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K. SECRET SESSIONS

§ 85. In General

Secret sessions of the House, while authorized by Rule XXIX, are rarely invoked in current practice. Such sessions have been utilized where Members wished to refer to or utilize classified national security information or intelligence-related information in debate.

Rule XXIX permits a motion that the House hold a secret session. The motion is in order if the Speaker determines that the Member making it qualifies—that the Member has information of a secret nature which he wishes to impart to his colleagues in the House.

The motion is not debatable, is not in order in Committee of the Whole, and if agreed to, requires the House to undertake certain procedures—the clearing of the galleries, closing down the televised and broadcast coverage of the proceedings, insuring the secrecy of the proceedings—before commencing the debate. The vote on the motion for a secret session is subject to a rollcall vote but is not required by the rule.

Standing committees of the House are permitted to hold executive sessions pursuant to Rule XI, clauses 2(g) and 2(k) where national security matter is under discussion or where evidence or testimony is being elicited which is potentially incriminating or defamatory. The Select Committee on Intelligence has specific procedures for closing sessions, which are set forth in Rule XLVIII. Conference committees may meet behind closed doors pursuant to Rule XXVIII, but a vote of the House is required to permit House managers at a conference to invoke or agree to this procedure. A motion that a conference committee meeting be closed to the public, privileged under Rule XXVIII, clause 6(a), is debatable under the hour rule.

Recognition To Move for Secret Session

§ 85.1 The Speaker has declined to recognize a Member to move pursuant to Rule XXIX that the House resolve itself into a secret session where the motion had not been reduced to writing; and a Member who has been recognized for five minutes where the House is proceeding in the House as in the Committee of the Whole, and who is declined recogni-

tion to offer a motion during such five minutes, is entitled to use or to yield the remainder of his time.

On Mar. 30, 1977,[2] the following proceedings occurred in the House:

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I move to strike the last word. . . .

Mr. Speaker, I would move, under the terms of rule XXIX of the House of Representatives, that we resolve ourselves into a secret session, that we exclude the press and the people in the galleries, and that we be permitted, as Members of the House who have to vote on this, to know what this secret information is that they will not reveal to us here in public on the floor today. . . .

THE SPEAKER:[3] Is the gentleman's motion in writing?

MR. BAUMAN: The gentleman would be glad to reduce it to writing.

THE SPEAKER: In the meantime the Chair recognizes the gentleman from Ohio (Mr. Stokes).

MR. BAUMAN: Mr. Speaker, does the gentleman from Maryland still have time?

THE SPEAKER: Yes.

MR. BAUMAN: That being the case, the gentleman from Maryland, Mr. Speaker, would like to say——

THE SPEAKER: The Chair has recognized the gentleman from Ohio.

MR. BAUMAN: Does the gentleman from Maryland still have time remaining in his 5 minutes? . . .

THE SPEAKER: The answer is in the affirmative. The gentleman has time in which to write out his motion.

MR. BAUMAN: Mr. Speaker, I asked whether I had time to speak.

THE SPEAKER: The Chair begs the gentleman's pardon. The gentleman has time remaining.

MR. BAUMAN: The gentleman is going to use his time, Mr. Speaker, with the sufferance of the Speaker of the House.

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

Secret Session Requires Preparation

§ 85.2 Pending a vote on a motion that the House resolve itself into secret session pursuant to Rule XXIX, the Speaker announced that should the motion be adopted, a motion to adjourn would be entertained due to the announced schedule and due to the elaborate precautions and arrangements necessary for a secret session.

The proceedings of the House on Mar. 30, 1977,[4] relating to the motion described above were as follows:

MR. [ROBERT E.] BAUMAN [of Maryland]: I renew my motion.

2. 123 CONG. REC. 9576, 95th Cong. 1st Sess.

3. Thomas P. O'Neill, Jr. (Mass.).

4. 123 CONG. REC. 9576, 95th Cong. 1st Sess.

THE SPEAKER:[5] The Chair hears the gentleman from Maryland and the Clerk will read the motion.

MOTION OFFERED BY MR. BAUMAN

The Clerk read as follows:

Mr. Bauman moves under rule XXIX that the House resolve itself into secret session.

THE SPEAKER: The Chair would like to make the following statement:

There has been a motion made by the gentleman from Maryland (Mr. Bauman). If the motion would prevail, in view of the fact that the Chair has said at an earlier date yesterday that we would be through at 5:30 this afternoon, and in view of the precautions that must be taken, the clearing of the galleries, the clearing of the Press Galleries, the proper placement of officers and employees that are necessary in order to protect the House of Representatives, that should the motion prevail that then a motion would be entertained to adjourn the House until 11 o'clock a.m. tomorrow.

The question is on the motion offered by the gentleman from Maryland (Mr. Bauman).

The question was taken; and on a division (demanded by Mr. Bauman) there were—ayes 76, noes 97.

MR. BAUMAN: 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 185, nays 226, not voting 21. . . .

5. Thomas P. O'Neill, Jr. (Mass.).

Motion for Secret Session Rejected

§ 85.3 On one occasion, the Speaker entertained a motion under Rule XXIX that the House resolve itself into secret session, although made by a Member who did not assert that he had a secret communication to make to the House, where no point of order was raised that the Member making the motion was merely soliciting such information from the chairman of the Select Committee on Intelligence, who did not himself wish to communicate it to the House; the House rejected the motion that the House resolve itself into a secret session.

During the proceedings of the House on Mar. 30, 1977,[6] the situation described above developed as follows:

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I move to strike the last word. . . .

If, indeed, Mr. Speaker, the members of this committee have this information which they feel would warrant the continuation, they have the duty to reveal that to the House now.

Therefore, Mr. Speaker, I would move, under the terms of rule XXIX of

6. 123 CONG. REC. 9575, 9576, 95th Cong. 1st Sess.

the House of Representatives, that we resolve ourselves into a secret session, that we exclude the press and the people in the galleries, and that we be permitted, as Members of the House who have to vote on this, to know what this secret information is that they will not reveal to us here in public on the floor today. . . .

THE SPEAKER:[7] The Chair [asks] the gentleman from Maryland whether he will yield to the gentleman from Ohio (Mr. Stokes), the chairman of the committee.

MR. BAUMAN: Yes, I will yield to the gentleman from Ohio.

MR. [LOUIS] STOKES [of Ohio]: Mr. Speaker, I thank the gentleman for yielding.

In reply to the Speaker's question, this committee did consider undertaking a secret, private briefing of the House.

After a great deal of deliberation as to the unwieldy aspects of being able to contain highly sensitive materials and communications, this committee decided that it would be too unwieldy a procedure and would, in all probability redound against the committee, and we decided against such action at that time.

MR. BAUMAN: Mr. Speaker, let me say that this Member was not invited to any secret briefing. There was a secret meeting held with the select committee and the Committee on Rules with no notice at all given in an effort to get them to get this resolution to the floor. But if there are secrets, we all should be told. . . .

I renew my motion. . . .

The Clerk read as follows:

Mr. Bauman moves under rule XXIX that the House resolve itself into secret session.

THE SPEAKER:. . .The question is on the motion offered by the gentleman from Maryland (Mr. Bauman).

The question was taken; and on a division (demanded by Mr. Bauman) there were—ayes 76, noes 97.

MR. BAUMAN: 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 185, nays 226, not voting 21. . . .

Motion Must Be Made in House Not in Committee of the Whole

§ 85.4 The House and not the Committee of the Whole decides whether the Committee may sit in executive session; and a parliamentary inquiry concerning the procedures whereby the House may act on a request for such a session should be addressed to the Speaker and not the Chairman of the Committee of the Whole.

On May 9, 1950,[8] Chairman Michael J. Mansfield, of Montana, responded to a parliamentary inquiry relating to the procedure for

7. Thomas P. O'Neill, Jr. (Mass.).

8. 96 CONG. REC. 6746, 81st Cong. 2d Sess.

holding an executive session as follows:

MR. [ERRETT P.] SCRIVNER [of Kansas]: Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I would submit a parliamentary inquiry as to whether or not an executive session could be held and, if so, what procedure would be necessary to bring that to pass before we are asked to vote upon the $350,000,000 additional.

THE CHAIRMAN: The Chair will state to the gentleman from Kansas that the Committee of the Whole would have no control over that. That would be a matter for the House itself to decide.

MR. SCRIVNER: I understand that, of course, and raised the question for information of the Members. Since it is a matter for the House to determine, as a further parliamentary inquiry, what would be the method followed to take that action?

THE CHAIRMAN: The Chair will say to the gentleman from Kansas that a parliamentary inquiry of that sort should be addressed to the Speaker rather than the chairman.

Parliamentarian's Note: Where a Member in Committee of the Whole raises a question as to whether the House might sit in executive session, the Chair will entertain a motion that the Committee rise. A resolution would then be offered in the House providing that "during further consideration of the bill, the Committee would be cleared of all persons except Members and authorized officers and employees and all proceedings of the Committee would be kept secret until otherwise ordered by the House. After a determination as to those employees deemed essential to the proceedings, the Speaker at the appropriate time would issue a statement for purposes of clearing the galleries and locking the doors.

