

(H.R. 10128) to authorize federal financial assistance to the states for school construction, the Speaker put the question on a committee amendment as amended by the Committee of the Whole. Mr. Stewart L. Udall, of Arizona, then demanded the yeas and nays. A sufficient number of Members supporting this demand, the yeas and nays were ordered.

Immediately thereafter, a series of parliamentary inquiries were addressed to the Chair, there being some confusion as to the pending amendment. Mr. John W. McCormack, of Massachusetts, sought to clarify the matter through the following exchange:

MR. MCCORMACK: If the committee amendment as amended is adopted and a motion to recommit should be defeated then the bill is identically the same as the committee amendment as amended.

THE SPEAKER: ⁽¹⁵⁾ That is correct.

Mr. Udall then rose and initiated the following discussion with the Chair:

MR. UDALL: Since the vote on final passage will be the same as this vote I ask consent to withdraw my request.

THE SPEAKER: The Chair has already announced that a sufficient number of Members had arisen to order a rollcall.

Another parliamentary inquiry followed, and the question was ul-

15. Sam Rayburn (Tex.).

timately taken by the yeas and nays.

§ 25.—When Not in Order

Following Initial Refusal

§ 25.1 A demand for the yeas and nays having been refused, a second demand following the denial of tellers is out of order.

On Mar. 1, 1939,⁽¹⁶⁾ the House voted to adopt the conference report on a bill (H.R. 2868) making deficiency appropriations for the fiscal year ending June 30, 1939. Immediately thereafter, the Speaker directed the Clerk to report those amendments remaining in disagreement between the two bodies. Among these was amendment No. 13, as to which Mr. Clifton A. Woodrum, of Virginia, offered a motion to recede and concur with an amendment.

Debate on the Woodrum proposal ensued after which the following occurred:

THE SPEAKER: ⁽¹⁷⁾ The question is on the motion of the gentleman from Virginia to recede and concur with an amendment.

The question was taken; and on a division (demanded by Mr. Woodrum of Virginia) there were—ayes 118, noes 96.

16. 84 CONG. REC. 2095, 2100, 2103, 76th Cong. 1st Sess.

17. William B. Bankhead (Ala.).

Mr. H. Carl Andersen [of Minnesota]: Mr. Speaker, I ask for the yeas and nays.

THE SPEAKER: The gentleman from Minnesota asks for the yeas and nays. Those who favor taking this question by the yeas and nays will rise and stand until counted. [After counting.] Thirty-four Members have arisen, not a sufficient number.

MR. AUGUST H. ANDERSEN [of Minnesota]: Mr. Speaker, I demand tellers.

MR. [CASSIUS C.] DOWELL [of Iowa]: Mr. Speaker, I object to the vote on the ground that a quorum is not present.

THE SPEAKER: The gentleman from Iowa makes the point of order that a quorum is not present, which is always a constitutional question. The Chair will count. [After counting.] Two hundred and forty-one Members are present, a quorum.

MR. AUGUST H. ANDERSEN: Mr. Speaker, I demand tellers.

Tellers were refused.

MR. [JAMES F.] O'CONNOR [of Montana]: Mr. Speaker, I demand the yeas and nays.

THE SPEAKER: The yeas and nays have been previously demanded and refused. The demand is out of order.

The Clerk will report the next amendment in disagreement.⁽¹⁸⁾

§ 25.2 A demand for the yeas and nays having been refused, and tellers then having been ordered, a second demand for the yeas and nays is not in order after completion of the teller vote.

^{18.} See also § 25.3, *infra*.

On June 26, 1968,⁽¹⁹⁾ the House considered a bill (H.R. 18037) making appropriations for the Department of Health, Education, and Welfare, and the Department of Labor for the fiscal year ending June 30, 1969. In the course of the bill's consideration, separate votes were demanded on three amendments, and following agreement to the remaining amendments en gross, the House proceeded to entertain the three aforementioned provisions in the order in which they appeared in the bill.

Immediately after the Clerk read the first amendment on which a separate vote had been demanded, the following proceedings occurred:

THE SPEAKER:⁽²⁰⁾ The question is on the amendment.

MR. [NEAL] SMITH of Iowa: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

The question was taken; and on a division (demanded by Mr. Ashbrook) there were—ayes 110, noes 109.

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Speaker, I demand tellers.

MR. [JAMES J.] HOWARD [of New Jersey]: Mr. Speaker, a parliamentary inquiry?

THE SPEAKER: The gentleman will state it.

^{19.} 114 CONG. REC. 18938, 18939, 90th Cong. 2d Sess.

^{20.} John W. McCormack (Mass.).

MR. HOWARD: Mr. Speaker, is this teller vote going to be on the so-called Mink impact aid amendment?

THE SPEAKER: The Chair will state it is on the amendment offered in the Committee of the Whole by the gentleman from Hawaii [Mrs. Mink].

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, a parliamentary inquiry?

THE SPEAKER: The gentleman will state it.

MR. HALLECK: Mr. Speaker, if the amendment should be defeated on this teller vote, are we past the point of a record vote?

THE SPEAKER: The Chair will answer that affirmatively, yes.

Tellers were ordered, and the Speaker appointed as tellers Mr. Flood and Mr. Michel.

Parliamentarian's Note: Until 1972, a recorded vote was not permitted under Rule I, and the yeas and nays or an automatic roll call under Rule XV, were the only "record" votes permitted in the House.

