

Questions of Privilege

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I. Introductory**§ 1. In General****Definitions and Distinctions**

The term “privilege” arises frequently in the rules governing the procedures of the House. It may refer to questions of the privilege of the House, to questions of personal privilege, to the privilege of Members from arrest, and to the privilege of certain motions. This chapter focuses primarily on questions of the privilege of the House and on questions of personal privilege.

Questions of privilege are classified by a House rule as (1) those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings, and (2) the rights, reputation, and conduct of Members, individually, in their representative capacity only. See Rule IX. This rule, adopted in 1880, was based on procedures that had been followed in the House as a matter of longstanding custom. 3 Hinds §§ 2521 *et seq.* The rule was amended in the 103d Congress to permit the Speaker to postpone consideration of certain questions of privilege for up to two legislative days and to designate a time for consideration within that time frame. See § 16, *infra*.

Questions of the privilege of the House are brought before it in the form of a resolution (§ 16, *infra*), whereas questions of personal privilege are raised by a Member from the floor on being recognized for that purpose (§ 21, *infra*).

Questions of privilege are to be distinguished from privileged questions. The latter relate merely to the order or priority of business under the rules of the House, while the former pertain to the safety and dignity of the House or the integrity of its proceedings, or to the rights or reputation of its Members (3 Hinds §§ 2654, 2718). Privileged questions, see ORDER OF BUSINESS.

Privilege of Members From Arrest

Under the Constitution, Senators and Representatives are privileged from arrest, except for “treason, felony, and breach of the peace,” during attendance at a session and in going to and returning therefrom. U.S. Const.

art. I § 6. This privilege may be invoked in cases not covered by the exceptions, as where there has been an arrest for fraud and delinquency in connection with a debt. 3 Hinds § 2676. The constitutional language excepting “treason, felony, and breach of the peace” is construed to mean all indictable crimes (3 Hinds § 2673), and indeed the privilege does not apply so as to protect a Member from arrest in any criminal case (*Manual* § 91). Thus, a Member may be arrested and prosecuted for a felony specified in a timber protection statute, and the fact that Congress was in recess at the time of his arrest is no defense. *Williamson v United States*, 207 US 425 (1908). An investigation by committee of a Member’s arrest to determine whether it was in violation of the privilege may be initiated by resolution. 3 Hinds § 2673. For more detailed analysis of this privilege, see Deschler Ch 7 § 18.

Privilege of Speech and Debate

The Constitution (art. I § 6 clause 1) provides that Members or Senators “shall not be questioned in any other place” for “any speech or debate in either House.” This clause precludes judicial inquiry into the motivation, preparation, and content of a Member’s speech. *Manual* § 93. All speech, debate, and remarks on the floor are privileged, as is material inserted in the Record by a Member with the consent of the House. Deschler Ch 7 § 16. But the Supreme Court has circumscribed the protection provided under the clause by upholding a grand jury inquiry into the possession and non-legislative use of classified documents by a Member. *Gravel v United States*, 408 U.S. 606 (1972). The Court has also sustained the validity of an indictment of a Member for accepting an illegal bribe to perform legislative acts. *United States v Brewster*, 408 U.S. 501 (1972). This clause does not prevent the House from applying rules relating to “proper debate” and from adopting procedures to deal with transgressions of those rules. 104–1, May 25, 1995, p ____.

§ 2. Precedence of Questions of Privilege

A question of privilege has been held to take precedence over all questions except the motion to adjourn. This precedence is given to both questions of the privileges of the House (Rule IX clause 2(a)) and to questions of personal privilege (Rule IX clause 2(b)) under the applicable House rule. “The rights and privileges of the Members of the House, in the discharge of their functions, are sacred,” said Speaker Reed in 1890, “and the House can undertake no higher duty than the conservation of those rights and privileges. Even if the case arises under dubious circumstances, it is proper for

the House to pause and give suitable heed to any question which any Member raises with regard to his rights and privileges as a Member.” 3 Hinds § 2524. The House has, since the 103d Congress, restricted the right to bring a question of privilege before the House without notice (see Rule IX clause 2; *Manual* § 661a). Only the Majority and Minority Leaders can now raise such a question “at any time.” See § 16, *infra*.

Questions of privilege have been held to take precedence over other business (3 Hinds § 2523), including:

- The reading of messages from the President; such messages are received but do not displace the question of privilege (5 Hinds §§ 6640–6642).
- District of Columbia business under Rule XXIV clause 8 (Deschler Ch 11 § 5.8).
- Business in order on Calendar Wednesday (7 Cannon §§ 908–910; Deschler Ch 11 § 5.7).
- Special orders for the consideration of business (3 Hinds §§ 2524, 2525, 2554).
- Reports from the Committee on Rules (8 Cannon § 3491).
- A motion to resolve into Committee of the Whole (8 Cannon § 3461).
- Motions to reconsider (5 Hinds §§ 5673–5676).
- Suspension of the rules (3 Hinds § 2553; 6 Cannon §§ 553, 565).
- Scheduled special-order speeches (96–1, Sept. 21, 1979, p 25656).
- Senate amendments undisposed of after rejection of a conference report (3 Hinds § 2531).

In general, one question of privilege may not take precedence over another (3 Hinds §§ 2534, 2552, 2581), and the Chair’s power of recognition (and his scheduling prerogative under Rule IX) determine which of two matters of equal privilege is considered first (101–2, July 24, 1990, p ____). A question of personal privilege may not be raised while a question of the privileges of the House is pending. 99–1, Apr. 30, 1985, p 9808; 99–1, May 1, 1985, p 10003.

Precedence Over the Previous Question; Interruptions

A Member may be recognized to offer a resolution asserting a question of privilege before another Member moves the previous question on a bill. 92–2, May 24, 1972, p 18675. The question of privilege takes precedence over the consideration of a motion for the previous question (Deschler Ch 11 § 5.9), and over certain propositions on which the previous question has been ordered. 3 Hinds § 2532; 6 Cannon § 561. The question of privilege supersedes the consideration of the proposition and must be disposed of first. 3 Hinds § 2522; Deschler Ch 11 § 5.3. It loses its privilege, however, when connected with or amended by a proposition not privileged. 3 Hinds § 2551; 5 Hinds § 5890. Moreover, since only one question of privilege may

be pending at a time (3 Hinds § 2533), another Member will not be recognized during such time to present another question of privilege (Deschler Ch 11 § 5.4).