§ 85.5 Under Rule XXIX, providing for secret sessions of the House, a motion to go into secret session may be made only in the House and not in the Committee of the Whole, and the Member making the motion must qualify by asserting that he himself has a secret communication to make to the House.

During the proceedings of the House on June 6, 1978,[9] Speaker Pro Tempore Abner J. Mikva, of Illinois, responded to a parliamentary inquiry as follows:

MR. [FORTNEY H.] STARK [of California]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. STARK: Mr. Speaker, is a motion for the House to go into executive session in order at any time?

THE SPEAKER PRO TEMPORE: It is not in order in the Committee of the

9. 124 CONG. REC. 16376, 95th Cong. 2d Sess.

Whole, the Chair will inform the gentleman.

MR. STARK: It is in order in the full House, is it?

THE SPEAKER PRO TEMPORE: The Chair will read the rule. It reads as follows:

RULE XXIX

SECRET SESSION

Whenever confidential communications are received from the President of the United States, or whenever the Speaker or any Member shall inform the House that he has communications which he believes ought to be kept secret for the present, the House shall be cleared of all persons except the Members and officers thereof, and so continue during the reading of such communications, the debates and proceedings thereon, unless otherwise ordered by the House.

The Chair will emphasize that the rule requires that a Member assert that he himself has a secret communication to make for his motion to be in order.

Parliamentarian's Note: Pending was a special rule providing for consideration of H.R. 12240, the intelligence authorizations bill. H.R. 12240 authorized appropriations for intelligence activities of the United States government, not in a specified amount but rather by incorporating figures contained in a classified annex to the committee report. The report on the bill contained no cost estimate as to the authorization but referred to the figures contained in the classified annex available only to Members as designated. No waiver of the cost-estimate rule was necessary to allow consideration of the bill, since Rule XLVIII authorizes and directs the Select Committee on Intelligence to keep secret classified information obtained from the executive branch unless otherwise authorized by the House. (Rule XLVIII, being a more specific and more recently adopted rule, renders Rule XIII clause 7 inapplicable.) The Committee on Armed Services, in Part II of the report, merely incorporated by reference the Intelligence Committee estimate contained in the secret annex.

H.R. 12240 stated in part:[10]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence and Intelligence-Related Program Authorization Act for Fiscal Year 1979".

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1979 for the conduct of the intelligence and intelligence-related activities of the following departments, agencies, and other elements of the United States Government:

(1) The Central Intelligence Agency and the Director of Central Intelligence.

10. 124 CONG. REC. 16386, 95th Cong. 2d Sess., June 6, 1978.

(2) The Department of Defense. . . .

(b) A classified annex to the report prepared by the Permanent Select Committee on Intelligence of the House of Representatives to accompany this Act shall be deemed to reflect the final action of the Congress with respect to the authorization of funds for fiscal year 1979 for intelligence and intelligence-related activities of the United States Government, including specific amounts for activities specified in subsection (a).

§ 85.6 Upon the conclusion of general debate on a bill in Committee of the Whole, a Member offered a pro forma amendment to announce that he would at the conclusion of his remarks move that the Committee rise, and then offer in the House a motion, pursuant to Rule XXIX, that the House resolve itself into secret session to discuss confidential communications related to the bill under consideration in Committee of the Whole.

On June 20, 1979,[11] during consideration of the Panama Canal Act of 1979 (H.R. 111) in the Committee of the Whole, Mr. Robert E. Bauman, of Maryland, after being recognized for a motion to strike the last word, made an announcement as indicated below:

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. 111) to provide for the operation and maintenance of the Panama Canal and to provide for the exercise of the rights and performance of the duties of the United States provided in the Panama Canal Treaty of 1977, with Mr. Foley in the chair.

The Clerk read the title of the bill.

THE CHAIRMAN:[12] When the Committee rose on Monday, May 21, 1979, all time for general debate had expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the reported bill shall be considered by title as an original bill for the purpose of amendment, and each title shall be considered as having been read. . . .

The Clerk will designate section 1.

Section 1 reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.—This Act may be cited as the "Panama Canal Act of 1979".

MR. BAUMAN: Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to inform the Committee of the Whole House that it will be my intention at the conclusion of the brief time that I

11. 125 CONG. REC. 15710, 15711, 96th Cong. 1st Sess.

12. Thomas S. Foley (Wash.).

will take here, to move that the Committee rise, and, assuming that is agreed to, I will move, under rule XXIX of the House, that the House meet in secret session.

I understand from the Parliamentarian that passage of the motion would allow us 1 hour of debate to be divided between the gentleman from New York and myself, during which time all of us, and I have discussed this with the gentleman from New York (Mr. Murphy), as well as with the chairman of the subcommittee, the gentleman from Kentucky (Mr. Hubbard), would be able to present to the House certain facts which we are not able to communicate to the House in public because of the classified nature and the source of the information.

Motion for Secret Session Not Debatable

§ 85.7 A motion that the House resolve itself into secret session must be made in the House and not in Committee of the Whole and is not debatable; in the 96th Congress, the House adopted by voice vote a motion that the House resolve itself into secret session pursuant to Rule XXIX (the first such occasion since 1830) where the Member offering the motion had ensured the Speaker that he had confidential communications to make to the House as required by that rule.

On June 20, 1979,[13] Mr. Robert E. Bauman, of Maryland, having informed the Committee of the Whole of his intention to make a motion under Rule XXIX in the House, made the motion as follows:

MR. BAUMAN: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Bauman moves that, pursuant to rule XXIX, the House resolve itself into secret session. That the galleries of the House Chamber be cleared of all persons and that the House Chamber be cleared of all persons except the Members of the House and those officers and employees specified by the Speaker whose attendance on the floor is essential to the functioning of the House and who subscribe to the notarized oath of confidentiality.

THE SPEAKER PRO TEMPORE:[14] The Chair will state that the motion is not debatable. Absent unanimous consent to debate the motion, the question will be put upon the motion.

The question is on the motion offered by the gentleman from Maryland (Mr. Bauman).

The motion was agreed to.

Clearing Galleries and Limiting Floor Access

§ 85.8 The Speaker Pro Tempore announced, after the House had adopted a motion

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13. 125 CONG. REC. 15711, 96th Cong. 1st Sess.

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

to resolve itself into secret session and before the secret session commenced, that the galleries would be cleared of all persons, that the Chamber would be cleared of all persons except Members and those officers and employees specified by the Speaker whose attendance on the floor was essential to the functioning of the secret session, and that all proceedings in the secret session must be kept secret until otherwise ordered by the House.

On June 20, 1979,[15] the House adopted by voice vote a motion that the House resolve itself into secret session pursuant to Rule XXIX (the first such occasion since 1830) where the Member offering the motion had ensured the Speaker that he had confidential communications to make to the House as required by that rule. The proceedings were as follows:

> MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I offer a motion.
>
> The Clerk read as follows:
>
> > Mr. Bauman moves that, pursuant to rule XXIX, the House resolve itself into secret session. . . .
>
> The motion was agreed to.
>
> THE SPEAKER PRO TEMPORE:[16] The Chair will make a statement.
>
> The Chair desires to read to the Members the contents of rule XXIX of the rules of the House of Representatives.
>
> Rule XXIX reads as follows:
>
> RULE XXIX
>
> SECRET SESSION
>
> > Whenever confidential communications are received from the President of the United States, or whenever the Speaker or any Member shall inform the House that he has communications which he believes ought to be kept secret for the present, the House shall be cleared of all persons except the Members and officers thereof, and so continue during the reading of such communications, the debates and proceedings thereon, unless otherwise ordered by the House. . . .
>
> According to the rule of the House, the Chair is now going to order that the galleries of the House Chamber shall be cleared of all persons and the House Chamber shall be cleared of all persons except the Members of the House and those officers and employees specified by the Speaker whose attendance on the floor is essential to the functioning of the secret session of the House. All proceedings in the House during such consideration shall be kept secret until otherwise ordered by the House.[17]
>
> The Chair is going to declare a recess long enough for this order to be carried out.

Parliamentarian's Note: A list of the employees signing the oath of

15. 125 CONG. REC. 15711–13, 96th Cong. 1st Sess.

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

17. For further discussion of the Speaker's directions to officers and employees on this date, see § 85.12, infra.

secrecy and present in the secret session was compiled and retained by the Journal Clerk.

It would have been appropriate to require a rollcall vote on resolving into secret session (since executive sessions of committees require a rollcall vote).