§ 25.3 A demand for the yeas and nays having been refused, a second demand on the same question remains out of order notwithstanding the intervention of a division, a teller vote, and a quorum count.

On June 5, 1940,⁽¹⁾ the House considered a bill (H.R. 6381) for

1. 86 CONG. REC. 7623, 7626, 76th Cong. 3d Sess.

the admission to citizenship of aliens who came into the United States prior to Feb. 5, 1917, the effective date of the first immigration act.

Following some discussion of the bill, the question was put, and a demand for the yeas and nays was heard. An insufficient number of Members having responded, the yeas and nays were refused; a division was requested and had—and a point of no quorum was raised. The Speaker Pro Tempore⁽²⁾ then counted a quorum and announced the passage of the bill.

At this point a demand for tellers was made and immediately objected to as being untimely. The Chair overruled the objection, however, pointing out that the requesting Member had been on his feet seeking recognition before the Chair's announcement. The House divided; and the tellers reported there were—ayes 111, noes 98.

Immediately thereafter, Mr. Martin J. Kennedy, of New York, was recognized, and the following exchange occurred:

MR. MARTIN J. KENNEDY: Mr. Speaker, I demand the yeas and nays.

THE SPEAKER PRO TEMPORE: The yeas and nays have already been refused.

The Speaker Pro Tempore having so ruled, the bill was passed,

2. Sam Rayburn (Tex.).

and a subsequently offered motion to reconsider was laid on the table.⁽³⁾

During Count on Division

§ 25.4 A demand for the yeas and nays is not in order while the Chair is counting on a division vote.

On June 10, 1937,⁽⁴⁾ the House having under consideration a bill (H.R. 6391) to authorize the prompt deportation of alien criminals and certain other aliens, Mr. Thomas A. Jenkins, of Ohio, offered a motion to recommit. The Chair proceeded to put the question on the Jenkins proposal, and the following discussion ensued:

THE SPEAKER:⁽⁵⁾ The question is on the motion to recommit offered by the gentleman from Ohio [Mr. Jenkins].

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

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

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

3. See also 84 CONG. REC. 9594, 76th Cong. 1st Sess., July 20, 1939, where a second demand for the yeas and nays was also ruled out of order following the refusal of an earlier demand, a division, and a quorum count.
4. 81 CONG. REC. 5574, 75th Cong. 1st Sess.
5. William B. Bankhead (Ala.).

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

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

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

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

THE SPEAKER: The Chair now makes it.

Parliamentarian's Note: To permit the interruption of a division vote by a demand for a recorded vote or the yeas and nays merely serves to confuse the count, as Members then standing would not necessarily stand to support the ordering of a "record" vote.

During Count of Those Supporting Demand for Tellers

§ 25.5 While the yeas and nays may be demanded pending a simultaneous demand for tellers (or after tellers have been ordered but before the count has begun), the demand for the yeas and nays may not be made while the Chair is counting to ascertain whether one-fifth of a quorum supports the demand for tellers.

On Aug. 17, 1972,⁽⁶⁾ the Speaker having put the question on an

6. 118 CONG. REC. 28915, 92d Cong. 2d Sess.

amendment to a bill (H.R. 13915) intended to further equal educational opportunities, Mr. Roman C. Pucinski, of Illinois, demanded a teller vote; and the following discussion occurred:

THE SPEAKER:⁽⁷⁾ All those in favor of taking a vote by tellers will rise.

MR. [ALBERT H.] QUIE [of Minnesota]: Mr. Speaker, on that I demand the yeas and nays.

MR. PUCINSKI: Mr. Speaker, I have demanded that the vote be taken by tellers and I will ask that it be taken by tellers with clerks.

THE SPEAKER: The gentleman from Illinois has demanded a vote by tellers and a request has been made that the Members rise. The Chair is counting.

At this point, Mr. Gerald R. Ford, of Michigan, advanced a parliamentary inquiry on a constitutional issue⁽⁸⁾ after which the following occurred:

MR. PUCINSKI: Mr. Speaker, I withdraw my demand for tellers.

MR. QUIE: Mr. Speaker, I demand that the vote be taken by the yeas and nays.

Mr. Quie having renewed his request (as indicated above) and the Chair no longer being in the process of counting those in favor of tellers, the demand for the yeas and nays was entertained.

7. Carl Albert (Okla.).

8. See § 30.3, *infra*.

§ 26. Ordering of Vote

Generally

§ 26.1 The House has voted by the yeas and nays on ordering the previous question on approval of the Journal.

On July 25, 1949,⁽⁹⁾ immediately after the Clerk concluded the reading of the Journal, the following exchange took place:

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I move that the Journal as read stand approved; and on that motion I move the previous question.

THE SPEAKER:⁽¹⁰⁾ The question is on ordering the previous question.

MR. [JAMES C.] DAVIS of Georgia: Mr. Speaker, on that I demand the yeas and nays.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I demand the yeas and nays on ordering the previous question.

The yeas and nays were ordered.

The question was then taken; and there were—yeas 259, nays 88, not voting 85. So, the previous question was ordered.

§ 26.2 The yeas and nays have been ordered on a motion to dispense with further proceedings under the call for a quorum.

9. 95 CONG. REC. 10092, 10093, 81st Cong. 1st Sess.

10. Sam Rayburn (Tex.).