

Whereas any interference with the freedom of religion and the freedom of religious thought and expression or with the autonomy of any of our churches, synagogues, or other religious institutions would not only constitute a violation of one of the fundamental precepts of the Constitution of the United States, but would threaten to destroy the time honored guaranties of religious freedom which attracted our forebears to America's shores; and

Whereas the charges and statements heretofore referred to were made without prior consultation with or the approval of any of the other members of the Committee on Un-American Activities; and

Whereas the other members of the Committee on Un-American Activities, regardless of political affiliation, have found it necessary publicly to repudiate the unauthorized and reckless statements and charges of the chairman of the said committee: Therefore be it

Resolved, That Representative Harold H. Velde be, and hereby is, removed from the position of chairman of the Committee on Un-American Activities.

The resolution was referred to the Committee on Rules, but never reported.

§ 18. Members' Access to Committee Records and Files

Generally; Bringing Files to Well of House

§ 18.1 A House Member may examine committee records

and files under the rules, but the Speaker declined to entertain a unanimous-consent request that a committee clerk bring them into the well of the House where the committee had not authorized such action.

On June 3, 1960,⁽¹⁹⁾ shortly after the House met, Speaker Sam Rayburn, of Texas, recognized Mr. John J. Flynt, Jr., of Georgia, who initiated the following exchange:⁽²⁰⁾

Mr. Speaker, I ask unanimous consent that the Chair direct the clerk of the Committee on House Administration to bring to the well of the House, following the legislative business of the day, that portion of the records and documents in the custody of that committee, which refer to and contain the entries on the records of the Royal Hawaiian Hotel in Honolulu, Hawaii, for the purpose of permitting me to refer specifically to any such items contained therein which are at complete variance with published reports in the Wednesday issue of the Washington Post and Times Herald, and in the issue of Life magazine dated June 6, 1960, which is next Monday, but which appeared on the newsstands in the city of Washington and other parts of the country on Wednesday, June 1.

THE SPEAKER: The Chair will say to the gentleman that it has never been the policy of the House to order any

19. 106 CONG. REC. 11820. 86th Cong. 2d Sess.

20. *Id.* at pp. 11820, 11821.

documents in the custody of a committee of the House to be brought into the House, unless the committee by its action has approved such a request. The gentleman certainly may examine those items between now and the time he makes his remarks on that subject. But the Chair has never known of a case where a clerk of any committee has been ordered to bring documents to the floor of the House without the prior approval of the committee in whose hands they are at that time.

Following some additional discussion pertaining to the nature of the materials and his motive in seeking them, Mr. Flynt withdrew his request for the production of the records.

Parliamentarian's Note: The rules⁽¹⁾ provide that "All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access to such records."

Testimony and Evidence Taken in Executive Sessions

§ 18.2 While all Members of the House have access to com-

1. See Rule XT clause 27(c), *House Rules and Manual* § 735(c) (1973). This provision is contained in Rule XI clause 2(e)(2) § 706(c) in the 1979 *House Rules and Manual*.

mittee records under the rules, testimony or evidence taken in executive sessions of a committee are under the control of the committee and the rules provide that such testimony cannot be released without the consent of the committee.

On June 26, 1961,⁽²⁾ Mr. Bruce R. Alger, of Texas, inserted certain documentation in the Record regarding the deferral of necessary authorization by the Committee on Public Works with respect to the construction of a federal office building in Dallas.

Immediately thereafter, he proceeded to initiate the following exchange:

Another exhibit I have is a transcript of the record of the Public Works Committee. I have been forewarned this is not to be used, that it would be violating the House rules, but I can paraphrase it. When the gentleman who was chairing that committee was asked about having some additional studies and subcommittee reports, he said—

MR. [EDMOND] EDMONDSON [of Oklahoma]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE:⁽³⁾ The gentleman will state it.

