

In the same cases (National Prohibition Cases) it was also very urgently insisted that the requirement of a two-thirds vote in each House meant two thirds of the Whole membership, and that two third of a quorum was not sufficient. It is true that some sections of the Constitution expressly provide for congressional action by a named portion "of those present", and from this it was argued that when such expression is not used, the framers intended that action should ~~only~~ only be taken by the named portion of the whole House. On the other hand the Constitution provides that "a majority of each House shall constitute a quorum to do business", and the acts of a quorum are for all parliamentary purposes the acts of the body in question, unless otherwise provided.

It would, therefore, follow that "two thirds of both houses", when used in the provision as to amendments means two thirds of a quorum. This view was been several times taken by the Houses of Congress", (7°) and was finally declared to be the correct one in NACIONAL PROHIBITION CASES (2)

(1°) Ohio v Cox (1919)

(2°) 1920 - The court in reaching its conclusion cites its decision rendered shortly before to the effect that the constitutional provision for passing bills over the President's veto by a twothirds vote of each house, means a twothirds vote of a quorum present. In the opinion in the Nacional Prohibition Cases the court put the same interpretation upon the article as to amendments.

(Burdick - The law of American Constitution - pags. 37 e 38).

Herufans de Freitas
/ Rio. 1925 ~