A Member by rising to a question of privilege may not deprive another Member of the floor (5 Hinds § 5002; 8 Cannon §§ 2458, 2528; Deschler Ch 11 § 23.2), although the latter may yield him time for preliminary debate on the question (Deschler Ch 11 § 23.3). Such a question may not interrupt a roll call or yea-and-nay vote. 5 Hinds §§ 6051, 6052, 6058; 6 Cannon §§ 554, 564.

A question of privilege may interrupt the consideration of a bill under a special order (3 Hinds §§ 2524, 2525) or a rule providing for a vote without intervening business (6 Cannon § 560). A question of the privilege of the House may interrupt the reading of the Journal (Deschler Ch 11 § 5.6), whereas a question of personal privilege may not (Deschler Ch 11 § 23.1).

As Unfinished Business

A question of privilege pending at the time of adjournment becomes the unfinished business on the next day (Deschler Ch 11 § 5.5), and takes precedence over unfinished business which is privileged under Rule XXIV clause 1 (order of business). 94-1, June 4, 1975, p 16860.

II. Privilege of the House

A. Basis of Privilege

§ 3. Introductory; What Constitutes a Question of Privilege

Elements Generally

Questions of privilege of the House are those which affect its rights collectively, “its safety, dignity, and the integrity of its proceedings. . . .” Rule IX. *Manual* § 661. A question asserted to involve the privilege of the House must involve one or more of the elements specified by Rule IX. See 104-1, Feb. 7, 1995, p _____. A Member may not by raising a question of the privileges of the House attach privilege to a question not otherwise in order under the rules of the House. 93-2, June 27, 1974, p 21596.

Questions relating to the organization of the House (1 Hinds §§ 22-24) and the right of Members to their seats (3 Hinds §§ 2579-2587), as well as various questions incidental thereto (1 Hinds § 322; 2 Hinds § 1207; 3 Hinds § 2588), have been held to give rise to questions of the privilege of the House. *Manual* § 662. The same is true of a proposition declaring the office of the Speaker vacant (6 Cannon § 35), and the resignation of a Mem-

ber from a select or standing committee (94–1, June 16, 1975, p 19054; 95–1, Mar. 8, 1977, pp 6579–82).

Safety and Dignity

A resolution directing an investigation into the safety of Members in the light of alleged structural deficiencies in the Capitol (96–2, July 25, 1980, pp 19762–64), expressing the sense of the House as to the proper attire for Members during meetings (96–1, July 17, 1979, pp 19072, 19073), or directing a committee to investigate and report on the impact of a test involving television coverage of House proceedings (95–1, Mar. 15, 1977, p 7608), gives rise to a question of the privileges of the House.

Questions relating to the health and comfort of Members and employees have been held to give rise to a question of the privileges of the House. 3 Hinds §§ 2629–2633. Subjects relating to the mere convenience of Members are not necessarily entertained as privileged. 3 Hinds § 2635.

Integrity of the Legislative Process

Among the subjects giving rise to a question of the privileges of the House are questions relating to the integrity of the legislative process (3 Hinds §§ 2597–2601, 2614), including:

- The presence on the floor of unauthorized persons (94–2, Sept. 9, 1976, p 29498).
- The conduct of those in the press gallery (3 Hinds § 2627).
- The integrity of the Journal (2 Hinds § 1363; 3 Hinds § 2620).
- The protection of House records and files (3 Hinds § 2659).
- The accuracy of House documents and messages (3 Hinds § 2613).
- A resolution directing the Committee on Rules to investigate and report to the House within a time certain on alleged alterations of the *Congressional Record* (98–2, Jan. 24, 1984, p 250).
- A resolution alleging that the Chair had improperly ordered the interruption of audio broadcast coverage of certain House proceedings (100–2, Mar. 17, 1988, p 4180).
- A resolution seeking a determination whether there had been an unreasonable delay in transmitting an enrolled bill to the President (102–1, Oct. 8, 1991, p ____).
- The fraudulent introduction of a bill (4 Hinds § 3388).
- The attempted bribery or corruption of Members (2 Hinds § 1599; 6 Canon § 580).
- An assault on a committee clerk (2 Hinds § 1629).
- Use of an allegedly forged document at a committee hearing (104–1, Oct. 25, 1995, p ____).

A resolution directing a committee to investigate the circumstances surrounding the publication in a newspaper of a select committee report, which

the House had ordered not to be released, gave rise to a question of the privileges of the House, since it related to the integrity of House proceedings and the sanctity of its records. 94–2, Feb. 19, 1976, p 3914.

Effecting Changes in House Rules or Orders

A question of the privilege of the House may not be raised to effect a change in the rules of the House or their interpretation (Deschler Ch 11 § 3.1; 102–2, July 30, 1992, p ____), or to collaterally attack a rule or order properly adopted by the House at a previous time, the proper method of reopening the matter being by motion to reconsider. Deschler Ch 11 § 3.2. Thus, a resolution collaterally challenging an adopted rule of the House by delaying its implementation was held not to give rise to a question of the privileges of the House. 103–1, Feb. 3, 1993, p ____.

Similarly, it has been held that a question of the privilege of the House may not be raised to:

- Collaterally challenge a standing order establishing a joint meeting for a foreign head of state by prohibiting future invitations (104–2, Jan. 31, 1996, p ____).
- Direct the Speaker to follow certain customs in allowing one-minute speeches at the beginning of a session (96–2, July 25, 1980, p 19764).
- Permit petitioners seeking redress of grievances to have access to the House floor (92–2, May 24, 1972, p 18675).
- Broaden the rule relating to access by Members to committee records (95–1, Dec. 6, 1977, p 38470).
- Direct that the party ratios of all standing committees, subcommittees and staffs thereof be changed within a time certain to reflect overall party ratios in the House (98–2, Jan. 23, 1984, p 78).
- Direct a committee to consider certain business (94–1, July 31, 1975, p 26250), a motion to that effect not being in order under the rules (93–2, June 27, 1974, p 21596).
- Declare a recess to receive a petition (92–2, May 24, 1972, p 18675).
- Effect a change in conference procedures (Deschler Ch 11 § 3.3).
- Direct the House to consider certain legislative measures deemed essential to the operation of government (104–2, Feb. 1, 1996, p ____).

The constitutional validity of an existing rule of the House may not be challenged under the guise of a question of privilege, whether that existing rule was adopted by separate vote of the House or, instead, by its vote on the adoption of all of its rules. 103–1, Feb. 3, 1993, p ____.

A Member may not by raising a question of the privileges of the House under Rule IX thereby attach privilege to a question not otherwise in order under the rules of the House. 94–1, July 31, 1975, p 26250. For example, a resolution directing that the reprogramming process established in law for legislative branch appropriations be subjected to third-party review for con-

formity with external standards of accounting but alleging no deviation from duly constituted procedure was held not to give rise to a question of the privileges of the House. 102–2, May 20, 1992, p ____.

