

THE WHITE HOUSE, *December 30, 1995.*

By unanimous consent, the message, together with the accompanying papers, was referred to the Committee on International Relations.

¶1.11 PRIVILEGES OF THE HOUSE

Mr. GEPHARDT, pursuant to clause 2(a)(1) of rule IX, called up the following resolution (H. Res. 328) as a question of the privileges of the House:

Whereas clause 1 of rule IX of the Rules of the House of Representatives states that "Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings";

Whereas over 280,000 Federal employees have been barred from performing the jobs for which they will eventually be paid;

Whereas more than 480,000 Federal employees are required to report for work without being paid their full salaries at regular intervals;

Whereas the public is not receiving the benefits of their tax dollars; and

Whereas the inability of the House of Representatives to act on legislation keeping the Government in operation impairs the dignity and the integrity of the House and the esteem the public holds for the House; Now, therefore, be it

Resolved, that upon the adoption of this resolution the House shall be considered to have taken from the Speaker's table the bill H.R. 1643, with a Senate amendment thereto, and concurred in the Senate amendment, and that a motion to reconsider that action shall be considered as laid on the table.

Mr. ARMEY was recognized and said:

"Mr. Speaker, I would like to speak on the question of privilege.

"Mr. Speaker, I do not believe this is a question of privilege, and I take umbrage at the minority leader's use of the time allotted to him to speak on the question of privilege of the House to give what can only be characterized as a political speech.

"Mr. Speaker, it includes the kind of accuracy that one encounters in political speeches, and I feel compelled to make the point. We do have a partial shutdown of the Federal Government."

The SPEAKER pro tempore, Mr. WALKER, during the gentleman's remarks, said:

"The gentleman from Texas will confine his remarks to the question before the House, which is whether or not the resolution constitutes a question of privilege."

Mr. ARMEY, further addressed the question of privilege, and said:

"Mr. Speaker, in my opinion, the gentleman from Missouri does not have a resolution that constitutes a question of privilege of the House, and I urge the Chair to so rule.

"Let me just say in so doing that I share the consternation of the gentleman from Missouri over the President shutting down the Government."

Mr. OBEY was recognized and said:

"Mr. Speaker, let me simply say, it is my understanding that rule IX of the House allows for privileged resolutions to be considered by the House when actions have been taken which affect the rights of the House collectively, its

safety, its dignity, and its integrity. It seems to me that that is certainly the situation at this moment, because we have a fundamental misuse of taxpayers' money appropriated by this House.

"It seems to me, Mr. Speaker, that it is a fundamental misuse of taxpayers' dollars, which are appropriated by this House, when we have a situation in which workers are being paid—"

The SPEAKER pro tempore, Mr. WALKER, during the gentleman's remarks, said:

"The gentleman has now wandered beyond discussing a question of privilege. The Chair will remind the gentleman that he has the same obligation as all Members to discuss the matter before the House, which is whether or not the resolution, as presented by the minority leader, constitutes a question of privilege under rule IX."

Mr. OBEY, further addressed the question of privilege, and said:

"Mr. Speaker, that is what I am trying to do. What I was simply attempting to say is that I think that certainly the dignity of the House and the integrity of the House are brought into question when a situation is allowed to continue which, in effect, has taxpayers' money provided for work that Government employees have not done and when you have workers required to perform work for which they are not paid—that is certainly not meeting the standard of dignity and decency and honor which we have a right to expect in this House.

"I think, on those grounds alone, rule IX would dictate that we ought to be able to proceed with this resolution."

Mr. LINDER was recognized and said:

"Mr. Speaker, we are engaged in a great debate over the direction of the country. It is messy. It has always been thus. No one, however, is questioning the integrity of the people on either side of this House on this debate. We do not question those on the left and they should not question us on the right. We are intending to reshape the Government, and that requires a great debate.

"I think the speeches and the positions of individuals on both sides are dignified. There is no less dignity or more dignity by just stating opinions as to the question of the safety of the Members of the House. I see no one here unsafe. I think the Chair should rule against this question of privilege."

Mr. STENHOLM was recognized and said:

"Mr. Speaker, I would address my comments to the words 'dignity' and 'integrity' of the proceedings of the House of Representatives, as stated in rule IX of the Rules of the U.S. House of Representatives, as well as the second statement that says, 'those affecting the rights and the reputation and conduct of Members individually in their representative capacity only.'

"When we had this resolution before you last week, Mr. Speaker, you ruled against this as a question of privilege, but I am asking you to take another

look at the rules of the House and the questions of privilege that shall be, first, those affecting the rights of the House collectively, its safety, its dignity, and the integrity of its proceedings.