Guidelines for Conducting Secret Session

§ 85.9 After a motion that the House resolve itself into secret session has been agreed to, the Chair may explain the operation of the rule and respond to parliamentary inquiries before the secret session commences; on one such occasion, before declaring a recess in order to clear the Chamber and galleries for a secret session of the House, the Speaker Pro Tempore stated in response to parliamentary inquiries that (1) the proceedings of the House in secret session would not be recorded by the television system; (2) after the presentation of the material considered confidential in secret session, the House could vote in secret session to remove the injunction of secrecy from the proceedings; (3) the material to be presented in the secret session was not required by Rule XXIX or the precedents relating thereto to be relevant to any particular legislation; (4) the Speaker had afforded the officers of the House with guidelines as to which employees were to be considered essential to the functioning of the secret session, but that during the session only those employees so designated and sworn could enter the Chamber; (5) Members could come and go at will during the session; (6) Members would be prohibited from divulging information presented in the secret session without the consent of the House; (7) a record of attendance of Members would not be kept, except through a call of the House, since Members were expected to be trusted with honor and integrity; (8) members of committees which might be meeting (having received permission to sit under the five-minute rule and perhaps under the impression that the House was proceeding in Committee of the Whole) would be sufficiently notified of the secret session by the bells and lights indicating a recess

and the reconvening of the House; (9) the admitted House employees (but not Members) must sign an oath to preserve inviolable secrecy (similar to the Senate oath for secret sessions), violation of which was punishable by the House, but that statutes applying exclusively to the executive branch, requiring appropriate clearances to receive information classified by the executive branch, did not apply to Members of Congress and only to employees of the legislative branch where such statutes were generally applicable beyond the executive branch; and (10) no rule of the House required clearance of House Members or employees under procedures applied by the executive branch for access to classified information, but that Members and employees of the House were subject to standards of conduct and disciplinary procedures under House rules.

On June 20, 1979,[18] during consideration of the Panama Canal Act of 1979 (H.R. 111), the following proceedings occurred:

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Bauman moves that, pursuant to rule XXIX, the House resolve itself into secret session. . . .

The motion was agreed to. . . .

MR. [JACK] HIGHTOWER [of Texas]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE:[19] The gentleman will state it.

MR. HIGHTOWER: What will be the action of the Chair in regard to the television proceedings?

THE SPEAKER PRO TEMPORE: The television will not be recording the proceedings of the House during the time of the secret session.

MS. [ELIZABETH] HOLTZMAN [of New York]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentlewoman will state it.

MS. HOLTZMAN: In the Chair's reading of his order and reading the rule he mentioned that the House can order otherwise with respect to the secrecy of the proceedings. Is it my understanding then that should, during the debate or after the debate, the Members of the House determine that the material was not, in fact, confidential, is it then in order, or when is it in order, assuming that to be the case, for the proceedings to be then made public or the Journal kept of the debate then made public?

THE SPEAKER PRO TEMPORE: The precedents which the Chair has read

18. 125 CONG. REC. 15711–13, 96th Cong. 1st Sess.

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

this morning indicate that following the presentation of that material considered secret or confidential or of such nature that it ought to be heard in secret session, the House may at that time, by its own motion, in secret session decide that there is no reason to observe further secrecy with respect to the material involved. Having heard the material and determined the nature thereof, it will be up to the Members of the House as to whether they would observe additional and future secrecy with respect thereto.

MS. HOLTZMAN: I thank the Speaker.

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. DERWINSKI: The Chair did not address himself to the question of the relevancy of the material to the legislation before the House. What is the determination or the precedents involved regarding the relevancy of presumed secret testimony to the legislative matter before us?

THE SPEAKER PRO TEMPORE: The Chair will state that there is no requirement whatsoever in the precedents of the House, such materials having been received, that the material be relevant to any legislation, since the rule would include messages from the President of the United States that bear upon no pending legislation. It is not the opinion of the Chair that the material to be revealed in this session necessarily has any bearing whatever upon the legislation which otherwise would have been under consideration in the Committee of the Whole. It simply is a recognition of the right of the gentleman from Maryland and other Members present at the secret session to divulge such information as they desire to our colleagues, the Members of the House. The Members have voted to grant them that privilege. It does not necessarily bear in any way tangentially or otherwise upon the legislation previously before the House or any other legislation.

MR. DERWINSKI: I thank the Speaker.

MR. [FRANK] HORTON [of New York]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HORTON: The Chair announced that Members of the House are permitted to be present and also officers to be designated by the Speaker. Will the Speaker specifically designate those employees to remain on the floor?

The second inquiry is with regard to access to the floor. What about going and coming on the floor, will the doors be manned in order to prevent unauthorized persons from entering the Chamber?

THE SPEAKER PRO TEMPORE: The Chair will attempt to answer both questions.

First, with respect to those official staff persons whose presence on the floor of the House is essential to the operation of the House, the Chair already has, pursuant to authority conferred upon him in the motion, delivered to the officers of the House sufficient guidelines with regard to that question.

On the second question, with respect to the rights of Members to go and

come, that question should be answered in the affirmative. Members may go and come at will.

MR. HORTON: What about others? They would have to be cleared before they could come in, other than Members?

THE SPEAKER PRO TEMPORE: The gentleman is correct. Others would have to be designated and sworn before they could enter the Chamber.

MR. [PAUL N.] MCCLOSKEY [Jr., of California]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. MCCLOSKEY: Mr. Speaker, I understand that we will receive in this Chamber information that will be labeled either "confidential" or "secret" or "top secret" under any Executive order which applies only to members of the executive branch. Therefore, it would not be a crime, for example, for a Member of this body to reveal information classified in the executive branch unless it came under the statute.

I am wondering what would be the rules of the House with respect to a Member of this body who might, after hearing in this secret session information perhaps classified "secret" or "top secret" if that Member should, following this session, divulge that information to the press or to third persons not authorized to receive that information. It seems to me that under the rules of the House we would violate those rules as individual Members should we reveal classified information.

THE SPEAKER PRO TEMPORE: The Chair feels that the same rule should prevail which prevails in executive sessions of committees of the House. The Chair does not wish to prejudge the nature or the import of the information to be revealed because the Chair is not privy to that knowledge.

The Chair believes that the Members of the House possess sufficient honor that they will do the right thing in determining, after having heard the information, whether or not its sanctity should be preserved or it should be revealed at the will of the Members. The Chair trusts the Members of the House to make the right decision.

MR. MCCLOSKEY: I thank the Chair.

MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. GIAIMO: Mr. Speaker, under those circumstances should not attendance be kept as to whether or not a Member actually is in the Chamber or not, because there are some of us—and I feel very strongly about this kind of session because I have found out in the past through experience that I usually learn just as much outside a secret session as I do in it, and the information, if I find out the information outside of this session—I do not want to be gagged by the fact that I may or may not have been in this session at the time. It seems to me that the Chair ought to have attendance of Members.

THE SPEAKER PRO TEMPORE: The Chair would observe that the gentleman from Connecticut or any other Member might have the privilege, if he or she so desires, to move a call of the House, and thereby could ascertain the presence of Members. Beyond that, the

Chair is not of the disposition to impose upon the Members of the House any rule beyond those rules which are expressly written in the rules of the House. The Chair is of the disposition to trust implicitly the honor and the integrity of the Members of the U.S. House of Representatives.

MR. [CARROLL] CAMPBELL [Jr., of South Carolina]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. CAMPBELL: Mr. Speaker, in view of the fact that a number of the committees have received permission to sit under the 5-minute rule, I wonder if the Chair is taking steps to notify these committees of the pending proceedings.

THE SPEAKER PRO TEMPORE: The Chair will respond, as the gentleman would understand, of course, that we are not now under the 5-minute rule and will not be proceeding under the 5-minute rule after we resume following the recess which the Chair will very presently declare.

The Chair would presume that the bells signaling the recess and the bells signaling the resumption of the convening of the House would be sufficient notice to warrant knowledge on the part of those who might be in committee sessions or elsewhere on Capitol Hill.

MR. CAMPBELL: I thank the Chair.

MR. [BILL D.] BURLISON [of Missouri]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. BURLISON: Mr. Speaker, it is my understanding from the conversation I have heard thus far that there will be classified information presented to the body; confidential, secret, top secret. Is that a fair statement?

THE SPEAKER PRO TEMPORE: In response to the gentleman's question, the Chair is not in a position to characterize the nature, the character, the quality, or the veracity of the information which will be divulged. The Chair is not privy to that knowledge.

MR. BURLISON: A further parliamentary inquiry: Do the rules of the House not require that in those instances where classified material is to be received, that the reporters and the staff members and the officers of the House who may be present other than Members of the House be cleared for that classified information?

THE SPEAKER PRO TEMPORE: The Chair is going to read to the gentleman an oath which employees and officers of the House are required to sign:

> I do solemnly swear that I will preserve inviolable secrecy on all confidential business of the House of Representatives that may come to my knowledge until especially absolved therefrom, so help me God.

Every employee and officer of the House will be expected to sign this oath if permitted to be privy to the session. Members of the House will not be requested nor required to sign such an oath.

MR. BURLISON: Mr. Speaker, my parliamentary inquiry is whether the rules of the House require, in such a session, that the reporters and the staff members and others have the requisite clearances to be present and to conduct the business.

THE SPEAKER PRO TEMPORE: The Chair will respond to the gentleman's

request in the following manner: Members of the U.S. House of Representatives are not members of the executive branch of Government, who may be bound by laws exclusively applicable to members of the executive branch of Government.

The Chair will state again that Members of the House, after hearing the nature of this information, whatever it may be, must judge on their own or as ordered by the House as to whether it is of sufficient import or secret in character to require continued silence. On previous occasions, the Chair discovers on reading the precedents, Members of the House, having heard information thus divulged, usually have voted to allow that information to become known publicly.