§ 4. Charges of Illegality or Impropriety

Specific Charges and General Criticism Distinguished

General criticism of the Congress (Deschler Ch 11 § 8.1) or the Members of the House (Deschler Ch 11 § 8.2) does not give rise to a question of the privilege of the House. Allegations that are merely critical of the legislative process, such as charges of inactivity in regard to a subject reported from committee, are insufficient. 93–2, June 24, 1974, pp 21596–98. But an allegation of criminal conduct by the Congress has been presented as a question of the privilege of the House (Deschler Ch 11 § 8.3), as have charges that the House was being influenced by mobs (Deschler Ch 11 § 8.4) or that a committee of the House was engaged in subversive activities (80–2, Mar. 10, 1948, p 2476).

Charges Involving Members

Charges against Members have often been made the basis of a question of personal privilege (§§ 18–20, *infra*). Such charges may also give rise to a question of the privilege of the House where they involve elements of illegality or criminality so as to impugn the honor and dignity of the House itself. Thus, charges against Members of graft (7 Cannon § 911), abuse of the franking privilege (3 Hinds § 2705), use of “ghost” employees (102–2, Apr. 9, 1992, p ____), improper attempts to influence a vote (Deschler Ch 11 § 9.1), or giving away atomic secrets (Deschler Ch 11 § 9.2), have given rise to the privilege of the House, as has the illegal solicitation of political contributions in a House office building. 99–1, July 10, 1985, p 18397. But a mere allegation that a Member distributed an unauthorized questionnaire was held insufficient to give rise to a question of the privileges of the House. Deschler Ch 11 § 9.3.

A question of the privilege of the House may be based on charges against Members even though they are not identified by name. 3 Hinds § 2705.

In 1992, resolutions relating to the operation of the “bank” in the Office of the Sergeant at Arms were presented as questions of the privileges of the House, including a resolution instructing the Committee on Standards of Official Conduct to disclose the names and pertinent account information of Members and former Members found to have abused the privileges of the “bank.” See 102–2, Mar. 12, 1992, p ____.

Charges Involving House Officers or Employees

Charges that an officer or employee of the House acted illegally or improperly may give rise to a question of the privilege of the House. 3 Hinds §§ 2628, 2645–2647; 6 Cannon § 35; Deschler Ch 11 § 10.3. Thus, a charge that an officer of the House conspired to influence legislation is taken up as a question of privilege of the House. 3 Hinds § 2628. The same is true of an allegation that an officer of the House made secret motions in certain litigation without the knowledge of the House (96–2, Feb. 13, 1980, p 2768) or that an employee appeared in court as special counsel for a committee without authorization (Deschler Ch 11 § 10.3). Allegations of improper representation by counsel of the legal position of Members in a brief (101–2, Mar. 22, 1990, p ____), and allegations of unauthorized intervention by a committee employee in judicial proceedings (102–2, Feb. 5, 1992, p ____), have also given rise to a question of the privileges of the House. On the other hand, merely alleging favoritism by the Speaker in making appointments (Deschler Ch 11 § 10.1) or rudeness by the Doorkeeper in removing an occupant of the gallery (Deschler Ch 11 § 10.2) have been held not to give rise to a question of the privileges of the House.

In the 102d Congress, numerous resolutions relating to the financial operation of the Office of the Sergeant at Arms and the management of the Office of the Postmaster were presented as questions of the privileges of the House. Among them were resolutions terminating all bank and check-cashing operations in the Office of the Sergeant at Arms (102–1, Oct. 3, 1991, p ____), directing the Committee on House Administration to conduct an investigation of the operation and management of the Office of the Postmaster (102–2, Feb. 5, 1992, p ____), and directing the Committee on Standards of Official Conduct to investigate alleged violations of confidentiality by certain staff members (102–2, July 22, 1992, p ____).

§ 5. House Jurisdiction, Powers, and Prerogatives

Issues relating to the jurisdiction of the House or its prerogatives under the U.S. Constitution may give rise to a question of the privileges of the House. Hinds §§ 1480–1537; Cannon § 315; Deschler Ch 11 § 13. Matters which may be raised under this rule include jurisdictional questions relating to appropriations and the prerogative of the House to originate revenue-raising legislation. 2 Hinds §§ 1480–1501; 6 Cannon § 315; Deschler Ch 11 § 13.1; 100–2, June 21, 1988, p 15425. Generally, see APPROPRIATIONS.

Other related matters which have given rise to a question of the privileges of the House include:

- The issuance of a court order restraining the publication of a committee report (Deschler Ch 11 § 13.3).
- The disclosure of House records in response to process issued by a federal court (93–2, Dec. 18, 1974, p 40925).
- Intervention in judicial proceedings concerning the constitutionality of the one-House veto (95–1, Nov. 2, 1977, p 13949) or other legislative review provision (97–1, Jan. 29, 1981, p 1304).
- The prerogative of the House when a bill has been “pocket vetoed” (*Manual* § 662).
- The affirmative vote necessary to extend the time period for state ratification of a constitutional amendment (95–2, Aug. 15, 1978, p 26203).
- The constitutional authority of the House with respect to impeachment propositions (3 Hinds §§ 2045–2048).

However, Rule IX is concerned not with the privileges of the Congress as a legislative branch, but only with the privileges of the House itself. Thus, neither the enumeration of legislative powers in Article I, § 8 of the Constitution nor the prohibition of that article against any withdrawal from the Treasury except by enactment of an appropriation renders a measure purporting to exercise or limit those powers a question of the privileges of the House. 104–1, Feb. 7, 1995, p _____. Also, the revenue-raising prerogative of the House may not be raised when the House is not in possession of the original papers (Deschler’s Ch 13 § 14.2) nor may the issue be raised after the House has adopted a conference report containing an additional revenue matter not in either House or Senate version (104–1, Apr. 6, 1995, p _____).

Contempt Proceedings; Enforcement of Orders and Subpenas

The power of the House to punish for contempt may be invoked as a basis for raising a question of the privileges of the House. That question has been held to arise where contemptuous conduct has been charged against a Member (see 2 Hinds §§ 1641 *et seq.*), where a witness has refused to respond to an order to give testimony (3 Hinds §§ 1666 *et seq.*; Deschler Ch 11 § 12), and where a person has been charged with an offense against the House (2 Hinds §§ 1597 *et seq.*), such as attempted bribery (2 Hinds § 1599). Committee reports relating to the refusal of a witness to be sworn (Deschler Ch 11 § 12.2) or respond to a subpoena *duces tecum* (Deschler Ch 11 § 12.3) likewise give rise to a question of the privileges of the House.

