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# COMMITTEE STRUCTURE

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## HEARINGS

BEFORE THE

# JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

## COMMITTEE STRUCTURE

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APRIL 20, 22, 27, 29, 1993  
MAY 4, 6, 11, 13, 1993

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[Authorized by H. Con. Res. 192, 102d Congress]

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## COMMITTEE STRUCTURE

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TUESDAY, APRIL 20, 1993

UNITED STATES CONGRESS,  
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS,  
*Washington, DC.*

The committee met, pursuant to call, at 2 p.m., in room HC-5, The Capitol, Senator David L. Boren (co-chairman of the committee) presiding.

### OPENING STATEMENT OF HON. DAVID L. BOREN, A U.S. SENATOR FROM THE STATE OF OKLAHOMA

Chairman BOREN. We are going to go ahead and begin. Our colleagues in the House have a vote, so they will be having to go to that vote and then they will be immediately rejoining us.

Today we begin a new set of hearings on an issue that is extremely important to every Member of Congress: The committee structure. We have heard already a great deal from the witnesses that have given us overviews of their concerns about Congress, the need to make reforms and changes and virtually every statement that has come from Members and former Members expressing their worries about what needs to be fixed as far as Congress is concerned. Committee structure has figured largely in their comments.

Woodrow Wilson a century ago stated that Congress in session is Congress on public exhibition while Congress in its committee rooms is Congress at work. And today, and for the next several weeks, we will be discovering how well that work is being done.

I think it is fair to say that Congress at work in its committee rooms presents a confusing picture to the American public. Since C-SPAN began covering the proceedings of Floor activities and committees, the public has had the opportunity to see firsthand how we operate.

But for those members of the public who come to Washington to visit or even testify, they see a very different picture: A Floor debate where a single Member may be speaking to an empty chamber, a committee hearing where the committee or subcommittee chairman might be the only one in attendance. And that often happens because there are several committees meeting at the same time or votes occurring elsewhere as is about to happen to us at this moment.

These are things we hope we can change as we look at reforming the structure of Congress and the Senate. Today, as we have said before, Members serve on an average of 12 committees and subcommittees with some serving on up to 22 different panels, so it is not

surprising that Members run from one meeting to another with fractured attention and inability to focus on the issues before their committees as they are debated on the Floor or debated in committees.

The problems with the committee system are obvious to Members: Too many assignments, overlapping jurisdictions, conflicting structures between the House and the Senate, overlapping claims by committees and subcommittees on executive branch agencies.

The Joint Committee will see if we can resolve some of these very entrenched problems. Today we have a full day to kick off our hearing set on committee structure. The Acting Deputy Librarian of Congress will present a set of committee reform plans that were prepared by the Congressional Research Service and were prepared for the Joint Committee.

The next panel will be two former Senators who chaired the most significant committee reform panel since the first Joint Committee on the Organization of Congress in 1945. And finally, we will hear from a panel of outside experts on the committee system and their recommendations for reform.

Committee members are interested in this issue. In fact, we invited all chairmen and Ranking Members of the standing committees to testify on this issue. As of today, 38 chairmen and Ranking Members want to testify on this issue.

Because of the strong interest in both chambers, we have now seven sessions scheduled on this issue for the next three and a half weeks so that these Members can be accommodated beginning this Thursday.

Now, we do have a full day today, so I would like to go right on, if none of my fellow Members have opening statements, so that we can get at as much as we can. Vice Chairman Dreier does have a brief statement he wishes to make.

**OPENING STATEMENT OF HON. DAVID DREIER, A U.S.  
REPRESENTATIVE FROM THE STATE OF CALIFORNIA**

Mr. DREIER. Thank you very much, Mr. Chairman.

I would make one minor correction in your opening statement when you said many Members have an interest in this. I found that all Members have a particular interest in this.

Just over the past couple of days, I have been hearing from more than a few of my colleagues in the House who were very concerned about this bold action that we might be taking in the area of committee reform and it is going to be a real challenge for us.

I want to say that I appreciate your calling this hearing and I look forward to the testimony from all of our witnesses and a detailed outline of all the plans that are before us.

Chairman BOREN. Thank you very much, Congressman Dreier, and I appreciate your constant support for our taking action on this front.

When the people look at what we are doing—and after all this institution belongs to the American people, not to us, we are just temporary occupants of these chairs—and when the people look at a Congress that can't even for sure accurately count the number of committees and subcommittees that it has, figures that range

somewhere between 290 and 300 committees and subcommittees, depending on which groups you do end up counting, and when they see overlapping jurisdiction and they see it is not unusual for one agency to be reporting to 20 or 30 different committees or one issue to have its jurisdiction fractured between 40 different committees and it is not unusual to have over 100 Members of the House and Senate from many different committees getting together in a conference committee to try to work out some compromise between the two houses.

I think the people have a firm understanding of what needs to be done. They see us as not efficiently organized, too much bureaucracy, fragmented, unable to get the job done on the really important issues of the day.

So we really are getting into the heart of what I believe the public wants us to work on in this committee and then the heart of subject matter which will be used to measure our success or failure as we present our plan to our fellow Members.

Our first witness, as I said, this afternoon is the Acting Deputy Librarian of the Library of Congress, Daniel Mulhollan. He worked with the Congressional Research Service at the library prior to his current position. At CRS, he held the positions of head of the Political Institution Section and head of the Congress Section which must have been a very challenging position. He has also served as Assistant Chief as well as Chief of the Government Division.