MR. BURLISON: Is the Speaker saying that the rules of the House do not require that the staff, House officers, and others be cleared to receive the information? My parliamentary inquiry is whether there is such a House rule.

THE SPEAKER PRO TEMPORE: There is no such House rule, the Chair will respond.

MR. [THOMAS J.] DOWNEY [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. DOWNEY: Mr. Speaker, if I understand the ruling of the Chair then, the employees of the House of Representatives coming into the session will be privy to receive information secret, top secret, classified, that is so designated by U.S. statute. What concerns me, Mr. Speaker, is that we have no rule governing classification of House employees with respect to the receiving of secret information. That is not a rule just of the executive branch; that is United States statutory law with respect to who can receive and under what circumstances classified, secret, and top secret information.

THE SPEAKER PRO TEMPORE: The employees of the House, the Chair will advise the gentleman, are subject to applicable provisions of law and to the disciplinary action of the House, and the special rule for them requires that secrecy of the proceedings be maintained until absolved from that responsibility by the House.

The Members of the House, in context, are also subject to the disciplinary rules of the House with respect to the Standards of Official Conduct Committee and under the Constitution.

Transcript of Proceedings Remains Secret Until Otherwise Ordered

§ 85.10 The Speaker declared a recess in order to make preparations for a secret session of the House and at the conclusion of the recess the House resolved itself into secret session (the proceedings of which were not printed in the *Congressional Record* of this date, since the House refused in secret session to remove the injunction of secrecy); when the House had concluded the secret session, having voted not to release the transcripts of that session, the Speaker declared

that the injunction of secrecy remained and that he would refer the transcripts to the appropriate committees for their evaluation and ask them to report to the House as to the ultimate disposition thereof to be made.

On June 20, 1979,[20] the following proceedings occurred in the House:

THE SPEAKER PRO TEMPORE:[1] The Chair declares a recess.

Accordingly (at 12 o'clock and 20 minutes p.m.), the House stood in recess subject to the call of the Chair.

SECRET SESSION OF THE HOUSE

At 12 o'clock and 38 minutes, the House proceeded to meet in secret session.

(House proceedings held in secret session.)

At 2 o'clock and 11 minutes, the House dissolved its proceeding being held in secret session.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 2 o'clock and 30 minutes p.m.

THE SPEAKER:[2] The Chair will make the following statement:

The Chair would remind the Members that the House has not at this point voted to remove the injunction of secrecy and that Members are bound not to release or to make public any of the transcript of the closed session until further order of the House.

To enable the House to evaluate the transcript of the secret session, the Chair will refer the transcript to the Permanent Select Committee on Intelligence and to the Committee on Merchant Marine and Fisheries for their report thereon as soon as possible. The committees' report will remain executive session record of those committees for examination by the Members and ultimate disposition by the House.

The Chair further would state that he would believe that the item could go to the Committee on Rules and the House could go back into a secret session for a time allotted before making the transcript public record.[3]

§ 85.11 By unanimous consent, the transcript of the proceedings of the House on a previous day in executive session was printed in the *Congressional Record*, with revisions and deletions made by Members who participated in the debate, which revisions and deletions were mutually agreeable to the chairmen of the committees to which the Speaker had on that previous day referred the transcript of the secret

20. 125 CONG. REC. 15713, 96th Cong. 1st Sess.

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

2. Thomas P. O'Neill, Jr. (Mass.).

3. The proceedings, with omissions, were printed in the *Congressional Record* of a subsequent date. See § 85.11, infra.

session for a report to the House on needed secrecy.

In the July 17, 1979, edition of the *Congressional Record*[4] by unanimous consent, the transcript of proceedings of the secret session of the House on June 20, 1979, with certain omissions, was printed:

MR. [EDWARD P.] BOLAND [of Massachusetts]: Mr. Speaker, I ask unanimous consent that the transcript of the proceedings of the House and the secret session held on June 20, 1979, be printed in today's edition of the Congressional Record, with the revisions and deletions made in that transcript by Members who participated in that debate, and which are mutually agreeable to the chairmen of the Committee on Merchant Marine and Fisheries and the Permanent Select Committee on Intelligence.

THE SPEAKER PRO TEMPORE:[5] Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

SECRET SESSION OF THE HOUSE

The secret session of the House met at 12:38 p.m. and was called to order by the Speaker pro tempore (Mr. Wright).

THE SPEAKER PRO TEMPORE: Members will take their seats. Officers and employees of the House designated to remain will come to the pages' desk and sign the oath of secrecy.

The procedures for review of the transcript prior to its publication were outlined as follows:[6]

MR. BOLAND: Mr. Speaker, the procedures followed by the Permanent Select Committee on Intelligence in considering the transcript of the secret session of the House on June 20 are as follows:

Upon receipt of the transcript from the Speaker, the committee identified areas which involved classified intelligence sources and methods and other classified material. The committee then consulted with representatives from the Department of Defense, Central Intelligence Agency, Department of State and the Department of Justice and noted each item suggested by any of the above as involving classified matter. The committee then made recommendations concerning each item so noted to the Speaker.

Thereafter, the committee was called in to resolve the differences between its approach and the Committee on Merchant Marine and Fisheries to which the transcript had also been referred. The committee did this and prepared a revised transcript embodying the recommendations of both committees and reflective of such other revisions and extensions as were suggested by individual Members involved in the debate.

It is my understanding that the completed transcript which is provided to the House today represents a careful, yet critical revision of the transcript to exclude only that material which was genuinely sensitive. I believe that the

4. 125 CONG. REC. 19049 et seq., 96th Cong. 1st Sess.

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

6. 125 CONG. REC. 19059, 96th Cong. 1st Sess., July 17, 1979.

resulting document fairly represents the debate that occurred during the closed session of the House while protecting essential national security information. I want to thank the Committee on Merchant Marine and Fisheries, chaired by the distinguished gentleman from New York (Mr. Murphy) and for all the Members who participated in the debate and whose perusal and agreement was necessary to resolve the matters associated with this transcript and the charge given to the Permanent Select Committee on Intelligence by the House.

Oath of Secrecy

§ 85.12 At the convening of a secret session of the House, the Speaker directed all officers and employees designated by him as essential to the proceedings to come to the pages' desk and sign an oath of secrecy.

In the transcript of the proceedings of the June 20, 1979, secret session of the House, inserted in the *Congressional Record* on July 17, 1979,[7] it is shown that the Speaker Pro Tempore[8] made the following announcement:

> The secret session of the House met at 12:38 p.m. and was called to order by the Speaker pro tempore (Mr. Wright).
>
> THE SPEAKER PRO TEMPORE: Members will take their seats. Officers and employees of the House designated to remain will come to the pages' desk and sign the oath of secrecy. That includes any committee staff designated by the chairman of the committee in writing who are to remain in the Chamber.

Hour Rule of Debate Applies

§ 85.13 At the convening of a secret session of the House, the Speaker recognized the Member who had offered the motion for a secret session for one hour of debate, and advised that Member that the normal rules of the House would apply during such debate and that no motions would be in order unless he yielded for such purpose.

On June 20, 1979,[9] Speaker Pro Tempore James C. Wright, Jr., of Texas, responded to several inquiries regarding procedures in a secret session of the House, as follows:

> The secret session of the House met at 12:38 p.m. and was called to order by the Speaker pro tempore (Mr. Wright).
>
> THE SPEAKER PRO TEMPORE: Members will take their seats. . . .
>
> The Chair is going to recognize the gentleman from Maryland (Mr. Bau-

7. 125 CONG. REC. 19049, 96th Cong. 1st Sess.

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

9. 125 CONG. REC. 19049, 96th Cong. 1st Sess., July 17, 1979 (transcript of secret session of June 20, 1979).

man) for 1 hour, during which time the gentleman from Maryland (Mr. Bauman) may yield to such others as he deems desirable.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, are motions in order during the 1 hour in the sense that motions are in order in the Committee of the Whole? Are any motions in order?

THE SPEAKER PRO TEMPORE: The Chair will respond to the gentleman that the House is in the House. This is not the Committee of the Whole House. The House is prepared to take such action as under the rules it might otherwise take.

MR. BAUMAN: If the gentleman does not yield for any motions, however, then they would not be in order?

THE SPEAKER PRO TEMPORE: That is correct.

MR. BAUMAN: Mr. Speaker, I would yield 30 minutes to the gentleman from New York (Mr. Murphy) for the purposes of debate only.

Speaker Judges Whether Proponent Qualifies To Move for Secret Session

§ 85.14 Where the House has resolved itself into secret session pursuant to a motion under Rule XXIX, upon a finding by the Speaker that the Member making the motion has confidential communications to make as required by the rule, it is not in order to make a point of order in the secret session that the material in question must be produced to the Members in advance to determine whether secret or confidential communications are involved.

On June 20, 1979,[10] during proceedings in a secret session in the House, the Speaker ruled that a certain point of order would not be in order:

The secret session of the House met at 12:38 p.m. and was called to order by the Speaker pro tempore (Mr. Wright).

THE SPEAKER PRO TEMPORE:[11] Members will take their seats. . . .

The Chair is going to recognize the gentleman from Maryland (Mr. Bauman) for 1 hour, during which time the gentleman from Maryland (Mr. Bauman) may yield to such others as he deems desirable. . . .

