on engrossment and third reading of the bill.

On July 19, 1973,⁽¹⁰⁾ certain Members having requested sepa-

10. 119 CONG. REC. 24965, 24966, 93d Cong. 1st Sess.

rate votes on three amendments proposed by the Committee of the Whole to a bill (H.R. 8860) to amend and extend the Agricultural Act of 1970, the House rejected the first, while agreeing to the second and third. The other of the Committee's recommended amendments having been agreed to en gross, the Speaker⁽¹¹⁾ put the question on the engrossment and third reading of the bill.⁽¹²⁾

After the taking of the question and the Chair's announcement that the ayes appeared to have it, Mr. Wilmer Mizell, of North Carolina, made the following parliamentary inquiries:

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

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. MIZELL: Mr. Speaker, my parliamentary inquiry is would the Chair restate the vote on the previous Bergland amendment?

THE SPEAKER: The Chair will state that the Chair announced that the ayes had it.

11. Carl Albert (Okla.).

12. When the House votes affirmatively on the "engrossment and third reading of the bill," it is voting on the final language of the bill. An "engrossed bill," itself, is the final copy of the measure as passed by the House; it includes all amendments which emanated from the floor, and is certified to by the Clerk of the House.

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

THE SPEAKER: The gentleman will state it.

MR. MIZELL: This means that the Bergland amendment carried; is that correct?

THE SPEAKER: That is correct.

MR. MIZELL: On that, Mr. Speaker, I demand a recorded vote.

THE SPEAKER: The gentleman waited much too long.

MR. MIZELL: Mr. Speaker, I was on my feet. Mr. Speaker, I demand a recorded vote. I was on my feet.

THE SPEAKER: The Chair has put the question on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

§ 33.18 The demand for a recorded vote on the passage of a bill is not timely if the Member making the demand is not on his feet seeking recognition for that purpose when the Chair announces the result of a voice vote on passage and states that the bill is passed, and a motion to reconsider has been laid on the table. However, it is certainly within the province of the Chair to recognize for a unanimous-consent request to vacate the proceedings on passage and thereby set the stage for putting the question on passage a second

time so a recorded vote can be demanded.

Where a controversial measure had been passed by unanimous consent, no Member having sought a roll call vote in a timely manner, the bill manager withdrew his objection to a unanimous-consent request to vacate the proceedings on passage so that a Member's right to demand a vote could be protected. The proceedings on Oct. 19, 1977,⁽¹³⁾ were as follows:

THE CHAIRMAN: Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Udall, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1037) to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels, pursuant to House Resolution 774, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

THE SPEAKER:⁽¹⁴⁾ Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

13. 123 CONG. REC. 34223, 34224, 95th Cong. 1st Sess.

14. Thomas P. O'Neill (Mass.).

THE SPEAKER: The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

THE SPEAKER: The question is on the passage of the bill.

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

THE SPEAKER: A motion to reconsider is laid on the table.

MR. [PAUL N.] MCCLOSKEY [Jr., of California]: Mr. Speaker, I ask for a recorded vote.

THE SPEAKER: The Chair waited and the gentleman did not ask at the proper time. The Chair waited and no Member rose within the proper time.

MR. MCCLOSKEY: I merely thought the Chair was speaking about the third reading of the bill.

THE SPEAKER: We went through the third reading of the bill. The only way the gentleman can get a vote is by a unanimous-consent request.

MR. MCCLOSKEY: Mr. Speaker, I ask unanimous consent to have a recorded vote.

THE SPEAKER: Is there objection to the request of the gentleman from California?

MR. [JOHN M.] MURPHY of New York: Mr. Speaker, I object.

THE SPEAKER: Does the gentleman ask unanimous consent to vacate the proceedings whereby the bill was passed and the motion to reconsider laid on the table? Does the gentleman make that request?

MR. MCCLOSKEY: I do, Mr. Speaker. I ask unanimous consent to vacate the action of the House, set aside the proceedings and have a record vote.

