

December 2, 2010

Mr. SCOTT of Virginia: Mr. Speaker, I served on the special subcommittee appointed to investigate this matter, and dissented from the subcommittee report. I rise to oppose the pending motion to adopt the resolution.

I believe that, under precedents of the House, imposing censure on one of our Members for violating procedural rules of the House under these circumstances would be singularly harsh, unfair, and without precedent. Now, Mr. *Rangel* has acknowledged his mistakes, and he has asked to be punished fairly, which means punished just like everybody else similarly situated. Accordingly, I believe the punishment is appropriate, but I believe that censure is inappropriate.

Congressman *Charles B. Rangel* is a dedicated public servant and a decorated soldier who has made outstanding contributions to the people of his congressional district, to the United States, and to this institution.

Yet he has made mistakes which have resulted in violations of the rules of official conduct for Members of the House and he will be punished for those violations. The question is what is the appropriate punishment?

We need not answer this question in a vacuum. Congressman *Rangel* is not the first Member to violate rules of official conduct, so we have ample precedents from which to glean the appropriate punishment. It is clear from the precedents of the House that censure is not a fair and just punishment for these violations. When censure or even reprimand has been imposed for violations in past cases, they have involved direct financial gain or criminal or corrupt conduct. The committee counsel during the hearings acknowledged that those elements are not found in this case. Furthermore, the committee report in this matter acknowledges that the recommendation of censure in this case is in violation of prior case precedents. The point is made in the report on page 7, and I quote:

“Although prior committee precedent for recommendation of censure involved many cases of direct financial gain, this committee's recommendation for censure is based on the cumulative

nature of the violations and not direct personal gain." But using "cumulative nature of the violations" to support the committee's recommendation of censure is without precedent. In the case of former Congressman George Hansen, the committee stated that, and I quote, "It has been the character of the offenses which established the level of punishment imposed, not the cumulative nature of the offenses." And so a review of prior precedents establish that neither the character nor the cumulative nature of the violations warrant censure.

Eight of the 11 counts that the committee found that Congressman *Rangel* has violated are for raising money for a center at a public university in his congressional district. The program is to train young people to go into public service, using his life experience as an inspiration. Assisting a constituent institution with such a project is not a violation in and of itself, but there are proper procedures to be followed if you're going to raise money for a local college. He openly assisted the institution, clearly with no intent to do anything improper, but he did unfortunately violate the rules by not following proper procedures. Once the determination was made that he used official resources to help the local college, that one mistake has been converted into almost eight different counts:

One, he used the letterhead; two, he used the staff; three, he used office equipment; he used franked mail; all from the fact that he cannot use official resources. That was a mistake for which he should be punished. The question is what should the punishment be for messing up and raising money improperly?

Well, we have the case of former Speaker Newt Gingrich who was found to have violated House rules by misusing tax-exempt entities to fund a partisan college course aimed at recruiting new members to the Republican Party after he had been warned not to. Moreover, he was found to have filed four false reports to the committee about the matter in 13 instances, causing substantial delays and expense to the committee. Yet he was reprimanded, not censured, and did not lose his job as Speaker. Congressman *Rangel* did not lie about his activities, he gained no partisan advantage, he believed that he was doing right although he made mistakes, and he received no prior warning, as did Speaker Gingrich. Yet Congressman *Rangel* lost his chairmanship on Ways and Means and now faces the possibility of a censure, not a reprimand, as Speaker Gingrich received.

Another example of raising money in violation of House rules involved former House majority leader Tom DeLay. He was admonished by the committee for participating in and facilitating an energy company fund-raiser which the committee found created an appearance of "impermissible special treatment or access." Mr. DeLay was also cited for his "intervention in a

partisan conflict in the Texas House of Representatives using the resources of a Federal agency, the FAA." An ethics investigation involved accusations of solicitation and receipt of campaign contributions in return for legislative assistance, use of corporate political contributions in violation of State law, and improper use of official resources for political purposes. I think everybody here is aware of recent news reports that Mr. DeLay has been convicted of charges of money laundering in connection with circumventing a State law against corporate contributions to political campaigns. For being found guilty of money laundering and conspiracy, the media reports that he faces possible prison sentences of between 5 and 99 years in prison. Yet the House did not censure Mr. DeLay, nor did they even impose a reprimand. They only issued a committee letter. Mr. *Rangel* has made mistakes and he should be punished, just like everyone else in the past, consistent with precedents.