MS. [ELIZABETH] HOLTZMAN [of New York]: Mr. Speaker, I have a point of order.

THE SPEAKER PRO TEMPORE: The gentlewoman will state her point of order.

MS. HOLTZMAN: Mr. Speaker, I understand that the nature of this secret session is to receive material claimed to be secret or confidential. In order for us to determine such for the materials that we receive, it would seem to me to be in order to require the person presenting the material claimed to be se-

10. 125 CONG. REC. 19049, 96th Cong. 1st Sess., July 17, 1979 (transcript of secret session of June 20, 1979).

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

cret or confidential to identify the material claimed to be secret or confidential when it is being presented for purposes ultimately for the House to make a decision as to whether in fact these are confidential or secret materials.

THE SPEAKER PRO TEMPORE: The Chair would respond that the commentary of the gentlewoman from New York (Ms. Holtzman) is not truly in the nature of a point of order and that a point of order will not lie in that regard.

Speaker Determines Which Employees Are Essential

§ 85.15 During a secret session of the House the Chair overruled a point of order that employees of the House who were not elected officers or Members were present, where the Chair had designated essential employees whose presence was essential pursuant to the motion for a secret session, which included the provision that the Chamber be cleared of all persons except Members and those officers and employees specified by the Speaker whose attendance was essential to the functioning of the House, and who had subscribed to the oath of secrecy.

During a secret session of the House on June 20, 1979,[12] the Chair responded to a point of order, as indicated below:

THE SPEAKER PRO TEMPORE:[13] The Chair recognizes the gentleman from Missouri (Mr. Burlison). The gentleman will state the point of order.

MR. [BILL D.] BURLISON [of Missouri]: I will state my point of order that the House is not in compliance with rule XXIX, the secret session section under which we are now convened. That is a very brief section with two sentences, I think. Let me read that and specify my point of order.

> Whenever confidential communications are received from the President of the United States, or whenever the Speaker or any Member shall inform the House that he has communications which he believes ought to be kept secret for the present, the House shall be cleared of all persons except the Members and officers thereof, and so continue during the reading of such communications, the debates and proceedings thereon, unless otherwise ordered by the House.

Mr. Speaker, my point of order is that from my observation there are a number of people on the floor who are not Members or officers of the House.

THE SPEAKER PRO TEMPORE: The Chair will respond to the gentleman's point of order. The motion made by the gentleman from Maryland (Mr. Bauman) and agreed to by a vote of the Members of the House, included the provision that the galleries of the

12. 125 CONG. REC. 19050, 96th Cong. 1st Sess., July 17, 1979 (transcript of June 20, 1979, secret session).

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

House Chamber be cleared of all persons except the Members of the House and those officers and employees specified by the Speaker whose attendance on the floor is essential to the functioning of the House, and who have subscribed to the notarized oath of confidentiality. The Chair has taken steps to assure that this requirement be observed and that that restriction apply.

The Chair believes that any persons so designated by the Chair fulfill the broad and generic description of officers as specified in rule XXIX and as required in the motion.

Making Proceedings Public

§ 85.16 The Member recognized to control one hour of debate during a secret session of the House offered a privileged motion to make public the proceedings of the secret session, which motion was, after separate debate, withdrawn; such motion, as noted by the Speaker, is debatable for one hour, within narrow limits.

During the secret session of the House on June 20, 1979,[14] the following proceedings occurred:

The secret session of the House met at 12:38 p.m. and was called to order by the Speaker pro tempore (Mr. Wright).

THE SPEAKER PRO TEMPORE:[15] Members will take their seats. . . .

The Chair is going to recognize the gentleman from Maryland (Mr. Bauman) for 1 hour, during which time the gentleman from Maryland (Mr. Bauman) may yield to such others as he deems desirable. . . .

After debate, Mr. Bauman made the following motion:

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bauman moves that the proceedings of this Secret Session be made public.

THE SPEAKER: The gentleman from Maryland (Mr. Bauman) is recognized for 1 hour. The motion is debatable within narrow limits. . . .

MR. [THOMAS P.] O'NEILL [Jr., of Massachusetts]: . . . We are in a very, very sensitive position. Most of this conversation today on this debate was extremely interesting. I would not say it was classified. Certainly the gentleman from Texas, Mr. Wright's beautiful speech was not classified. But I do think that we ought to table this matter, send it to the Committee on Intelligence, let them look it over, and let the proper authorities from downtown look over what was classified. . . .

MR. BAUMAN: Mr. Speaker, frankly, I made this motion simply because I understood somebody on the other side was going to make it. I do not feel strongly attached to it. Nothing new was said here but now we are told it must remain secret. Does the gentleman from Maryland require unanimous consent to withdraw the motion?

14. 125 CONG. REC. 19049, 19057, 19058, 96th Cong. 1st Sess., July 17, 1979 (transcript of June 20, 1979, secret session).

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

THE SPEAKER PRO TEMPORE: The gentleman can withdraw the motion.

MR. BAUMAN: The gentleman withdraws the motion.

Hour Rule Applies

§ 85.17 The Speaker took the floor pending a motion, made in a secret session of the House to make public the proceedings of the secret session, to speak in opposition to the motion on the grounds that the transcript should be reviewed by the Select Committee on Intelligence to determine whether the transcript could be made public with appropriate deletions, and that the House could determine to reveal the transcript if necessary in another secret session based on such review and on review by other Members who would have access thereto; the Speaker declared his intention to offer a motion to table the motion at the conclusion of debate thereon.

On June 20, 1979,[16] during a secret session of the House, the following proceedings occurred:

The secret session of the House met at 12:38 p.m. and was called to order by the Speaker pro tempore (Mr. Wright).

THE SPEAKER PRO TEMPORE:[17] Members will take their seats. . . .

The Chair is going to recognize the gentleman from Maryland (Mr. Bauman) for 1 hour, during which time the gentleman from Maryland (Mr. Bauman) may yield to such others as he deems desirable. . . .

After debate, Mr. Bauman made the following motion:

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Bauman moves that the proceedings of this Secret Session be made public.

THE SPEAKER: The gentleman from Maryland (Mr. Bauman) is recognized for 1 hour. The motion is debatable within narrow limits.

MR. [THOMAS P.] O'NEILL [Jr., of Massachusetts]: Mr. Speaker, will the gentleman yield?

MR. BAUMAN: For purposes of debate only, I yield 5 minutes to the Speaker.

MR. O'NEILL: Mr. Speaker, we could very well be setting a precedent here today. When was it—1830—the last time that the House went into a secret session like this? I have seen rules of this House not used for many, many years, and suddenly some bright young luminary discovers one, and it becomes a common practice. I do not say that in criticism. I respect the ability of the gentleman. But it becomes a common practice.

There are those of us who would like to reveal everything that was said or

16. 125 CONG. REC. 19049, 19057, 19058, 96th Cong. 1st Sess., July 17, 1979 (transcript of June 20, 1979, secret session).

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

everything that is known about the Panamanian Government. . . .

We are in a very, very sensitive position. . . . I do think that we ought to table this matter, send it to the Committee on Intelligence, let them look it over, and let the proper authorities from downtown look over what was classified. Let them strike or delete what is classified. Then let us report to this body, and let us again, if necessary in secret session go in and accept it and reveal to the American public that which we know does not hurt the U.S. Government or hurt the individual who may have said it on the floor. I think we are doing something in fairness to our own Government. . . .

MR. [JOHN J.] RHODES [of Arizona]: . . . I agree with the Speaker. . . . It would be my hope that a committee of the House, the Intelligence Committee if the Speaker so says, would look at the transcript and expunge whatever matters might be that sensitive or classified, and then at the appropriate time a motion be made for the remainder of the debate to be published and made public to the American people.

MR. O'NEILL: . . . The document would be ready in print for the Members of the House, for the committee for their evaluation, for the evaluation of the members of the committee. I think we could very well protect everybody. If there are things that have to be deleted, they would be deleted, and then bring it back to the House and, if necessary, have a secret session, or if not necessary, if they want to debate something that was stricken from the record, we could go into secret session. If they do not want to go into secret session at that time, we could release it on the floor of the House. . . .

Mr. Speaker, I hope the Chair will take cognizance of the fact that when the gentleman's time has expired at the end of the hour, or when he yields his time, I would move to table this motion and would hope to be recognized for that motion.

Motion To Dissolve Secret Session

§ 85.18 At the conclusion of debate in a secret session of the House, the Member who had controlled the debate therein offered a motion that the secret session be dissolved, which was agreed to.

On June 20, 1979,[18] a secret session of the House was terminated as indicated below:

The secret session of the House met at 12:38 p.m. and was called to order by the Speaker pro tempore (Mr. Wright).

THE SPEAKER PRO TEMPORE:[19] Members will take their seats. . . .

The Chair is going to recognize the gentleman from Maryland (Mr. Bauman) for 1 hour, during which time the gentleman from Maryland (Mr. Bauman) may yield to such others as he deems desirable. . . .

After debate, Mr. Bauman offered a motion, as follows:

MR. [ROBERT E.] BAUMAN [of Maryland]: . . . Mr. Speaker, I offer a motion.