§ 6. Intervention in Judicial Proceedings

The House sometimes authorizes special appearances on its own behalf in judicial proceedings relating to the powers and prerogatives of the House, and resolutions granting the authority to intervene in such cases may be called up as privileged. 94–2, Aug. 26, 1976, p 27858; 97–1, Jan. 29, 1981, p 1304. The authority to intervene in judicial proceedings has been granted in cases involving the constitutionality of the one-House veto (95–1, Nov. 2, 1977, p 13949) or other legislative review provision (97–1, Jan. 29, 1981, p 1304), the validity and effect of subpoenas issued by House committees or subcommittees (94–2, Aug. 26, 1976, p 27858), and the constitutionality of a law relating to the franking privilege (94–2, July 1, 1976, p 21852).

The House may authorize the Speaker to take any steps he considers necessary, including intervention as a party or by submission of briefs *amicus curiae*, in order to protect the interests of the House. 97–1, Jan. 29, 1981, p 1304. The House has on occasion adopted resolutions authorizing standing or select committees to make applications to courts in connection with their investigations. 95–1, Feb. 9, 1977, pp 3966–75; 95–1, Sept. 28, 1977, pp 31329–36. The House has also authorized the chairman of a subcommittee to intervene in a pending action on behalf of the subcommittee to obtain information in the possession of a federal agency (the FTC). 94–1, Dec. 18, 1975, p 41707.

§ 7. Correcting the Record; Expungement

The accuracy and propriety of reports in the *Congressional Record* may give rise to a question of the privileges of the House. 5 Hinds §§ 7005–7023; 8 Cannon §§ 3461, 3463, 3464; Deschler Ch 11 § 11; *Manual* § 662. Accordingly, a resolution to request the Senate to expunge from the Record certain debate reflecting on the integrity of the House or which is offensive or otherwise improper may give rise to a question of the privilege of the House, as may resolutions to expunge from the Record matter improperly inserted under leave to print. Deschler Ch 11 § 11. However, neither a question of personal privilege nor a question of the privilege of the House arises during debate in which offensive language is used, the remedy being to demand the objectionable words be taken down pursuant to Rule XIV clause 4 when spoken. 81–2, Feb. 6, 1950, p 1514. For further discussion of the procedure for taking down words, see CONSIDERATION AND DEBATE.

A resolution to correct inaccuracies in the Record is presented as a question of the privileges of the House. 5 Hinds § 7019; 8 Cannon § 3461; Deschler Ch 11 § 11.9; 96–1, May 7, 1979, pp 10099, 10100. However, a resolution to restore to the Record remarks previously deleted by House

order does not present a question of the privilege of the House, the proper method of reopening the matter being by motion to reconsider the vote. Deschler Ch 11 § 11.10.

§ 8. Service of Process on Members

The service of judicial process on a Member of the House has long been perceived as a matter relating to the integrity of House proceedings, and as constituting a basis for raising the question of the privileges of the House. 7 Cannon § 2164; Deschler Ch 11 §§ 14.1–14.10. Accordingly, when a Member is subpoenaed on a matter relating to House business, the privilege of the House arises, and he advises the Speaker who lays the matter before the House for its consideration. Deschler Ch 11 §§ 14.1–14.4; 94–2, Jan. 22, 1976, p 581. Any modifications in the subpoena or other process, made by the court after service, are likewise laid before the House. Deschler Ch 11 § 14.3.

This practice is followed whether the Member has been served with a summons as a defendant (Deschler Ch 11 § 14.1) or with a subpoena as a witness (Deschler Ch 11 § 14.2). The privilege of the House arises in such cases whether the process has been issued by a state court (Deschler Ch 11 §§ 14.4, 14.5; 95–2, Sept. 26, 1978, p 31703) or by a federal court (87–1, Feb. 9, 1961, p 2000; 87–1, Feb. 21, 1961, p 2480), and is applicable to:

- Grand jury proceedings (Deschler Ch 11 § 15; 94–2, Apr. 1, 1976, p 9125).
- Orders to appear and show cause (Deschler Ch 11 § 14.9; 91–2, May 19, 1970, p 16165).
- Orders to appear for the taking of depositions or to answer interrogatories (Deschler Ch 11 § 14.10; 91–2, July 22, 1970, p 25333).
- Preliminary proceedings in criminal cases (92–1, Sept. 23, 1971, p 33114).
- Administrative proceedings before federal agencies such as the FCC (Deschler Ch 11 § 14.8).

§ 9. Service on House Officers or Employees

The service of process on the House or any of its officers or employees on a matter relating to House business gives rise to a question of the privileges of the House, and the matter must be laid before the House for its consideration. Deschler Ch 11 §§ 14–16. This procedure is followed whether service is on the Speaker himself (Deschler Ch 11 § 16.2; 88–1, Jan. 17, 1963, p 504; 91–1, Sept. 3, 1969, p 24002) or on the Clerk of the House (Deschler Ch 11 §§ 16.3, 16.7–16.9), or on the Sergeant at Arms (Deschler Ch 11 §§ 16.4, 16.11; 89–1, July 13, 1965, p 16529, and is applicable when

service is on a House employee (93–2, Sept. 30, 1974, p 33020) including an employee of the House Republican Conference (94–1, Sept. 23, 1975, p 29824).

The privilege arises whether the process is a summons naming the individual as a defendant (Deschler Ch 11 §§ 16.3, 16.4; 93–1, Oct. 25, 1973, p 34991) or a subpoena requiring the party to appear as a witness (Deschler Ch 11 §§ 16.7–16.12). It applies to a court order to appear with House documents or other papers (90–2, Jan. 16, 1968, p 80; 95–2, Sept. 26, 1978, p 31758; 97–1, Apr. 10, 1981, p 7305), to an order to appear for the taking of a deposition (Deschler Ch 11 § 16.18), and to an order to show cause for the failure to comply with a prior subpoena (93–2, Dec. 20, 1974, p 41863). The privilege arises whether the process was issued in a civil action (93–1, Nov. 15, 1973, p 37136), a criminal proceeding (Deschler Ch 11 §§ 16.9, 16.12; 92–1, Sept. 13, 1971, p 31575), or a court martial (Deschler Ch 11 § 16.17). The privilege extends to executive session records of a committee, and applies to a court order requesting production of such records from a prior Congress. 97–1, Apr. 28, 1981, p 7603.