THE SPEAKER: Is there objection to the request of the gentleman from California?

MR. MURPHY of New York: Mr. Speaker, I object.

THE SPEAKER: Objection is heard.

MR. MCCLOSKEY: Mr. Speaker, I move to reconsider the vote by which the House apparently passed the bill.

THE SPEAKER: A motion to reconsider was laid on the table, without objection.

MR. MCCLOSKEY: Mr. Speaker, I was on my feet, seeking recognition.

THE SPEAKER: The gentleman was not seeking recognition when the question was put on final passage. The Chair looked in that direction, expecting that someone would rise, and no Member rose. The Chair has been expeditiously fair on this matter, anticipating that somebody would rise, and nobody rose.

The Chair recognizes the gentleman from Maryland (Mr. Bauman).

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

THE SPEAKER: Is there objection to the request of the gentleman from Maryland?

There was no objection.

MR. BAUMAN: Mr. Speaker, I want to support the Chair in the Chair's statement. The gentleman from Maryland was watching the proceedings, and at no time did any Member rise to request a vote. The Chair waited for a period of time, and no request was made.

But I would also make this observation: In view of the controversy and the charges that have surrounded this legislation, it seems to me that the gen-

tleman from New York (Mr. Murphy) might want to reconsider his objection to the request to rescind the proceedings and to allow a vote. I think the subsequent public criticism that the House will receive should we pass this controversial bill without a rollcall vote will be far greater than any benefit that might be derived. The honor of the House as an institution is at stake here. That is only one Member's viewpoint, but the Chair was certainly within his rights in his ruling but we should have a vote.

THE SPEAKER: The Chair respects the statement of the gentleman from Maryland.

MR. MURPHY of New York: Mr. Speaker, I withdraw my objection to the request of the gentleman from California (Mr. McCloskey).

THE SPEAKER: The question is on the passage of the bill.

MR. McCLOSKEY: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 165, nays 257, not voting 12, as follows: . . .

As Related to Vote by Division

§ 33.19 Where the Chairman of the Committee of the Whole is counting those standing on a vote by division, he will not entertain a request for a recorded vote.

Where Members in favor of a pending amendment have been asked to stand and remain standing while the Chair counts on a

division vote, the vote cannot be interrupted by a demand for a recorded vote as the two issues may become confused. A ruling by Chairman William H. Natcher, of Kentucky, on June 10, 1975,⁽¹⁵⁾ illustrates this point:

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. [SAM] GIBBONS [of Florida]: 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.

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

A recorded vote was ordered.

Withdrawal of Demand

§ 33.20 A demand for a recorded vote may be withdrawn before the Chair begins to count Members supporting the demand, and unanimous consent is not required.

On Aug. 1, 1975, a bill entitled the Energy Conservation and Oil

15. 121 CONG. REC. 18048, 94th Cong. 1st Sess.

Policy Act of 1975 was under consideration in the Committee of the Whole. After all debate had been limited and had expired on an amendment, the Chair put the question and when a recorded vote was demanded thereon, the Committee rose. When the Committee resumed consideration of the measure on Sept. 17, 1975,⁽¹⁶⁾ a request was made that an additional four minutes of debate be permitted on the amendment, equally divided between the two parties. The Chair reminded Members that a recorded vote had been demanded but that if the demand were withdrawn, he would then entertain a request for additional debate time. The proceedings were as follows:

THE CHAIRMAN:⁽¹⁷⁾ When the Committee rose on Friday, August 1, 1975, all time for debate on title III of the committee amendment in the nature of a substitute and all amendments thereto had expired and there was pending the amendment offered by the gentleman from Ohio (Mr. Brown) to title III on which a recorded vote had been requested by the gentleman from Ohio.

Without objection, the Clerk will again read the amendment offered by the gentleman from Ohio (Mr. Brown).

There was no objection.

The Clerk read as follows:

16. 121 CONG. REC. 28904, 94th Cong. 1st Sess.