MR. EDMONSON: Mr. Speaker, I make the point of order against the

2. 107 CONG. REC. 11233, 87th Cong. 1st Sess.
3. Wilbur D. Mills (Ark.).

paraphrasing of a transcript of an executive session of a committee of the House unless it has been released by the committee. I was informed last week on a similar question it was out of order to make any reference to what takes place in executive sessions of the committee without the consent of the committee.

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

The gentleman from Texas will proceed in order and not refer to proceedings in executive session of a committee.

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

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. ALGER: Mr. Speaker, is it appropriate to announce to the Members they may see that transcript if they go to the Committee on Public Works?

THE SPEAKER PRO TEMPORE: That is within control of the committee.⁽⁴⁾

MR. ALGER: I am thinking of a certain section of House rules, although I cannot recall the section at this time, that committee executive meetings transcripts are available to any Member of the Congress who wants to see it.⁽⁵⁾

4. The Speaker pro tempore was referring here to the stipulation of Rule XI clause 26(o) [H. Jour. 1197, 87th Cong. 1st Sess. (1961)] which stated: "No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee."
5. Mr. Alger was referring to the provisions of Rule XI clause 26(c) [H. Jour. 1197, 87th Cong. 1st Sess. (1961)] which stated:

THE SPEAKER PRO TEMPORE: That is correct, but it is still within the control of the committee.

Classified Information in Files of the Committee on Armed Services

§ 18.3 Any Member of the House desiring to read all or any portion of the classified information in the files of the Committee on Armed Services may do so in accordance with the procedure set out by that committee.

On Apr. 26, 1972,⁽⁶⁾ the House entertained consideration of a privileged resolution (H. Res. 918), directing the President and the Secretary of Defense within 10 days after its adoption, to furnish the House of Representatives with "full and complete information" concerning the specifics of various

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6. 118 CONG. REC. 14348-434, 92d Cong. 2d Sess.

military operations in Southeast Asia.

In the course of that consideration, Mr. Charles S. Gubser, of California, a member of the Committee on Armed Services (to which the resolution had been referred), stated that the House already possessed the information requested⁽⁷⁾ by House Resolution 918. The information, he intimated, was available within the files of the Committee on Armed Services. He noted, moreover, that:

On June 28, 1971, the Committee on Armed Services by unanimous consent authorized its Chairman to prepare a set of rules applicable to all Members of the House who are desirous of reading all or any portions of any classified information in the committee files. These rules were subsequently drafted by the chairman and sent to every single Member of the House.

Having obtained leave to revise and extend his remarks, Mr. Gubser inserted the full text of the aforementioned rules, as follows:

TEXT OF RULES

Rules of the House Armed Services Committee to be followed by Members of Congress who wish to read all or

7. *Id.* at p. 14431.

any portion of certain classified information in the Committee files:

1. Such classified information will be kept in secure safes in the Committee rooms. Members will be admitted to the room in which the information is kept after inquiring in Room 2120.

2. Only Members of Congress may have access to such information.

3. Such information may not be removed from the room and a member of the Committee staff will be in the room at all times.

4. The staff member will keep a record of all Members who see such classified information or any portion thereof.

5. The staff member will maintain an access list showing the time of arrival and departure of all persons entering or leaving the reading room.

6. The reading room will be open from 8:30 a.m. until 5:30 p.m. each working day and from 9:00 a.m. until 12:00 noon on Saturday.

7. The staff member will make a complete document inventory at the close of each business day.

8. No notes, reproduction or recordings may be made of any portion of such classified information.

9. The contents of such classified information will not be divulged to any unauthorized person in any way, form, shape or manner.

10. Members of Congress before reading such classified information will be required to identify the document or information they desire to read, identify themselves to the staff member, sign the log and sign the Top Secret information sheet if such is attached to such document.

Photocopying Documents

§ 18.4 The refusal of a subcommittee chairman to per-

mit a committee member to make photostatic copies of documents in possession of the subcommittee was upheld by the Speaker.