§ 10. Service on Committee Chairmen or Employees

The service of a summons or other process on the chairman of a committee (Deschler Ch 11 §§ 17.1–17.4; 92–1, July 7, 1971, p 23813) or on one or more of its employees (Deschler Ch 11 §§ 17.5, 17.8; 86–1, Apr. 14, 1959, p 5858; 97–1, June 4, 1981, p 11501) gives rise to a question of the privilege of the House, and the matter is laid before the House for its consideration. This practice is followed where a subpoena or other process has been served on a committee clerk (86–1, Apr. 27, 1959, p 6825), staff counsel for a committee (87–1, Feb. 21, 1961, p 2482), or a staff investigator for a committee (87–2, May 21, 1962, p 8823; 87–1, Feb. 21, 1961, p 2482), and has been invoked where a court order named both current and former employees (92–1, Mar. 2, 1971, pp 4584, 4593). It is applicable to a former employee of a former House select committee who has been subpoenaed to give a deposition as to his recollection of certain executive session transactions. 97–1, Jan. 22, 1981, pp 694, 695.

The House is notified in the event that the subpoena is subsequently modified (87–1, Feb. 21, 1961, p 2482) or withdrawn (93–2, June 6, 1974, p 18072).

A court order to compel the production of documents is within the scope of the privilege (94–1, Dec. 19, 1975, p 41972), as is a court order for the inspection and copying of certain documents (Deschler Ch 11

§ 17.9). Court orders issued pursuant to grand jury proceedings are similarly treated (Deschler Ch 11 § 17.7).

Under the former practice, an employee served with process notified the chairman of his committee, who then wrote a letter to the Speaker (see, for example, 86–1, Apr. 14, 1959, p 5858; 87–1, Feb. 21, 1961, p 2482). Under Rule L clause 2, the employee notifies the Speaker, in writing, of the service of process (*Manual* § 946).

§ 11. Procedure in Complying With Process

In 1981, the House adopted Rule L, which provides general authority to the Members, officers, and employees of the House to comply with subpoenas served on them in relation to their functions, “consistently with the rights and privileges of the House.” Under the early practice, whenever a Member or officer or employee received a subpoena, the House had to consider the adoption of a resolution authorizing a response. The House would decide case-by-case whether the person served should or should not comply with the subpoena. In 1977, and again in 1979, the House adopted a resolution which granted general authority to respond to subpoenas, but reserved to the House the right to revoke this permission in any specific case. Under this procedure, automatic compliance was authorized without the necessity of a House vote. See *Manual* § 946 (note).

Rule L continues this procedure and adds new steps to be taken in responding to a judicial subpoena: it (1) directs compliance with such subpoenas, subject to certain conditions, unless otherwise determined pursuant to the rule; (2) requires that the Speaker be promptly notified of the receipt of such subpoena and that such notification be laid before the House; (3) requires a determination as to the propriety of the issuance of the subpoena and its materiality and relevance; (4) requires that, when a determination has been made as to the propriety of the subpoena, the Speaker and the House are so notified. *Manual* § 946. Since the authorization to comply with a subpoena under Rule L does not take effect until the required determination of relevancy has been made (95–1, Apr. 6, 1977, p 10800), the Speaker is notified when determinations are to be made as to the propriety of a subpoena, and the Speaker lays the matter before the House. 97–1, Apr. 28, 1981, p 7603; 97–1, June 4, 1981, p 11501; 97–1, Nov. 21, 1981, p 28709. The Speaker is notified and the House informed when a committee employee has determined, after consultation with counsel, that it would be consistent with the provisions of Rule L to comply with a subpoena. 97–1, Nov. 16, 1981, p 27648. Rule L does not require the text of the subpoena to be printed in the Record. 102–2, July 31, 1992, p ____.

§ 12. Resolutions Authorizing or Precluding Response

Although Rule L established a procedure for automatic compliance with subpoenas without the necessity of a House vote (*Manual* § 946), the House may still assert its privilege, as it has in the past, by adopting a resolution that precludes a response to a subpoena in any particular case (93–2, Dec. 18, 1974, p 41863; 94–1, Jan. 23, 1975, p 1161; 94–1, Dec. 19, 1975, p 49172), or which imposes certain conditions or limitations on testimony that may be given or documents that may be produced (Deschler Ch 11 § 18). The assertion of this privilege through the adoption of a resolution has been based on the doctrine of separation of powers. 94–1, Jan. 23, 1975, p 1161.

A resolution authorizing a response to a court order such as a subpoena involves the privileges of the House (91–1, July 1, 1969, p 17948; 93–2, Jan. 23, 1974, p 464), and a Member calling up the resolution is recognized under the hour rule for debate (91–1, July 1, 1969, p 17948).

In the 102d Congress, the House considered as questions of the privileges of the House resolutions responding to a subpoena for records of the House “bank” and to a contemporaneous “request” for such records from a special counsel (102–2, Apr. 29, 1992, p ____), and authorizing an officer of the House to release certain documents in response to another such request from the special counsel (102–2, May 28, 1992, p ____).

Duration of Authorization

Resolutions authorizing a response to a subpoena or other court order are effective only during the Congress in which they were adopted. If the judicial proceedings in question extend into the next Congress, it may be necessary to seek another authorizing resolution. Deschler Ch 11 §§ 18.1, 18.2.

§ 13. — Conditions or Limitations on Response

The House, in authorizing a response to a subpoena by resolution, may impose various conditions or limitations. The House may:

- Permit copies, but not original documents, to be produced (Deschler Ch 11 § 18; 91–1, Oct. 29, 1969, p 32005; 94–1, Dec. 4, 1975, p 38719).
- Limit disclosure to certified copies of relevant documents (93–2, Jan. 23, 1974, p 464).
- Prohibit disclosure of information acquired in one’s official capacity (87–2, May 21, 1962, p 8823; 94–2, Mar. 31, 1976, p 8885).
- Prohibit disclosure of information not previously made public (92–1, Mar. 2, 1971, pp 4584, 4593).
- Limit disclosure to certain files and specified documents and only for inspection and copying (91–1, July 1, 1969, p 17948).

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- Permit disclosure only on a determination of relevancy (94–1, Jan. 23, 1975, p 1161; 94–2, Mar. 2, 1976, p 4999; 94–2, Mar. 31, 1976, p 8885).
- Permit disclosure of certain documents but bar personal appearances (93–2, Aug. 22, 1974, p 30025; 93–2, Sept. 23, 1974, p 32023; 94–1, Dec. 19, 1975, p 41972).
- Permit personal appearances but bar production of certain records (Deschler Ch 11 § 18; 93–2, Sept. 16, 1974, p 31123).
- Permit production of original documents for laboratory examination (94–2, July 27, 1976, p 24089).
- Permit a Member to respond only when the House is not in session (94–1, June 4, 1975, p 16860; 94–1, Dec. 1, 1975, p 37888).