17. Richard Bolling (Mo.).

Amendment offered by Mr. Brown of Ohio: Strike out sections 301, 302, 303.

Renumber the succeeding sections of title III accordingly.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I rise to make a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. DINGELL: Mr. Chairman, it is my recollection that at the time the Committee rose, as the Chair has just indicated to us, we had under consideration, as the Chair has pointed out, the Brown amendment which provided for the striking, as I recall it, of three sections: Section 301, section 302, and section 303, as amended. Am I correct on that, Mr. Chairman?

THE CHAIRMAN: The gentleman goes well beyond the parliamentary inquiry. The Chair can state that that is correct.

MR. [CLARENCE] BROWN of Ohio: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. BROWN of Ohio: The parliamentary inquiry, Mr. Chairman is, Would it be in order at this point while the vote is pending to ask unanimous consent of the House that 2 minutes may be granted on either side of the aisle for a discussion at this point of the pending vote?

THE CHAIRMAN: Such a request would be in order only if the gentleman first withdrew his request for a recorded vote.

MR. BROWN of Ohio: A further parliamentary inquiry, Mr. Chairman.

THE CHAIRMAN: The gentleman will state it.

MR. BROWN of Ohio: Would that request for a recorded vote then be in order following the discussion of the pending vote?

THE CHAIRMAN: The gentleman could again request a recorded vote.

MR. BROWN of Ohio: Mr. Chairman, then I ask unanimous consent to withdraw my request for a recorded vote at this point.

THE CHAIRMAN: That does not require unanimous consent. The gentleman withdraws his request for a recorded vote.

Does the gentleman now ask unanimous consent for debate time?

MR. BROWN of Ohio: I do, Mr. Chairman. I ask unanimous consent that 2 minutes be granted on either side of the aisle, 2 minutes to the gentleman from Michigan (Mr. Dingell) and 2 minutes to the gentleman from Ohio (Mr. Brown) to discuss the pending vote.

THE CHAIRMAN: Is there objection to the request of the gentleman from Ohio?

MR. DINGELL: Mr. Chairman, reserving the right to object, I think we can do this in 1 minute, if the gentleman would ask unanimous consent for 1 minute.

MR. BROWN of Ohio: Mr. Chairman, I ask unanimous consent that 1 minute be granted to the Democratic side in the hands of the gentleman from Michigan (Mr. Dingell) and 1 minute to the Republican side to be in the hands of the gentleman from Ohio (Mr. Brown).

THE CHAIRMAN: Is there objection to the request of the gentleman from Ohio?

There was no objection.

§ 33.21 Withdrawal of a demand for a recorded vote has also been permitted where the Chair had counted for a second but had not announced the numbers supporting the demand.

On Sept. 27, 1978,⁽¹⁸⁾ Chairman Barbara Jordan, of Texas, permitted a "by right" withdrawal of a demand for a recorded vote.

THE CHAIRMAN: . . . Pending before the House is an amendment offered by the gentleman from Ohio (Mr. Harsha) to an amendment offered by the gentleman from Pennsylvania (Mr. Ertel), and the pending business is the demand of the gentleman from Ohio (Mr. Harsha) for a recorded vote.

All those Members in favor of taking the vote on this amendment by a recorded vote will please rise and remain standing until they are counted.

MR. [WILLIAM H.] HARSHA [of Ohio]: Madam Chairman, I ask unanimous consent to withdraw my request for a recorded vote.

MR. JOHN T. MYERS [of Indiana]: Madam Chairman, I object.

THE CHAIRMAN: The Chair will state that since she has not announced the count of those requesting a recorded vote, the Member requesting the recorded vote may withdraw the request without unanimous consent. Does the gentleman from Ohio (Mr. Harsha) withdraw his request?

MR. HARSHA: Madam Chairman, I withdraw my request for a recorded vote.

18. 124 CONG. REC. 32053, 95th Cong. 2d Sess.

THE CHAIRMAN: The gentleman from Ohio (Mr. Harsha) withdraws his request for a recorded vote.