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18. 125 CONG. REC. 19049, 19059, 96th Cong. 1st Sess., July 17, 1979 (transcript of June 20, 1979, secret session).

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

The Clerk read as follows:

Mr. Bauman moves that the Secret Session be dissolved.

The motion was agreed to.

Where Motion for Secret Session Was Challenged by Point of Order

§ 85.19 A Member who asserts to the Speaker that he is properly in possession of confidential communications which he believes should be shared with the House qualifies to make a privileged motion for a secret session of the House pursuant to Rule XXIX; thus, a point of order against a motion that the House resolve itself into secret session to consider confidential information which four Members had advised the Speaker Pro Tempore they wished to communicate to the House, on the grounds that the material in question was in fact in the possession of the Permanent Select Committee on Intelligence and not in the possession of the Members, was overruled, since the Speaker must rely on the assurance of a Member that he has confidential communications to make to the House, and since the Speaker Pro Tempore was aware that the Permanent Select Committee on Intelligence had authorized the material in question to be used in a secret session of the House if ordered.

On Feb. 25, 1980,[20] during consideration of a motion that the House resolve itself into secret session pursuant to Rule XXIX, Mr. Thomas R. Harkin, of Iowa, raised the point of order that the proponent of the motion had not qualified to offer the motion under the rule, in that he had not shown that he had a secret communication to make to the House, independently of secret information in the possession of the Permanent Select Committee on Intelligence.

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Speaker, I move that, pursuant to rule XXIX, the House resolve itself into secret session. . . .

THE SPEAKER PRO TEMPORE:[1] The Clerk will report the motion.

The Clerk read as follows:

Mr. Derwinski moves that, pursuant to rule XXIX, the House resolve itself into secret session, that the galleries of the House Chambers be cleared of all persons and that the House Chamber be cleared of all persons except the members of the House and those officers and employees specified by the Speaker whose attendance on the floor is essential to the functioning of the House and

20. 126 CONG. REC. 3618–20, 96th Cong. 2d Sess.

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

who subscribe to the notarized oath of confidentiality. . . .

MR. HARKIN: Mr. Speaker, I raise a point of order against the motion by the gentleman from Illinois that the House resolve itself into secret session. I base my point of order on the reading of rule 29 and subsequent interpretations thereof. The rule clearly states that—

> Whenever the Speaker or any Member shall inform the House that he has communications which he believes ought to be kept secret for the present, the House shall be cleared of all persons, except the officers and Members thereof, and so continue during the reading of such communications, the debates and proceedings thereof, unless otherwise ordered by the House.

A correct reading of this rule clearly indicates that the Member making the motion for a secret session must inform the House that "he has communications" and that this means that the Member shall assert that he has certain material which he believes ought to be kept secret.

On June 6, 1978, the Speaker pro tem, in response to a question raised by a Member in the House, declared:

> A Member seeking to offer the motion that the House resolve itself into secret session must qualify, as provided by the rule, by asserting that he himself has a secret communication to make to the House.

Clearly, the gentleman from Illinois making the motion now put to the Chair does not in fact have such communications, but is in fact asserting that such communications are held by a duly authorized committee of the House of Representatives. Last year when a similar motion was made that the House resolve itself into secret session, a point of order would not have lain against the maker of the motion because at that time the maker of the motion asserted that he did in fact have communications in his possession of a secret nature which he decided to communicate to the House. No such assertion is now being made by the gentleman from Illinois who is making the present motion. In this case, the appropriate body to make such a request would be a motion from the Permanent Select Committee on Intelligence of the House of Representatives which does in fact have such communications and not the gentleman from Illinois. . . .

In further support of my point of order, I was pointing out that under this rule, under rule XXIX, which clearly states that the Member must in fact assert that he has those communications, it is clear that the reasons therefor are because the House is not as equipped to deal with these types of secret documents as are the proper intelligence communities of the Government or the duly authorized committees of the House of Representatives.

Secret intelligence must be evaluated by those in the intelligence community, with other factors taken into account, and with the proper analytical tools which they uniquely [possess]. On the other hand, the House is not so equipped. Future debates on foreign aid, on military preparedness, or on a host of other matters could be jeopardized if this motion is carried or deemed worthy of a secret session, so that one factor of intelligence favoring one point of view or another could be brought to the floor. . . .

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

The gentleman from Iowa makes a point of order against the motion on the ground that any Member moving to resolve the House into a secret session must needs qualify as provided by the rule by asserting that he has a secret communication to make to the House.

Now, the Chair is in receipt of a letter signed by the gentleman from Illinois (Mr. Derwinski), and in addition, the gentleman from California (Mr. Lagomarsino); the gentleman from Florida (Mr. Young); and the gentleman from Maryland (Mr. Bauman); all asserting that they have communications to make to the House which they believe ought to be kept secret for the present.

Now, the gentleman therefore qualifies, and particularly with regard to the statement he has just made to the Chair and to the House to make a motion for a secret session under rule XXIX.

The Chair is not in a position to evaluate the accuracy of the information which the gentleman seeks to communicate, but the Chair will rely; and I think this is a central, unwritten but nevertheless cardinally important rule stated from time to time by Speakers, at least beginning with Speaker Rayburn and probably before, on the integrity of any Member and his or her verbal or written assurances.

As the Speaker, Mr. Rayburn, once said on an occasion when a Member's integrity was questioned, the Chair always takes the word of a Member. . . .

MR. HARKIN: . . . Mr. Speaker, would it be appropriate for the Speaker to inquire of the maker whether or not such communications are now held by the person moving that we now resolve into secret session?

THE SPEAKER PRO TEMPORE: The Chair would respond to the gentleman from Iowa that the gentleman from Illinois (Mr. Derwinski) has in writing and just now and very publicly given those assurances to the Speaker.

The Chair does not feel that it is necessary under the rule for the gentleman to carry in his possession at the moment copies of secret documents in order to qualify.

The Chair is also aware in this instance that the Permanent Select Committee on Intelligence has determined that confidential materials within its control may be considered during a secret session, if indeed such a session were to be ordered by the House.

Under all those circumstances, the Chair believes that the gentleman from Illinois qualifies to make the motion which he has made, and overrules the point of order by the gentleman from Iowa.

MR. [THEODORE S.] WEISS [of New York]: Mr. Speaker, a parliamentary inquiry. . . .

Is the Speaker stating that even though the confidential communication is a communication which is in the possession of the Committee on Intelligence of this House that that qualifies as a confidential communication personally held by the Member making the motion?

THE SPEAKER PRO TEMPORE: The Chair will respond that the gentleman from Illinois, along with other Members already has asserted that he possesses knowledge of what is contained in those documents and perhaps addi-

tional knowledge independent of those specific documents which he considers of such a nature that it should be heard in secret by the House.

Now, the House is not legally obliged to adopt the motion offered by the gentleman from Illinois, but the Chair believes under all the precedents that exist, and admittedly they are rare, that the gentleman from Illinois fully qualifies to make the motion that he has made, and the Chair will entertain the motion. . . .

The gentleman from New York has presented a hypothetical instance on which the Chair does not have to rule. . . .

The Chair will respond to the gentleman from New York by saying that if the gentleman from New York were to state to the Chair that he was properly in possession of secret information, which he thought should be shared with the House in a secret session, the Chair would respect the gentleman's integrity and would entertain the motion to resolve into a secret session if made by the gentleman from New York under those circumstances.

MR. WEISS: Mr. Speaker, I have a further parliamentary inquiry.

If it then turned out, upon further presentation, that the only document or information that I had was nothing independently gained or transmitted, but simply the document which I had received from the Committee on Intelligence, would I have violated the requirements of rule XXIX?

THE SPEAKER PRO TEMPORE: The Chair is not going to rule on that hypothetical question at this time.

The Chair would simply observe that under the rules any Member of the House who asserts that he is properly in possession of such information and desires to share it with the House in a secret session, believing that it may have a direct bearing upon legislation pending in the House, would have the right to offer that motion.

Committee Authorization for Member To Move for Secret Session

§ 85.20 The House adopted a privileged motion, pursuant to Rule XXIX, that the House resolve itself into secret session to receive confidential communications (consisting of classified information in the possession of the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence, which those committees had authorized to be used in a secret session of the House if ordered).

On Feb. 25, 1980,[2] the following proceedings occurred in the House:

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Speaker, I move that, pursuant to rule XXIX, the House resolve itself into secret session. . . .

THE SPEAKER PRO TEMPORE:[3] The Clerk will report the motion.

The Clerk read as follows:

2. 126 CONG. REC. 3618–22, 96th Cong. 2d Sess.

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

Mr. Derwinski moves that, pursuant to rule XXIX, the House resolve itself into secret session, that the galleries of the House Chambers be cleared of all persons and that the House Chamber be cleared of all persons except the members of the House and those officers and employees specified by the Speaker whose attendance on the floor is essential to the functioning of the House and who subscribe to the notarized oath of confidentiality. . . .

MR. DERWINSKI: . . . I would point out to the Speaker that the information contained that would be presented to the House in the appropriate documents . . . [has] been cleared, it is my understanding, by the appropriate committee.