On Aug. 14, 1957,⁽⁸⁾ Mr. Clare E. Hoffman, of Michigan, was recognized by Speaker Sam Rayburn, of Texas, to state a question involving, to his belief, both personal privilege and the privilege of the House. He commenced his remarks, by noting:

Mr. Speaker, on the 3d day of January 1957, by House Resolution No. 5—Congressional Record, page 47—the House adopted, as the rules of the House of Representatives for the 85th Congress, the rules of the 84th Congress, together with all applicable provisions of the Legislative Reorganization Act of 1946, as amended.

Subsection 25(a) of rule XI⁽⁹⁾ of the rules of the House expressly provides:

The rules of the House are the rules of its committees so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committees. Committees may adopt additional rules not inconsistent therewith.

Subsection 25(c) of the same rule, XI,⁽¹⁰⁾ provides:

8. 103 CONG. REC. 14737, 14738, 85th Cong. 1st Sess.
9. By 1973, the language of this provision was slightly modified and contained within another clause; see Rule XI clause 27(a), *House Rules and Manual* § 735(a) (1973).
10. In 1973, the same language was contained within another clause; see

All committee hearings, records, data, charts, and files shall be kept separate and distinct from the Congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access to such records. Each committee is authorized to have printed and bound testimony and other data presented at hearings held by the committee.

Mr. Hoffman proceeded to explain that he was a member of the Committee on Government Operations as well as an ex-officio member of its Subcommittee on Public Works and Resources. Staff members of the full committee assigned to him, as ranking minority member, had been permitted to look at the files. However, he elaborated,

. . . [W]hen they attempted to make copies through the use of a Thermo-Fax copying machine, of pertinent parts of those files, they were by the subcommittee staff denied the right and privilege of so doing.

Mr. Hoffman's statement proceeded at length, after which the following⁽¹¹⁾ exchange and resultant ruling took place:

Rule XI clause 27(c), *House Rules and Manual* § 735(c) (1973).

11. 103 CONG. REC. 14739, 85th Cong. 1st Sess.

Access to or use of particular information or documents is in some instances governed in strict detail under the rules. Rule XLVIII, adopt-

THE SPEAKER: . . . The matter the gentleman read from states that all committee hearings, records, data, charts, and files shall be kept separate and distinct from the Congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access to such records.

I think that is what the gentleman was talking about.

MR. HOFFMAN: That is just what I was talking about, and I want access. When access is given, with it goes the power to use it to not only look but make notes, take copies, understand what is at hand, what is to be determined. . . .

THE SPEAKER: The question of copying and the question of photostating is another matter. That is not provided in this section of the rule.

MR. HOFFMAN: So "access" means I can go and take a look but I cannot use modern means of copying. How do you like that?

How do you like that? Is that orderly, fair procedure?

THE SPEAKER: If a question like that came up in the House the Chair would certainly rule that the gentleman could not bring a machine in here and copy things around the desk.

The Chair does not believe the gentleman has stated a question that violates the rules of the House.

ed July 14, 1977 (H. Res. 658, 95th Cong. 1st Sess.), established the permanent Select Committee on Intelligence and carefully delineated the conditions governing access to information and documents within its purview.

§ 19. Disposition of Committee Documents, Evidence, and Files

After Adjournment

§ 19.1 All documents referred to a committee, together with evidence taken by the committee, must under House rules be delivered to the Clerk of the House within three days after the final adjournment of Congress.

Shortly before the adjournment of the 78th Congress on Dec. 16, 1944,⁽¹²⁾ Mr. Joseph W. Martin, Jr., of Massachusetts, expressed concern over the disposition of the information accumulated by the so-called Dies committee; this committee, barring congressional action, was due to expire on Jan. 3, 1945. Formally known as the Special Committee on Un-American Activities, it had been created in the previous decade to investigate subversive activities and was continued annually by House resolution.

MR. MARTIN of Massachusetts: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:⁽¹³⁾ The gentleman will state it.

MR. MARTIN of Massachusetts: Mr. Speaker, on January 3, unless the

12. 90 CONG. REC. 9621, 78th Cong. 2d Sess.

13. Sam Rayburn (Tex.).