MR. HARSHA: Madam Chairman, I just want to make certain I am not withdrawing my amendment. I am withdrawing my request for a recorded vote.

MR. [JAMES J.] HOWARD [of New Jersey]: Madam Chairman, on that I demand a division.

On a division (demanded by Mr. Howard) there were—ayes 60, noes 2.

So the amendment to the amendment was agreed to.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Ertel), as amended.

The amendment, as amended, was agreed to.

§ 33.22 A recorded vote which was underway when the electronic system failed was discontinued when the Member who had made the request for a recorded vote asked unanimous consent to withdraw his demand so the House would not have to undertake a more protracted vote on the issue by roll call.

On May 31, 1984,⁽¹⁹⁾ the Chairman of the Committee of the Whole, having directed the Clerk to call the roll for a recorded vote where the electronic voting system had failed during the vote, enter-

19. 130 CONG. REC. 14616, 98th Cong. 2d Sess.

tained a unanimous-consent request, by the Member who had requested the recorded vote in the first instance, to vacate the proceedings whereby the requisite number of Members had seconded the demand for the vote and to withdraw the demand. The Chair's prior statement that the amendment had been agreed to on a division vote was then controlling. The proceedings described were as follows:

THE CHAIRMAN:⁽²⁰⁾ The question is on the amendment offered by the gentleman from Massachusetts (Mr. Conte).

The question was taken; and on a division (demanded by Mr. Frenzel) there were—ayes 18, noes 24.

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device.

ANNOUNCEMENT BY THE CHAIRMAN

THE CHAIRMAN: The Chair desires to make an announcement. Because of a technical malfunction, obvious to all of us, it will be necessary to repeat this vote by a rollcall of the Members. The Chair therefore requests all Members to take their seats, and the Clerk will call the roll.

For what purpose does the gentleman from Massachusetts (Mr. Conte) seek recognition?

MR. CONTE: Mr. Chairman, in view of all that has happened here, I ask

20. George E. Brown, Jr. (Calif.).

unanimous consent to vacate the proceedings and to withdraw my request for a rollcall vote.

THE CHAIRMAN: Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

THE CHAIRMAN: The Chair will announce that the amendment offered by the gentleman from Massachusetts (Mr. Conte) was rejected on a division vote.

Conditional Withdrawal of Demand

§ 33.23 Where a demand for a recorded vote is pending, it may be withdrawn by the maker, but it is not in order to condition its withdrawal on a modification in the motion on which the vote is being taken.

Where there was pending a motion to close debate on a pending amendment and all amendments thereto, a Member demanded a recorded vote on that motion. The Member making the demand then suggested that he would withdraw it if the original motion to limit debate were modified. Chairman Neal Smith, of Iowa, then stated that the demand for the recorded vote must be disposed of by a vote or by its withdrawal, but that it had to be disposed of before there could be a modification to the underlying motion to limit debate.

Following a quorum call, the proceedings of July 8, 1975,⁽¹⁾ were as follows:

THE CHAIRMAN: . . . At the time the quorum call was requested, there was pending a motion offered by the gentleman from Arizona (Mr. Steiger) to limit all debate on the Hébert amendment and all amendments thereto to 10 minutes to 5. The request of the gentleman from Michigan was also pending for a recorded vote.

Does the gentleman still insist upon his request?

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. DINGELL: Mr. Chairman, would it be possible for me to withdraw my demand if a unanimous-consent request were made by the chairman of the subcommittee handling the legislation to limit time solely on the amendment offered by the gentleman from New York (Mr. Stratton)?

THE CHAIRMAN: The Chair advises the gentleman that first we must dispose of the motion.

MR. [F. EDWARD] Hébert [of Louisiana]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HÉBERT: May I inquire as to what the gentleman's motion was?

THE CHAIRMAN: The motion of the gentleman from Arizona was to limit debate on the amendment of the gen-

1. 121 CONG. REC. 21627, 94th Cong. 1st Sess.

tleman from Louisiana and all amendments thereto to 10 minutes to 5.