I myself sat through a session of the House Committee on Foreign Affairs, which the same basic information was provided to that committee.

I have subsequently studied the secret documents to verify my recollection of the practicality of that information and the need for further secrecy.

Therefore, it is from that practical point of view in spirit that I made the motion. . . .

THE SPEAKER PRO TEMPORE: The question is on the motion that the House resolve itself into secret session offered by the gentleman from Illinois (Mr. Derwinski).

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

MR. [BILL D.] BURLISON [of Missouri]: 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 290, nays 74, not voting 69, as follows: . . .

So the motion was agreed to.

Special Circumstances Surrounding Disclosure of Intelligence-related Materials

§ 85.21 The Speaker Pro Tempore stated in response to a parliamentary inquiry, pending a motion that the House resolve itself into secret session to consider confidential material within the possession of the Permanent Select Committee on Intelligence (which that committee had authorized to be used in such secret session), that clause 7(b) of Rule XLVIII, requiring special procedures to be followed by that committee with regard to the public disclosure of materials within the committee's possession which the executive branch desires be kept secret, did not prohibit the House from determining in secret session that the material in question should be released; the Speaker Pro Tempore suggested, however, that it would be inappropriate for the House to remove the injunction of secrecy before the Permanent Select Committee and the Committee on Foreign Affairs, with concurrent jurisdiction over some

of the materials, had the opportunity to review the transcript of the secret session and to make appropriate recommendations to the House.

On Feb. 25, 1980,[4] proceedings in the House relative to a motion that the House resolve itself into secret session were as follows:

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Speaker, I move that, pursuant to rule XXIX, the House resolve itself into secret session. . . .

THE SPEAKER PRO TEMPORE:[5] The Clerk will report the motion.

The Clerk read as follows:

Mr. Derwinski moves that, pursuant to rule XXIX, the House resolve itself into secret session, that the galleries of the House Chambers be cleared of all persons and that the House Chamber be cleared of all persons except the members of the House and those officers and employees specified by the Speaker whose attendance on the floor is essential to the functioning of the House and who subscribe to the notarized oath of confidentiality. . . .

MR. [BILL D.] BURLISON [of Missouri]: Mr. Speaker, I have a parliamentary inquiry. . . .

Mr. Speaker, with respect to the secret session motion, at the time of the secret session of the House on June 20 of last year, a Member inquired of the Chair the manner in which confidential material heard in secret session under the provisions of rule XXIX might be released publicly.

The Chair responded, and I quote:

Following the presentation of that material considered secret or confidential or of such nature that it ought to be heard in secret session, the House may at that time on its own motion in secret session decide that there is no reason to observe further secrecy with respect to the material involved.

Mr. Speaker, would not such procedure if employed here be in violation of clause 7(b) of rule XLVIII of the House, which provides for disclosure of intelligence information in the possession of the Select Committee on Intelligence under very specific procedures, including recommendations by the committee, notification of the President and procedures for further action by the House?

And I might add, Mr. Speaker, that the information that we are considering did get here pursuant to rule XLVIII of the House Permanent Select Committee on Intelligence.

THE SPEAKER PRO TEMPORE: The gentleman from Missouri (Mr. Burlison) has inquired whether any action of the House to release publicly the transcript of the secret session would violate clause 7(b) of rule XLVIII, since classified materials within the possession of the Select Committee on Intelligence may have been discussed, and since that rule requires certain procedures to be followed by the Permanent Select Committee on Intelligence relative to the public disclosure of such materials. Rule XLVIII places restrictions on the Select Committee on Intelligence and only with respect to the public disclosure of classified information in the possession of that committee, and it does not prevent the

4. 126 CONG. REC. 3618–22, 96th Cong. 2d Sess.

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

House from determining to release any matter properly presented to it in secret session pursuant to rule XXIX.

Clause 7(c)(2) acknowledges the existence of other House procedures for release of information, since prohibiting any Member gaining access to classified materials within the Select Committee's control from disclosing such information, except in a secret session of the House. The Chair would further point out that the Select Committee on Intelligence, by a proper vote, with a quorum present, determined to allow executive session materials of the committee to be used in the secret session.

The Chair does not feel, however, that if the motion is agreed to it would be appropriate for the House at this time to remove the injunction of secrecy from these proceedings until the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs has had the opportunity to review the transcript and make appropriate recommendations as to which, if any, of the materials presented should be released. It would be within the spirit of rule XLVIII for prior consultation with the executive branch to take place before any House decision on public release.

Recent Example of Procedures Used in Conducting Secret Session

§ 85.22 The House having adopted a motion to resolve into secret session, the Speaker Pro Tempore announced (1) that the galleries would be cleared of all persons and the Chamber would be cleared of all persons except Members and those employees and officers specified by the Speaker whose attendance was essential to the functioning of the House; (2) that those employees and officers would be required to sign an oath of secrecy; (3) that all proceedings in the secret session would be kept secret until otherwise ordered by the House; and (4) that the Speaker would declare a recess, of approximately 15 minutes duration (without the ringing of bells to indicate the termination of the recess) in order to carry out the Chair's order.

Prior to holding a secret session of the House on Feb. 25, 1980, the Speaker Pro Tempore made a statement regarding the procedures to be followed for conducting such a session:[6]

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Speaker, I move that, pursuant to rule XXIX, the House resolve itself into secret session. . . .

THE SPEAKER PRO TEMPORE:[7] The Clerk will report the motion.

The Clerk read as follows:

6. 126 CONG. REC. 3618–22, 96th Cong. 2d Sess.

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

> Mr. Derwinski moves that, pursuant to rule XXIX, the House resolve itself into secret session, that the galleries of the House Chambers be cleared of all persons and that the House Chamber be cleared of all persons except the members of the House and those officers and employees specified by the Speaker whose attendance on the floor is essential to the functioning of the House and who subscribe to the notarized oath of confidentiality. . . .

THE SPEAKER PRO TEMPORE: The question is on the motion that the House resolve itself into secret session offered by the gentleman from Illinois (Mr. Derwinski). . . .

The vote was taken by electronic device, and there were—yeas 290, nays 74, not voting 69, as follows: . . .

So the motion was agreed to. . . .

THE SPEAKER PRO TEMPORE: The Chair desires to make a statement.

The Chair desires to read to the Members the contents of rule XXIX of the Rules of the House of Representatives. Rule XXIX reads as follows:

> Whenever confidential communications are received from the President of the United States, or whenever the Speaker or any Member shall inform the House that he has communications which he believes ought to be kept secret for the present, the House shall be cleared of all persons except the Members and officers thereof, and so continue during the reading of such communications, the debates, and proceedings thereon, unless otherwise ordered by the House.

According to the rule of the House, the Chair is going to order that the galleries and the House Chamber shall be cleared of all persons except the Members of the House and those officers and employees specified by the Speaker whose attendance on the floor is essential to the functioning of the secret session of the House.

Every employee and officer present in the Chamber during the secret session, pursuant to the Speaker's order, will sign an oath of secrecy which is at the page's desk to the Chair's right.

All proceedings in the House during such consideration shall be kept secret until otherwise ordered by the House.

Very presently the Chair is going to declare a recess long enough for this order to be carried out. The Chair will observe at this time that on the last occasion when this procedure was followed the recess consumed approximately 15 minutes. Bells will ring declaring the recess. No bells will ring in announcing the resumption, and the Chair would advise the Members that it probably will be approximately 15 minutes after the recess.

§ 85.23 The House having adopted a motion to resolve into secret session, the Speaker Pro Tempore stated in response to parliamentary inquiries that: (1) the television cameras would be turned off during the secret session; (2) that any Member releasing any contents of the secret session if the House had not removed the injunction of secrecy would be subject to the discipline of the House; and (3) that the House would have to determine whether disciplinary

action should be taken against Members releasing information in the secret session which had theretofore been made public; following the secret session, the Speaker Pro Tempore reminded Members that the House had not yet voted to remove the injunction of secrecy from proceedings in the secret session and that Members were bound not to release or make public any of the transcript thereof until further order of the House, which had referred the transcript to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence for their expeditious report, such report to remain executive session material for examination by the Members and ultimate disposition by the House.

On Feb. 25, 1980,[8] the following proceedings occurred in the House:

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Speaker, I move that, pursuant to rule XXIX, the House resolve itself into secret session. . . .

THE SPEAKER PRO TEMPORE:[9] The Clerk will report the motion.

The Clerk read as follows:

Mr. Derwinski moves that, pursuant to rule XXIX, the House resolve itself into secret session, that the galleries of the House Chambers be cleared of all persons and that the House Chamber be cleared of all persons except the members of the House and those officers and employees specified by the Speaker whose attendance on the floor is essential to the functioning of the House and who subscribe to the notarized oath of confidentiality. . . .

THE SPEAKER PRO TEMPORE: The question is on the motion that the House resolve itself into secret session offered by the gentleman from Illinois (Mr. Derwinski). . . .

So the motion was agreed to. . . .

THE SPEAKER PRO TEMPORE: . . . According to the rule of the House, the Chair is going to order that the galleries and the House Chamber shall be cleared of all persons except the Members of the House and those officers and employees specified by the Speaker whose attendance on the floor is essential to the functioning of the secret session of the House. . . .