On the issue of Mr. *Rangel's* rent-stabilized apartment for use as a campaign office, let the record reflect that Mr. *Rangel's* landlord knew of his use of the apartment for a campaign office and did not see it as illegal. And the committee records reflect that an attorney for the New York housing authority testified that the use decision was up to the landlord. If somebody rented the apartment that was not technically protected by the rent stabilization law, the tenant is not protected; however, the lease is permitted. That's what the attorney for the housing authority said. And I don't know whether that's right or wrong, but that's what *Charlie Rangel* believed, that's what his landlord believed, and that's what the housing authority lawyer believed.

Now let's talk about this apartment. It had been vacant for months. *Charlie* paid sticker price for the rent. He passed nobody on the waiting list. This is not a corrupt scheme. To the extent that there is a violation, let's punish him consistent with others who have had problems. Earl Hilliard, for example, was found by the committee to have been paying more than market

rent for his campaign headquarters; the rent paid to family members who owned the building. He was not censured. He wasn't even reprimanded. He received a committee letter.

Other cases involving campaign violations and use of official resources have not resulted in censure. One example is the case of Bud Shuster for violations of House rules related to campaign and other violations. He was found to have knowingly allowed a former employee-turned-lobbyist to communicate with him within 12 months following her resignation, to influence his schedule and give him advice pertaining to his office. He was also found to have violated the House gift rule, to have misused official congressional resources, misused official congressional staff for campaign purposes, and to have made certain expenditures from his campaign accounts for expenses that were not for bona fide campaign or political purposes. Yet

he received a letter, not a censure, not even a reprimand. Although both of those cases involved personal financial gain and intentional violations of the rules, the sanction for both was a letter of reproof. Mr. *Rangel* neither personally benefited nor intended to violate the rules.

There is an issue now of his failure to report income on rental property, on property he owned in the Dominican Republic, and report those appropriately on his disclosure statement. I say "properly," because ownership and some rental payments were in fact reported on his disclosure, so there's nothing to cover up. And while he did not file all his reports properly, these are not matters that warrant censure. Mistakes made on disclosure are usually corrected with nothing more said. The only cases where there is a violation, a sanction, for failing to disclose are cases where there is some corrupt cover-up. For example, failing to file campaign contributions from Tonsong Park during Korea-Gate or failing to have loans or assets with those who would reveal a conflict of interest. The committee found no evidence that failure to report was for financial gain or cover-up.

The tax issues. Comment was made that he hadn't paid taxes for 17 years. Let's say a word about those taxes. Tax matters involved a deal where he and many others had pooled their rents and paid expenses and anything left over was profit. Well, it wasn't as profitable as they hoped. He got a couple of small checks over all those years and that was it. However, one of the bills paid was his mortgage. And diminution of principal is technically income on which you have to pay taxes. Whatever sanction there should be for that transgression should be consistent with precedents. The only example of anybody sanctioned for tax matters in this House in the history of the United States have been those who did not pay taxes on bribes they received. That's it. All we ask is that he be sanctioned like everyone else.

Since there is no indication that *Charlie Rangel's* reporting violations were intended for financial gain, concealment or other corruption, censure is clearly not the just sanction. Moreover, he hired a forensic accountant to assure that all of the matters have been cleared up. He knows he messed up. He knows he'll be punished. We just ask that he be punished like everybody else. Unfortunately, *Charlie Rangel* will be punished for his transgressions but neither the nature of the offenses nor their cumulative impact has been a sufficient basis for censure of any other Member in the past. Nor has the level of one's position been a basis for sanction as we said in the case of Newt Gingrich or Tom DeLay. Both had multiple serious violations that were intentional with aggravations such as concealment, lying and failure to heed warnings, none of which are in this case.

All the instances of censure, reprimand, reproof, admonishment and other cases of sanctioning make it clear that censure is not an appropriate sanction in this case. Now, **CHARLIE** is not

asking to be excused for his conduct. He accepts responsibility. All we ask is that we cite what has been done in the past for conduct similar to his and apply a sanction similar to those sanctions. And based on the precedent, there is no precedence for a censure in this case.