

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.

§914. Secret session of the House.

This rule, in a somewhat different form, was adopted in 1792, although secret sessions had been held by the House before that date. They continued to be held at times with considerable frequency until 1830. In 1880, at the time of the general revision of the rules, the House concluded to retain the rule, although it had been long in disuse (V, 7247; VI, 434).

The two Houses have legislated in secret session, transmitting their messages also in secrecy (V, 7250); but the House has declined to be bound to secrecy by act of the Senate (V, 7249). Motions to remove the injunction of secrecy should be made with closed doors (V, 7254). In 1843 a confidential message from the President was referred without reading; but no motion was made for a secret session (V, 7255).

The House and not the Committee of the Whole determines whether the Committee may sit in executive session, and an inquiry relative to whether the Committee of the Whole should sit in secret session is properly addressed to the Speaker and not to the Chairman of the Committee of the Whole (May 9, 1950, p. 6746; June 6, 1978, p. 16376; June 20, 1979, pp. 15710–11). 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 the Member has a secret communication to make to the House (June 6, 1978, p. 16376).

On June 20, 1979, the House adopted by voice vote a motion that the House resolve itself into secret session pursuant to this rule (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 the rule (Speaker pro tempore Wright, pp. 15711–13). The Speaker pro tempore announced on that occasion before the commencement

of the secret session 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 was essential to the functioning of the secret session, who would be required to sign an oath of secrecy, and that all proceedings in the secret session must be kept secret until otherwise ordered by the House (June 20, 1979, pp. 15711–13). Where the House has concluded a secret session and has not voted to release the transcripts of that session, the injunction of secrecy remains and the Speaker may informally refer the transcripts to appropriate committees for their evaluation and report to the House as to ultimate disposition to be made (June 20, 1979, pp. 15711–13).

The following procedures apply during a secret session. The motion for a secret session is not debatable. The Member who offers the motion may be recognized for one hour of debate after the House resolves into secret session, and the normal rules of debate, including the principle that no motions would be in order unless he yields for that purpose, apply. The Speaker having found that a Member has qualified to make the motion for a secret session, having confidential communications to make, no point of order lies that the material in question must be submitted to the Members to make that determination (the motion for a secret session having been adopted by the House). No point of order lies in secret session that employees designated by the Speaker as essential to the proceedings, who have signed an oath of secrecy, may not be present. A motion in secret session to make public the proceedings therein is debatable for one hour, within narrow limits of relevancy. At the conclusion of debate in secret session, a Member may be recognized to offer a motion that the session be dissolved (July 17, 1979, pp. 19057–59).

The House conducted another secret session in the 96th Congress 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 that occasion the Speaker overruled a point of order against the motion for a secret session 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 was aware that the committee with possession of the materials had authorized those materials to be used in a secret session (Feb. 25, 1980, pp. 3618–19). Another secret session was held in the 98th Congress pending consideration of a bill amending the Intelligence Authorization Act to prohibit U.S. support for military or paramilitary operations in Nicaragua (July 19, 1983, p. 19776).

The House may subsequently by unanimous consent order printed in the Congressional Record proceedings in secret session, with appropriate deletions and revisions agreeable to the Committees to which the secret transcript has been referred for review (July 17, 1979, p. 19049).