All proceedings in the House during such consideration shall be kept secret until otherwise ordered by the House. . . .

MR. [RICHARD H.] ICHORD [of Missouri]: Mr. Speaker, I have a parliamentary inquiry.

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

MR. ICHORD: Would the Chair advise the membership as to how his ruling will affect the television cameras? Will the television cameras remain on in secret session or not?

8. 126 CONG. REC. 3618–22, 96th Cong. 2d Sess.

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

THE SPEAKER PRO TEMPORE: As was the case on the last occasion when this procedure was followed, the television cameras will be turned off.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I have a parliamentary inquiry.

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

MR. BAUMAN: Mr. Speaker, at the last occasion when a secret session was voted by the House, the chair issued a similar admonition to the Members regarding the secrecy of the proceedings. In this case, there are very specific documents to be read, names mentioned in those documents.

The gentleman from Maryland recalls that certain Members of the House went outside of the last secret session and very specifically referred to information that was covered in the session and characterized that information in a number of different ways.

Mr. Speaker, what censure or other action would be available against a Member who revealed the contents of the session without permission of the House?

THE SPEAKER PRO TEMPORE: The Chair would just have to respond that any Member violating the rule would be subject to the discipline of the House. The Chair cannot anticipate what might occur. . . .

MR. [DANTE B.] FASCELL [of Florida]: Mr. Speaker, would it be correct to say that if the information which is published or made available in the secret session has heretofore been made public and is in the public domain, that that would have some bearing on what the restrictions of the House might be against the Member who speaks on that information?

THE SPEAKER PRO TEMPORE: The Chair would just have to respond that that question would be up to the House to determine at the appropriate time. . . .

The Chair will declare a recess.

Accordingly (at 2 o'clock and 10 minutes p.m.) the House stood in recess subject to the call of the Chair.

The secret session began at 2 o'clock and 36 minutes p.m.

The secret session was dissolved at 4 o'clock and 12 minutes p.m.

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. Brademas) at 4 o'clock and 12 minutes p.m.

THE SPEAKER PRO TEMPORE:[10] The Chair will make the following statement:

The Chair would remind the Members that the House has not at this point voted to remove the injunction of secrecy and that Members are bound not to release or to make public any of the transcript of the closed session until further order of the House.

To enable the House to evaluate the transcript of the secret session, the House has referred the transcript to the Permanent Select Committee on Intelligence and to the Committee on Foreign Affairs for their report thereon as soon as possible. The committees' report will remain executive session record of those committees for examination by the Members and ultimate disposition by the House.

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10. John Brademas (Ind.).

Members' Responsibility for Maintaining Injunction of Secrecy

§ 85.24 The Speaker Pro Tempore stated in response to a parliamentary inquiry, following a secret session of the House, that the question whether the characterization of the type of testimony and information presented in the secret session, as opposed to the substance of such material, could be divulged or released without violating the injunction of secrecy, was a judgment which each Member of the House, and not the Chair, must make.

The proceedings of Feb. 25, 1980,[11] relating to the adoption by the House of a motion to receive confidential communications in secret session, are discussed in detail in §§ 85.19–85.23, supra. After the secret session, a parliamentary inquiry was raised concerning the application of the injunction of secrecy:

> The secret session began at 2 o'clock and 36 minutes p.m.
>
> The secret session was dissolved at 4 o'clock and 12 minutes p.m. . . .
>
> THE SPEAKER PRO TEMPORE:[12] The Chair will make the following statement:
>
> The Chair would remind the Members that the House has not at this point voted to remove the injunction of secrecy and that Members are bound not to release or to make public any of the transcript of the closed session until further order of the House. . . .
>
> MR. [THEODORE S.] WEISS [of New York]: Mr. Speaker, I have a parliamentary inquiry.
>
> THE SPEAKER PRO TEMPORE: The gentleman will state it.
>
> MR. WEISS: Earlier today there was some indication or an objection to a characterization of the kind of testimony and presentation that was made today. Does the injunction apply to characterizations as distinguished from a report of what the substance was of the matter presented here today?
>
> THE SPEAKER PRO TEMPORE: The Chair will advise the gentleman from New York (Mr. Weiss) that the question as put to the Chair is a judgment which each Member of the House must make.

Miscellaneous

§ 85.25 A Member who had previously announced to the House his intention to offer a motion for a secret session of the House pursuant to Rule XXIX in order to discuss confidential information concerning an amendment to be offered to the Defense authorization bill (relating to binary nerve gas weapons), subsequently stated in debate on the bill that he could

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11. 126 CONG. REC. 3621, 3622, 96th Cong. 2d Sess.

12. John Brademas (Ind.).

adequately discuss information available to him in debate on the bill without moving for a secret session.

The following proceedings occurred in the Committee of the Whole during consideration of H.R. 2969 (Department of Defense authorization for fiscal year 1984) on June 15, 1983:[13]

MR. [ED] BETHUNE [of Arkansas]: Mr. Speaker, soon this House will begin the debate on the Armed Services bill and an amendment which will be offered by myself and the gentleman from Wisconsin (Mr. Zablocki) concerning the question of whether this country should commence the production of a new age of chemical weapons, known as the binary nerve gas weapon.

In spite of the fact that there is more evidence this year that this House was right when it voted overwhelmingly to stop the production of these weapons last year, the Department of Defense is pushing to commence production of the nerve gas weapons. They are pushing and they are telling Members that it is essential that we begin, because we do not have the artillery shells and they are telling Members that the Big Eye bomb is working.

Mr. Speaker, I say first of all, the artillery shells that we have are adequate. They are efficient and we have a sufficient quantity of those shells.

Second, the Big Eye bomb is not working. The Big Eye bomb is blowing up on us, not them.

Members cannot intelligently resolve this important issue based on the kinds of information that could be discussed in public. Therefore, at the appropriate time today or tomorrow, whenever this issue is before the House, I will move the House, pursuant to rule XXIX, to go into secret session, at which time I intend to bring out the kind of factual information which Members must have in order to make an intelligent judgment toward the resolution of this issue. . . .

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: . . . The gentleman from New York (Mr. Stratton), has stated that the classified information could not be shared on the floor. The gentleman from Mississippi (Mr. Montgomery) has apparently said otherwise.

Now, what will be the policy of the Committee on Armed Services? Will it share its classified information and its confidential information with other Members? . . .

MR. [MELVIN] PRICE [of Illinois]: Mr. Chairman, the policy of the Committee on Armed Services is that any information that our committee has is available to any Member of Congress. All Members have to do is to come to the committee and ask for the information, and it will be shown to them.

MR. ZABLOCKI: But do I understand that it cannot be discussed?

MR. PRICE: It cannot be discussed. Otherwise it would not be considered classified.

MR. BETHUNE: Mr. Chairman, I think the numbers are important. That was not the main point that I wanted to develop in the closed session. The main point I wanted to develop in the closed session that I think is critical to

13. 129 CONG. REC. 15781, 15802, 15803, 98th Cong. 1st Sess.

the debate here is the details concerning the Big Eye bomb—what happened to it, why it is not working, and what the ideas are for getting it to the point where we can be satisfied that it might work someday.

I am satisfied, based on the colloquy that we have had here, that I am not going to be locked up by the FBI or somebody else if I now engage in a full discourse here on the floor about what I know about the Big Eye bomb, and that is exactly what I intend to do because I think it is relevant.

With respect to the numbers, it would seem to me that it would help Members who are going to be wandering in and out if there were readily available a set of numbers on the stockpile, because that will be mentioned, too, and we could place one at the desk.

If the Committee on Armed Services is so intractably disposed to make it difficult for Members that they have to send staff over to the committee room or wherever else to get these numbers, then I will just announce to the Members that I have the numbers. They are right here, and I will share them with the Members. . . . I am now satisfied, based on the letter from the Secretary dated today in response to my announcement that I intended to call a secret session, that I can discuss the details concerning the Big Eye bomb. I intend to do that whether the gentleman wishes to have me do that or not.

Senate Use of Closed Session in Impeachment

§ 85.26 A closed session of the Senate was ordered to deliberate as a court of impeachment in the trial of Judge Walter L. Nixon, Jr.

On Nov. 2, 1989,[14] President Pro Tempore Robert C. Byrd, of West Virginia, made the following statement:

THE PRESIDENT PRO TEMPORE: Under the order, the Senate will now go into closed session, and the Chair, pursuant to rule XXI, now directs the Sergeant at Arms to clear all galleries, close all doors to the Senate Chamber, and exclude from the Chamber and its immediate corridors all employees and officials of the Senate who, under the rule, are not eligible to attend a closed session and who are not sworn to secrecy.

(At 2:03 p.m., the doors of the Chamber were closed. The proceedings of the Senate were held in closed session until 8 p.m., at which time, the following occurred.)

MR. [GEORGE J.] MITCHELL [of Maine]: Mr. President, I ask unanimous consent that the Senate return to open session.

THE PRESIDENT PRO TEMPORE: Without objection, it is so ordered.

14. 135 CONG. REC. 26989, 101st Cong. 1st Sess.