"I would suggest, Mr. Speaker, that the integrity of the proceedings of the 104th Congress, 1st session just adjourned, and the beginning of the 2d session, the integrity of the proceedings of the House of Representatives is being called into question by the procedure in which we are being asked to follow without allowing a vote of the will of the majority as to whether or not the issue in question shall be put to the body of the House of Representatives.

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"It seems to me that we have been guilty, in the conduct of our proceedings, of mixing apples and oranges, of mixing an appropriation process with a budget process, of which a further reading of the Rules of the House of Representatives will clearly show that they are two separate issues and should not be commingled. But it is my argument in behalf of the minority leader's motion of privilege that a careful examination of the Rules of the House, the integrity of our proceedings will be called into question unless you find it to rule in favor of those who wish to have a simple, up and down vote as to whether or not the work of the Congress, the work of our Government shall proceed as we follow the regular order.

"No Member of this body is more in favor of balancing the budget. I would rather do it in the regular order, and it seems to me that having the continued impasse is not in the best interests of the integrity of this body. Certainly as an individual Member, I am receiving the calls from people whose service is being denied because of these actions.

"Mr. Speaker, I would ask that you find in favor of this motion of privilege. Basically it is to do one thing, to preserve the dignity and integrity of the House of Representatives in one simple aspect, allowing a vote. Let us now express ourselves as to the merits of the issue before us. That is all that we are asking for."

Mr. MORAN was recognized and said:

"Mr. Speaker, I would like to address the issue of this motion relating to the integrity of this House.

"To do so, I would like to quote initially today's CONGRESSIONAL RECORD, specifically the majority leader of the Senate, Senator DOLE.

Senator DOLE, I quote, says,

Let me just say I read a wire story, there's a split between the House and the Senate on what ought to happen. I do not get that feeling at all in talking with the Speaker. In fact, we just had a 30-minute meeting.

The SPEAKER pro tempore, Mr. WALKER, during the gentleman's remarks, said:

"The gentleman is not discussing the matter before the House which is the question of privilege. The gentleman

will confine his remarks to the matter before the House.”

Mr. MORAN, further addressed the question of privilege, and said:

“I will attempt to that, Mr. Speaker. “I was reading the introduction of comments that I think are quite relevant.

“The majority leader of the Senate, in offering this motion and speaking to it prior to its passage in the Senate, which it has now, this is the very same motion offered by the minority leader.”

The SPEAKER pro tempore, Mr. WALKER, during the gentleman’s remarks, said:

“The Chair will remind the gentleman of the proceedings of the House. He is not to quote matters that have taken place in the other body unless they relate specifically to the matter before the House, which is the question of privilege. So the gentleman will have to confine his remarks to those matters that relate to the question of privilege before the House.”

Mr. MORAN, further addressed the question of privilege, and said:

“I will accept the Speaker’s interpretation of what I was saying. Rather than quote the majority leader of the Senate, I will simply say that his comments, I felt, were relevant, and this is the very same legislation that is being offered here.

“Let me make the second point that I wanted to make with regard to the integrity of this House.

“When this House voted to go on vacation and leave the Government shut down, I think that went directly to the integrity of this House. Now we have an opportunity, with legislation immediately before us, to pass that legislation to get the Government up and running. The other body has seen fit to do that.

“I think it goes directly to the integrity of this House.”

The SPEAKER pro tempore, Mr. WALKER, during the gentleman’s remarks, said:

“The chair is attempting to proceed along the regular order, but it is difficult if Members engage in discussion that goes beyond the question of privilege before the House. The gentleman will confine his remarks to the question of whether or not the resolution before the House constitutes a question of privilege.”

Mr. MORAN, further addressed the question of privilege, and said:

“Mr. Speaker, I cannot imagine anything that goes more directly to the integrity of this House and the issues for which we are responsible than to act in a constructive way when we understand that the American public is shout out of its Government and Federal employees are shut out of their jobs.

“We took action to go on vacation when that was the case. We have an opportunity to rectify it. I think it is consistent with the integrity of this House to rectify it now.”

The SPEAKER pro tempore, Mr. WALKER, during the gentleman’s remarks, said:

“The Chair will inform the Member that he has an obligation to discuss those matters that are before the House.”

Mr. THORNTON was recognized and said:

“Mr. Speaker, I wish to be heard on the question of privileges of the House, of this motion.

“Mr. Speaker, this motion calls upon the House to exercise its duty under the Constitution of the United States, which provides in relevant part that the Congress shall make appropriation for the functioning of Government. It says specifically no money shall be withdrawn from the Treasury except upon appropriation of the Congress.

“Nowhere in the Constitution is the President authorized to make an appropriation—I am not trying to assess blame for where we are. We are talking about how to get out—the question is, how do we resolve the impasse? The impasse must be resolved by the Congress performing its duty under the Constitution of the United States.

Mr. LINDER. If performance of our duties under the Constitution is not a question of privilege, I would like to ask whether the Contract With America overrides the Constitution?