§ 14. Disclosure of Executive Session Materials

The House has traditionally required that executive session materials be released only when specifically permitted by authorizing resolution. Deschler Ch 11 § 18.4; 96–1, June 4, 1979, p 13180. This practice is continued under Rule L clause 6, which states that under no circumstances shall any minutes or transcripts of executive sessions, or any evidence of witnesses in respect thereto, be disclosed or copied. *Manual* § 946. Thus, the House may by resolution assert the privileges of the House against the release of executive session materials (94–1, Dec. 19, 1975, p 41972) or permit the disclosure only after a judicial finding of relevancy (95–1, Jan. 19, 1977, p 1724).

§ 15. Providing for Legal Counsel

Statutory Authorization

Legal counsel, through the Department of Justice, is made available to the officers of the House—but not its Members—pursuant to a provision of the U.S. Code. This statute may be invoked in actions brought against one for anything done by him while an officer of the House in the discharge of his official duty, or in executing any order of the House. The district attorney for the district within which the action is brought is directed on request to enter an appearance on behalf of the officer. 2 USC § 118. This procedure has been followed in actions involving the House (92–2, Aug. 18, 1972, p 29136), the Speaker (93–1, Feb. 5, 1973, p 3207), the Speaker and the Chairman of the Committee on Rules (92–2, May 16, 1972, p 17398), the Clerk of the House (93–1, Mar. 26, 1973, p 9452; 92–2, May 3, 1972, p 15627; 93–2, Sept. 16, 1974, p 31124), and the Sergeant at Arms (88–1, June 6, 1963, p 10359; 94–2, May 20, 1976, p 14926).

Authorization by Resolution

On a number of occasions the House has by resolution authorized the appointment of special counsel to represent an officer or Member or employee who has been served with process. Such a resolution is ordinarily privileged for consideration. 92–2, May 3, 1972, p 15627; 95–1, Nov. 2, 1977, p 13949; 94–2, Aug. 26, 1976, p 27858. If the resolution is not privileged, as where it was not reported by the appropriate committee, it may be brought up by unanimous consent. 93–1, Jan. 6, 1973, p 379. Pursuant to such a resolution, the House has authorized:

- The Speaker to appoint or retain counsel to represent the House and its employees. Deschler Ch 11 § 19.1; 94–1, Jan. 23, 1975, p 1161; 94–2, Mar. 9, 1976, p 5829.
- The chairman of a committee, with the approval of the Speaker, to retain special counsel. 95–1, Nov. 2, 1977, p 13949.
- The Sergeant at Arms to retain special counsel, with the approval of the Speaker and the chairman of the committee responsible for House administration. 94–2, Aug. 26, 1976, p 27858.
- The retention of special counsel to represent the interests of a subcommittee. 94–2, Aug. 26, 1976, p 27858.
- The retention of special counsel to represent members of a committee and its employees. Deschler Ch 11 § 19.2.

Representation by General Counsel

The House has established an Office of General Counsel to provide legal assistance and representation to the House. Rule I clause 11. The office has assisted and provided representation to Members, committees and House officers and employees in complying with legal process under Rule L.

B. Consideration**§ 16. Raising and Presenting the Question****In the House; Use of Resolutions**

Questions of the privilege of the House are brought before the House in the form of a resolution (3 Hinds § 2546; 8 Cannon § 3464; Deschler Ch 11 § 4.2), which may be called up by any Member (3 Hinds § 2536) after proper notice and announcement of the form of the resolution (Rule IX clause 2). Such resolutions are privileged when called up (§ 2, *supra*), but are subject to the two-day layover requirement of Rule IX clause 2. The Speaker may designate the time for consideration at any time within two

legislative days after the announcement. The Majority and Minority Leaders are excluded from this requirement. *Manual* § 661. They may offer the resolution at any time, yielding only to the motion to adjourn. 103–1, July 22, 1993, p ____.

MEMBER: Mr. Speaker, I rise to a question of the privilege of the House, and offer a resolution which I send to the Clerk's desk.

SPEAKER: The gentleman submits a resolution relating to the privilege of the House, which the Clerk will report.

OPPONENT: Mr. Speaker, I make a point of order that the gentleman does not present a question of privilege.

SPEAKER: The Chair thinks the gentleman presents a question of privilege, and is recognized. [*Or*] The Chair will entertain argument as to whether the resolution presents a question of privilege.

Under Rule IX, a question of the privilege of the House having been raised, the Speaker initially decides whether the question presented constitutes a question of the privilege of the House, and rules as to the validity of the question raised. Deschler Ch 11 §§ 6.1, 6.2. He makes this decision at the time the question of privilege is called up; not at the time notice is given. 104–1, Feb. 3, 1995, p _____. Appeal may be taken from the Chair's ruling, however, since the final determination as to the validity of the question rests with the House. Deschler Ch 11 § 6.3.

The question having been properly raised on the floor by a Member, the Speaker must entertain the question (2 Hinds § 1501) and rule on its admissibility (3 Hinds §§ 2648–2650; Deschler Ch 11 § 1; 94–2, Mar. 9, 1976, p 5825). If the matter is not admissible as a question of privilege of the House, he may refuse recognition. Deschler Ch 11 § 6.1; 90–2, Oct. 8, 1968, p 30214; 93–2, June 27, 1974, p 21596.

The resolution must show a *prima facie* breach of the privileges of the House. The mere statement that the privileges of the House have been violated does not present a question of privilege. Deschler Ch 11 § 4.1.

A question of privilege may not be presented during a call of the House in the absence of a quorum unless it relates to the immediate proceedings. 3 Hinds § 2545.

In Committee of the Whole

A question of the privilege of the House based on proceedings in the House may not be raised in the Committee of the Whole. Deschler Ch 11 § 4.3. A breach of the privilege in the Committee of the Whole relates to the dignity of the House and, if raised, the Committee rises and reports to the House (2 Hinds § 1657). However, such a question must have been reported in Committee of the Whole. If not, it cannot be brought to the atten-

tion of the House, even though a question of privilege is involved. 4 Hinds § 4912.

§ 17. Debate; Disposition

A Member offering a resolution raising a question of the privileges of the House is recognized under the hour rule. Deschler Ch 11 § 7.1; 90–1, Mar. 9, 1967, pp 6035–49; 91–2, Dec. 14, 1970, pp 41355–58. The Member recognized must confine himself in argument to the question raised. Deschler Ch 11 § 7.2.