Does the gentleman insist on his demand for a recorded vote at this point?

MR. DINGELL: Mr. Chairman, I have no choice but to insist on it unless someone will make another request.

MR. [SAM] STEIGER of Arizona: Mr. Chairman, I ask unanimous consent to withdraw my motion.

THE CHAIRMAN: Is there objection to the request of the gentleman from Arizona?

There was no objection.

MR. [JOHN] MELCHER [of Montana]: Mr. Chairman, I ask unanimous consent that all debate on the pending amendment cease within 5 minutes.

THE CHAIRMAN: Is there objection to the request of the gentleman from Montana to limit debate on the Stratton amendment?

There was no objection.

Yeas and Nays

§ 33.24 While a demand for the yeas and nays, once seconded by one-fifth of those present, cannot be withdrawn, the House may, by unanimous consent, vacate the proceedings and take the vote de novo.

On Mar. 6, 1978,⁽²⁾ during the consideration of House Joint Resolution 578, the following proceedings occurred:

THE SPEAKER PRO TEMPORE:⁽³⁾ The question is on the motion offered by

2. 124 CONG. REC. 5715, 5716, 95th Cong. 2d Sess.

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

the gentleman from Florida (Mr. Lehman) that the House suspend the rules and pass the joint resolution (H.J. Res. 578).

The question was taken.

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

THE SPEAKER PRO TEMPORE: Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion, on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order:

House Joint Resolution 715, by the yeas and nays; and House Joint Resolution 578, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

The unfinished business is the question of suspending the rules and passing the joint resolution (H.J. Res. 715).

The Clerk read the title of the joint resolution.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Florida (Mr. Lehman) that the House suspend the rules and pass the joint resolution (H.J. Res. 715), on which the yeas and nays are ordered.

The Chair observes that the electronic voting system is temporarily inoperative.

In view of that fact, the Clerk will call the roll.

The question was taken; and there were—yeas 349, nays 7, not voting 78.

MR. CHARLES H. WILSON of California: Mr. Speaker, I ask unanimous consent that the House vacate the proceedings whereby the yeas and nays were ordered on House Joint Resolution 578, authorizing the President to proclaim the third week of May of 1978 and 1979 as National Architectural Barrier Awareness Week.

The Clerk read the title of the joint resolution.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from California?

There was no objection.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Florida (Mr. Lehman) that the House suspend the rules and pass the joint resolution (H.J. Res. 578).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

On Nov. 4, 1971,⁽⁴⁾ a separate vote having been demanded in the House on an amendment to a bill (H.R. 7248) to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education, the Speaker⁽⁵⁾ put the question on the amendment and a demand for the yeas and nays was heard. Mrs. Edith S. Green, of Oregon, who had made the demand then inquired of the Chair as to whether it was possible to ask for tellers with clerks. When the Chair replied in the affirmative Mrs. Green withdrew her other request⁽⁶⁾ and demanded tellers; they were ordered and the following proceedings then occurred:

MRS. GREEN of Oregon: Mr. Speaker, I demand tellers with clerks [more than one-fifth of a quorum then seconded Mrs. Green's demand.]

Tellers with clerks were ordered; and the Speaker appointed as tellers Mr. Erlenborn, Mrs. Green of Oregon, Mr. Perkins, and Mr. Quie.

The Committee divided, and the tellers reported that there were—ayes 186, noes 181, not voting 64. . . .

4. 117 CONG. REC. 39352, 39353, 92d Cong. 1st Sess.

5. Carl Albert (Okla.).

6. Unanimous consent is not required in the House to withdraw a demand for the yeas and nays before the demand has been supported by one-fifth of those present. The situation is different, however, where the demand has been supported; see §24.8, *supra*.

§ 34. Taking the Vote

Ordering a Recorded Vote— The Old "Two-step" Rule

§ 34.1 One-fifth of a quorum in the House orders that a vote be taken by recorded vote.