“Mr. Speaker, this is very important, because having placed the responsibility for appropriations for the operation of government upon the Congress and upon no other element of government, a failure to act becomes an abuse of power, and a failure to act by refusing to allow a vote upon a measure which has passed the other body is an abuse of power. This is clearly a question of privilege under the Constitution of the United States.”

Mr. VOLKMER was recognized and said:

“Mr. Speaker, yes, I would like to speak in favor of the resolution by the minority leader, and I would like to point out that the gentleman from Arkansas came very close to the words that I am about to speak but did not quite get there.

“That is, under our Constitution, as he correctly points out, only this House can originate appropriations bills. It is only through those appropriation bills that this Government and all its agencies and employees operate. Without those appropriation bills, there is no Government that can function at all.

“If that comes about, I say that does affect the dignity and integrity of this House, the integrity of this House by nonaction altogether.

“Now, if by nonacting, and if this Congress, this body, this year would fail to even originate one appropriation bill, the President cannot spend a penny, the other body cannot spend a penny. Only this House can originate those bills.

“And the failure to originate the bills is not a violation of rule IX and the dignity of this House and the integ-

ity of this House, Mr. Speaker, I wish you to think very carefully about this, that surely would affect the dignity and integrity of this House by failure to follow the Constitution of the United States.

“No. 2, if that is a violation of rule IX, then the failure to do a part thereof would also be a failure, and therefore would affect the dignity and integrity of this body and a violation of the rules.

“Therefore, there is no question in my mind that if this House fails to act on all appropriation bills or fails to act on one or two, it still affects the dignity. You say, well, we have a procedure we can follow through a discharge. If you do not have a majority, Mr. Speaker, you cannot discharge anything.

“Therefore, through the actions of the majority, the Government could be shut down altogether, all avenues of Government. There has to be a methodology for the rest of the House to be able to follow to keep the Government functioning.”

Mr. CARDIN was recognized and said:

“Mr. Speaker, speaking on the point of privilege, I think it is important to point out that rule IX refers to questions of privilege that affect the dignity and integrity of the House.

“We are a Government of the people. We have been back in our districts. Does anyone here think that the procedures that we have been using, that the people of our district do not believe that the dignity and integrity of this House is in question?

“I urge the Speaker to rule in favor of this matter being a matter of privilege so that we can uphold the great dignity of this House.”

Mr. WYNN was recognized and said:

“Mr. Speaker, I rise in support of the resolution and specifically address the issue of the integrity of the House.

“Mr. Speaker, I believe this resolution is appropriate because by our inaction, we have compelled the services of certain Federal employees, specifically those being the essential Federal employees performing such services as prison guards, security, and the like, compelled their services without compensation. It is unclear to me what definition of integrity the Chair is utilizing, but I would say that under most generally accepted definitions of integrity, compelling services from employees without compensation when it is within our power to provide them with compensation is in fact a question of the integrity of the House.

“On that basis, I believe that this resolution, which addresses the integrity of the House by requiring us to take action to provide compensation to those employees and others, but specifically to those who are in fact working but are not being paid, does in fact raise a legitimate question of the integrity of the House, and ask the Chair to rule favorably on the resolution.”

Mr. DINGELL was recognized and said:

“The resolution says questions of privilege shall be first those affecting

the rights of the House collectively, its safety, dignity, and the integrity of its proceedings.

"That quotes from the rules.

"Mr. Speaker, as you stand there, I would call to your attention that one of the most important functions of this institution is to manage, to expend, under the power of the purse. We have the duty to collect taxes, we have the duty to expend moneys by authorization and by appropriations. None of that has until this time been properly carried out.

"Certainly the questions of the integrity of this body and the integrity of the proceedings, the dignity of this body, are severely impaired by our failure to provide for the proper running of the Government of the United States. That is a failure of this institution. That is a failure because we have not been able to address the questions of the budget in a proper fashion.

"I would call to the attention of the Chair our failure to carry out our duty, our failure to carry out our responsibilities of appropriating funds, of authorizing expenditures, or of implementing the budget as required by the Budget Act, clearly affect the privileges, the prerogatives, the dignity, and the integrity of this institution. Certainly the respect in which the public holds this body has fallen to something approaching one of the lowest points that I have ever seen in my career.

"Clearly, without taking the action here of bringing this matter to a vote and, clearly, without having taken the steps necessary to permit this body to commence addressing the single largest problem that confronts this country today, and that is the orderly running of its Government, the funding of its public affairs, and retaining the respect of its people, we are not carrying out our duties.

"It is very plain to me, Mr. Speaker, that the question of the privileges of the House is entwined with this so intimately that the questions of the privileges of the House and the functioning of this body cannot be separated one from another.

"I urge a proper ruling on this matter."