Beginning in the 103d Congress, the time allotted for debate on a resolution offered from the floor as a question of the privileges of the House must be equally divided between (A) the proponent of the resolution, and (B) the Majority Leader or the Minority Leader or a designee, as determined by the Speaker. Rule IX clause 2(a)(2). *Manual* § 661a.

A question of the privileges of the House is subject to disposition by:

- The ordinary motions permitted under Rule XVI clause 4 (94–2, Feb. 19, 1976, p 3920; 101–2, Mar. 22, 1990, p ____).
- The motion for the previous question (5 Hinds § 5460; 8 Cannon § 2672; Deschler Ch 11 § 7.3).
- The motion to postpone (3 Hinds § 2536).
- The motion to refer to committee (8 Cannon § 3461; Deschler Ch 11 §§ 7.4, 7.5; 101–2, Mar. 22, 1990, p ____).
- The motion to commit under Rule XVII clause 1 (102–2, Mar. 12, 1992, p ____).

A question of the privileges of the House is subject to a timely motion to lay on the table (5 Hinds § 5438; 6 Cannon § 560; 95–2, Aug. 15, 1978, p 26203). A resolution raising a question of the privileges of the House may be tabled pursuant to such a motion; tabling is considered a final adverse disposition of that particular resolution although the question may be rephrased and presented anew. 5 Hinds § 5438. Any appeal from a decision by the Speaker disposing of the question is likewise subject to the motion to lay on the table. Deschler Ch 11 § 6.3.

A committee report may be submitted as a matter involving the privileges of the House, and may be considered on the same day reported notwithstanding the three-day availability rule. Deschler Ch 11 § 5.10. A proposition to discharge a committee from a question of privilege is itself privileged. 3 Hinds § 2709.

A resolution that presents a proper question of the privileges of the House (alteration of subcommittee hearing transcripts) may propose the creation of a select investigatory committee with subpoena authority to report back to the House by a date certain. 98–1, June 29, 1983, p 18104.

III. Personal Privilege

A. Basis of Privilege

§ 18. In General

Questions of personal privilege are defined as those that affect the “rights, reputation, and conduct” of individual Members in their representative capacity. Rule IX clause 1. Under this rule, a Member may rise to a question of personal privilege from the floor to respond to criticism of his integrity in his representative capacity. 92–2, Apr. 19, 1972, pp 13491–97. Thus, a statement challenging the integrity of an official transcript of a committee hearing, thus impugning the integrity of those Members responsible for its preparation, has given rise to a question of personal privilege. 86–1, June 23, 1959, p 11587. But charges that do not involve the Member in his representative capacity, such as charges relating to one’s conduct prior to becoming a Member, do not give rise to a question of personal privilege. 3 Hinds §§ 2691, 2723, 2725.

To give rise to a question of personal privilege, the criticism must reflect directly on the Member’s integrity or reputation. Deschler Ch 11 § 24.1. Mere statements of opinion about or general criticism of his actions as a Member (3 Hinds §§ 2712–2714) or his voting record or views (Deschler Ch 11 §§ 24.2, 24.3), do not constitute grounds for a question of personal privilege. Thus, a charge that a Member’s actions amount to a “public scandal,” even when made by the President (6 Cannon § 525), or that a Member distributed certain improper questionnaires (Deschler Ch 11 § 24.1), or that he filed a minority report that had been written by employees of a political party (Deschler Ch 11 § 24.4), does not give rise to a question of personal privilege.

Published charges relating to the House or the Members generally (Deschler Ch 11 § 33.2) or to “persons advocating” a certain measure (Deschler Ch 11 § 33.1), with no Member being named or otherwise identified (Deschler Ch 11 § 33.3) do not give rise to a question of personal privilege.

A question of privilege may not be used to collaterally attack the rules or orders of the House. A refusal by those in charge of the time for general debate on a bill to allot time to a Member does not give that Member grounds for a question of personal privilege. Deschler Ch 11 § 24.

§ 19. Charges by a Fellow Member; Words Used in Debate**Generally**

Statements by a Member accusing another Member of lying (Deschler Ch 11 § 26.7), making a false statement (3 Hinds § 2717), or impugning his motives or veracity (Deschler Ch 11 § 26.8) may give rise to a question of personal privilege, as may accusations of traitorous acts (Deschler Ch 11 §§ 26.2, 26.5, 26.6), of gross political interference with a government contract (Deschler Ch 11 § 26.3), or an abuse of personal power and of sponsoring a smear (Deschler Ch 11 § 26.4). It is not necessary that the Member be identified by name if it is clear from other sources that the reference was to a particular Member (3 Hinds § 2709; 6 Cannon §§ 616, 617; Deschler Ch 11 § 26.1).

Words Uttered in Debate or Inserted in the Record

A question of personal privilege may not be based on language uttered on the floor of the House in debate, the remedy being a timely demand that the objectionable words be taken down when spoken. 8 Cannon § 2537; Deschler Ch 11 § 27.1. Generally, see CONSIDERATION AND DEBATE. However, such a question may be based on objectionable remarks inserted by a Member in his speech under leave to revise and extend his remarks. 8 Cannon § 2537; Deschler Ch 11 §§ 27.2–27.5. Charges reflecting on a Member's integrity or reputation, inserted in the Record by a Senator, may also give rise to a question of personal privilege. Deschler Ch 11 §§ 27.6–27.12.

§ 20. Charges in the Press**Generally**

Criticism of a Member in the press may give rise to a question of personal privilege where the criticism reflects on his integrity or conduct in his representative capacity. 94–1, May 22, 1975, p 15883; 94–2, Feb. 23, 1976, p 4062; 96–1, Sept. 21, 1979, p 25656. But vague charges in newspaper articles (6 Cannon § 570), criticisms (3 Hinds §§ 2712–2714), or even misrepresentations of the Member's speeches or acts or responses in an interview (3 Hinds §§ 2707, 2708; 101–2, Aug. 3, 1990, p ____), have not been entertained. The mere allegation that there has been a violation of the rules of the House, such as that votes have been improperly paired (8 Cannon § 3094) or that a bill has been placed on the incorrect calendar (3 Hinds § 2616), does not give rise to a question of personal privilege. But where the allegation impugns his character or motives (98–2, May 15, 1984, p 12201) or reflects on a Member's reputation or integrity, a question of per-

sonal privilege may arise. For example, language in a newspaper asserting that a Member would divide the Nation and that he was a spokesman for the forces of betrayal was held to involve a question of personal privilege. Deschler Ch 11 § 31.3. Charges that a Member is a fascist sympathizer (Deschler Ch 11 §§ 31.4–31.11) or that he has engaged in conduct inimical to the national security (Deschler Ch 11 §§ 31.12–31.18) have also given rise to questions of personal privilege. Other charges in the press that have given rise to a question of personal privilege include allegations of:

- Misuse of public funds. Deschler Ch 11 § 30.1.
- Conflict of interest. Deschler Ch 11 §§ 30.6, 30.7.
- Deceptive or disgraceful conduct reflecting on the House. Deschler Ch 11 §§ 30.2, 30.15, 30.16.
- Dereliction of duties. Deschler Ch 11 § 30.3.
- Confiscation of evidence. Deschler Ch 11 § 30.4.
- Being influenced in legislative action by unworthy motives. 6 Cannon § 576; 8 Cannon § 2216.
- Improper conduct in agency dealings. Deschler Ch 11 § 30.17.
- Abuse of the franking privilege. Deschler Ch 11 § 30.18.
- Engaging in improper lobbying activities. 87–2, June 6, 1962, p 9792.
- Introducing legislation in which the Member had a personal interest. 89–2, June 22, 1966, p 13907.
- Wrongfully claiming “out of pocket” expenses in a fund-raising activity. 94–2, Feb. 23, 1976, p 4062.

Criticism of Committee Activities

Criticism impugning the motives or actions of a chairman or member of a committee may give rise to a question of personal privilege. 87–2, July 16, 1962, p 13681; 95–2, Feb. 21, 1978, p 3853. Thus, a Member has been recognized to rise to a question of personal privilege to respond to press charges that he had:

- Improperly disposed of classified documents from committee files. 94–2, Mar. 9, 1976, p 5825.
- Abused his power or acted improperly in carrying out committee responsibilities. Deschler Ch 11 §§ 30.8–30.14.
- Employed someone who did no work for the committee. 94–2, May 25, 1976, p 15344.

Normally, however, a question concerning charges as to the propriety of committee procedure as distinct from charges against the Member’s conduct in his representative capacity, should be raised as a question of the privileges of the House, under Rule IX, assuming that the dignity and integrity of the House proceedings is at issue. (Questions of the privileges of the House are discussed in §§ 3 *et seq.*, *supra.*)

Charges of Illegality

Charges in the press that a Member did something illegal in his representative capacity give rise to a question of personal privilege. 3 Hinds § 1829; Deschler Ch 11 §§ 29.1, 29.3. Such a question arises on publication of charges that a Member committed an act amounting to:

- Treason or sedition (Deschler Ch 11 § 29.6).
- Forgery (Deschler Ch 11 § 29.2).
- Corruption and bribery (3 Hinds § 1830).
- Criminal conspiracy or perjury (Deschler Ch 11 § 29.5).
- Tax evasion and irregularities (Deschler Ch 11 §§ 29.4, 29.5).
- A violation of the securities laws (95–2, June 2, 1978, p 16056).

Charges of Impropriety

The publication of vague charges accusing Members of impropriety do not give rise to a question of personal privilege. 8 Cannon § 2711. No question of personal privilege arises from the publication of remarks attributed to a Member which he denies having made. 8 Cannon § 2708.

A charge of vote-selling in a conflict-of-interest case (Deschler Ch 11 § 28.1) or involvement with an organization being investigated by a Senate committee (Deschler Ch 11 § 28.3) or of conduct characterized as reprehensible (Deschler Ch 11 § 28.2) has given rise to a question of personal privilege.

Charges Impugning Veracity

Published charges that a Member made a false statement may give rise to a question of personal privilege. 3 Hinds § 2718; Deschler Ch 11 §§ 32.1, 32.2. For such a charge to give rise to this question of privilege, however, it must be alleged that the Member made a false statement knowingly, with intent to deceive. 3 Hinds § 2721. A mere difference of opinion over a factual matter, where there is no intent to deceive, does not give rise to a question of personal privilege. 3 Hinds §§ 2720, 2721.

B. Consideration and Debate

§ 21. Raising the Question; Procedure

Unlike questions of privilege of the House, which must be raised by resolution (§ 16, *supra*), questions of personal privilege are ordinarily raised from the floor (Deschler Ch 11 § 20; 92–2, Apr. 19, 1972, pp 13491–97).

The Member, before proceeding with argument on a question of personal privilege, must state to the Speaker the grounds on which the question

is based. Deschler Ch 11 § 21.1; 89–2, June 22, 1966, p 13907. In ruling on the question, the Speaker may insist that the offending material, if published, be submitted to him for his examination. Compare Deschler Ch 11 §§ 21.2, 21.3.

MEMBER: Mr. Speaker, I rise to a question of personal privilege.

SPEAKER: The gentleman will state his question of privilege. . . .

SPEAKER: The statement seems to bring the case within the rule, and the gentleman will proceed.

In Committee of the Whole

Early precedents suggest that a question of personal privilege may be raised in the Committee of the Whole if the matter in issue arose during the Committee proceedings. Compare 3 Hinds §§ 2540–2544. Under the modern practice, however, questions of personal privilege are raised in the House, not in the Committee of the Whole. Deschler Ch 11 § 21.4. A question of personal privilege alleged to have arisen in the Committee of the Whole cannot be raised in the House unless the matter was reported to it by the Committee. 4 Hinds § 4912.

§ 22. Debate on the Question; Speeches

Debate on a question of personal privilege is ordinarily under the hour rule. 5 Hinds § 4990; 8 Cannon § 2443; Deschler Ch 11 § 22.1. The Member recognized on the question controls the hour. 94–1, May 22, 1975, p 15883. A Member wishing to respond to another Member's debate on a question of personal privilege may do so in a special-order speech. Deschler Ch 11 § 22.2.

In rising to a question of personal privilege, the Member should confine his remarks to the statements or issues giving rise to the question (5 Hinds §§ 5075, 5076; 91–2, Aug. 4, 1970, p 27130; 98–2, Mar. 31, 1984, p 14623), but is entitled to discuss related matters necessary to challenge the charge which has been made against him. Deschler Ch 11 § 22.5. He should limit his remarks to the matter concerning himself personally (5 Hinds § 5078), and should not use his debate time to prefer charges against others (8 Cannon §§ 2481–2483). His remarks should be kept within limits consistent with the spirit of the rule, and he may not use the privilege as a vehicle for discussions not otherwise in order. 8 Cannon § 2448.

In lieu of raising a question of personal privilege, a Member may use a one-minute or special-order speech to respond to the charge or allegation. Deschler Ch 11 § 22.4. Another option available to the Member is merely to insert his remarks in the Record, without using debate time. 94–2, Feb. 23, 1976, p 4062.