Mrs. KENNELLY was recognized and said:

"Mr. Speaker, I wish to address the point of personal privilege of the leader on our side. What is happening here is this is the body of the people. Everyone on this side of the aisle and I would imagine many on the other side of the aisle have been told by the people they went home and spoke to, it is time now to get on with the business of the Government. I join the gentleman's request."

Mr. ORTON was recognized and said: "Mr. Speaker, I wish to be heard on the question of privilege.

"Rule IX is designed to allow us to bring to the floor motions which in fact do affect the integrity of the body, of Members of the body. At this very moment, there are Members of this body holding a press conference regard-

ing whether we as Members of Congress should continue to receive our pay."

The SPEAKER pro tempore, Mr. WALKER, during the gentleman's remarks, said:

"The gentleman will confine his remarks to the matter before the House which is, does the resolution before the House and the wording of that resolution constitute a question of privilege."

Mr. ORTON, further addressed the question of privilege, and said:

"Respectfully, Mr. Speaker, I believe that I am addressing that, because I have just in the last few minutes had my integrity questioned as an individual Member of this body by members of the press with regard to whether I would continue to accept pay while other workers are not."

The SPEAKER pro tempore, Mr. WALKER, during the gentleman's remarks, said:

"The Chair would remind the gentleman, he has an obligation to discuss the resolution which is before the House and not a question of privilege that might exist in another forum. This is not now a forum for a question of personal privilege."

Mr. ORTON, further addressed the question of privilege, and said:

"Mr. Speaker, rule IX has to do with the integrity of the body collectively and individually. And the integrity of this body is in fact—"

The SPEAKER pro tempore, Mr. WALKER, during the gentleman's remarks, said:

"The Chair would remind the gentleman that he has an obligation not to discuss all of rule IX but to discuss the matter before the House, whether or not it constitutes a question of privilege of the House under rule IX."

Mr. ORTON, further addressed the question of privilege, and said:

"Mr. Speaker, that is exactly what I am attempting to do. If my integrity individually has been questioned with regard to funding of the Government, then that is a matter of privilege individually and collectively."

The SPEAKER pro tempore, Mr. WALKER, during the gentleman's remarks, said:

"The Chair would remind the gentleman that he might in fact draft a question of personal privilege that he could bring to the House, but the matter before the House at the present time is the specific wording offered by the gentleman from Missouri [Mr. GEPHARDT]."

Mr. MILLER of California was recognized and said:

"Mr. Speaker, to address the issue of privilege, I do believe that under rule IX this does rise to the occasion of privilege, the resolution offered by the minority leader. It does so because clearly the collective integrity of this House and the dignity of this House is being called into question, is being called into question in every commentary throughout the country about the closedown of the Government.

"The dignity and the integrity of this House is being called into question

by our individual constituents, by the interviews on every nightly news program in every one of our districts. That goes to the collective integrity and to the collective dignity."

The SPEAKER pro tempore, Mr. WALKER, during the gentleman's remarks, said:

"The gentleman should confine his remarks to those matters that are before the House and the question of privilege that was offered by the gentleman from Missouri."

Mr. MILLER of California, further addressed the question of privilege, and said:

"Mr. Speaker, the reason this goes to that privilege is because in fact when the will of the people is thwarted, the integrity of the House, the dignity of this House is called into question. The only way that that can currently be remedied is through this motion that rises to privilege. That dignity and that integrity is called into question when the popular will is thwarted, and we see it very often, when Members know that the votes exist to do something and yet the matter cannot be brought to the floor.

"That is why a motion of privilege is laid before the Chair because there is no other way. That goes exactly to the heart of the privilege. The privilege in this case that the minority leader is asserting is the privilege to bring a matter to the floor by which now there is no other way to get that matter to the floor. That is because the power of the Chair, the power of the Chair and the rules—

"I am giving the Chair a reason to rule for privilege, because the power of the Chair is the power of recognition, and the Chair is now willing to recognize any Member for this purpose. Therefore, the minority leader must bring a matter before the House under the rules of privilege. We know that there are 198 votes to open up the Government on this side. So if we can find 20 votes on that side, the people's will can be carried out."

The SPEAKER pro tempore, Mr. WALKER, during the gentleman's remarks, said:

"The Chair is attempting to maintain order and would remind the majority side that it is the duty of the Chair to maintain order and would ask the cooperation of the Members in so doing. He would also ask the cooperation of the minority in discussing this matter to constrain their remarks to those matters that are before the House.

"The gentleman from California has wandered away from that particular admonition, and the Chair would ask him to please constrain his remarks that address the question of privilege."

Mr. MILLER of California, further addressed the question of privilege, and said:

"Mr. Speaker, I would simply say, in closing, that the reason the integrity is called into question and the dignity of the House is called into question and