We are very pleased to have you with us today. We understand that it wouldn't be necessarily appropriate for you to be an advocate today of any particular plan of reorganization. We want your tenure to continue in your present job, so we will not put you in that position. But we would welcome your explanation to us and summary to us of the research that has been done and is now being made available to the committee.

This will really be the background information that we will use as we begin to look at other possible alternatives for restructuring the committee system as we now know it. So, Mr. Mulhollan, we welcome you to the committee.

#### **STATEMENT OF DANIEL P. MULHOLLAN, ACTING DEPUTY LIBRARIAN, LIBRARY OF CONGRESS**

Mr. MULHOLLAN. Thank you very much, Mr. Chairman, Vice Chairman Dreier, Vice Chairman Domenici, Senator Reid and Congresswoman Dunn. Thank you very much. I am again Dan Mulhollan, Acting Deputy Librarian of Congress, also Chief of the CRS, Government Division.

I would like to introduce you to my colleague, Judy Schneider, who is a specialist at the Library of Congress of the CRS Government Division and who is one of the coauthors of the study you have before you.

It is a pleasure for us to be here and to discuss the congressional committee system. The comments that we have are drawn from 24 years that I have worked here with the Congressional Research Service. Actually back in 1969, when I started with the Legislative Reference Service, and this was when the 91st Congress was finishing work 4 years earlier begun by then your predecessor, the Joint

Committee on the Organization of the Congress. The efforts, of course, at that Joint Committee ultimately led to the legislative reorganization act of 1970.

Now, there have been a number of successor groups that have reviewed Congress since then, each laying the foundation for the work that you are undertaking today. And the Library of Congress is happy to play a role in assisting that and, if you bear with me, I thought it might be helpful as both the Library's role, particularly this what has gone in the past, as well as present efforts.

Now, of course, from the beginning in 1789, Congress has relied on committees in order to consider issues and legislation. Through the years, panels and the numbers of assignments per Member grew so much and the perception of policy fragmentation among panels became so acute that, during World War II, Congress decided to examine what organizational changes would help it function more effectively in a post-war environment.

Now, as you know, the first Joint Committee on the Organization of Congress was created with a mandate similar to your own; that is, it was responsible for drafting the Reorganization Act of 1946, the landmark work that defined the modern committee system.

George Galloway, I am happy to say, of the Library's Legislative Reference Service was the 1945 Joint Committee staff director. Among other things, the 1946 act abolished numerous outmoded and duplicative panels and, for the first time, codified standing committee jurisdictions in chamber rules. It clarified committee procedures and created a modern staffing system.

During the next quarter century, new unforeseen problems arose, some emerging as unintended consequences of the 1946 act. It is helpful to keep those in mind.

Accordingly, Congress created a second Joint Committee on the Organization of Congress. The product of their labors was the 1970 Reorganization Act which addressed committee procedural issues, strengthened the analytical capabilities of the institution, as I mentioned among other things, changing the Legislative Reference Service to the Congressional Research Service with expanded analytical capacity, better balancing between Majority and Minority interests and increased the openness of the legislative process through such methods as recorded televotes in the House.

In 1973, just 3 years later, the House created the Select Committee on Committees to update an institution which was been operating under a system devised primarily over a quarter century earlier. The panel made extensive recommendations for changing the structure and jurisdiction of House committees, although much of the original plan was altered by the Democratic Caucus Committee on Organization, Study and Review. The House did, however, adopt the Bolling Committee's recommendations on staffing and multiple referral of bills.

In the year later, we have the Congressional Budget and Impoundment Control Act of 1974. While not having an across-the-board jurisdictional impact on the committee system, it was responsible for the creation of the House and Senate Budget Committees.

The Senate Select Committee on Committees active in 1976 and 1977 chaired by Senator Stevenson, who you will hear from shortly, achieved a degree of success in abolishing some Senate committees

and realigning jurisdictions, although some observers, and perhaps Senator Stevenson will agree, with the benefit of hindsight, questioned its success regarding the committee assignment process.

I would like to mention to you that one of the documents that came out of this study that I would refer you to in the future is a study done by Louis Anthony Dexter that appears in the committee documents at that time. The title is "The Advantages of Some Duplication and Ambiguity in Senate Committee Jurisdictions."

And what he does—and when I was talking to my colleagues here about how do you approach the topic in a theoretical position, because it was not our instructions but in case some of you Members are interested in that, actually there is a paucity of literature of how you organize questions and topics in a theoretical foundation before you approach it. I think we tend to be understandably pragmatic about how to align our work and divide our labor. But if anyone is interested, I think it is one of the best pieces. Fifteen years old, but still quite relevant.

During this same period on the House side, the Commission on Administrative Review chaired by Mr. Obey, who is absent at the moment, examined the management and ministerial structure of the House scheduling workload requirements placed on Members. The Commission concluded that another Select Committee on Committees should be created. But the House, however, did not accept this recommendation.

Now, the Culver Commission on the operation of the Senate addressed the structure of the committee only peripherally in part of the simultaneous work being conducted by the Stevenson panel. As such, the Culver group did address staffing issues and other matters tangential to the committee organization.

In 1979, the Patterson Committee on Committees in the House focused primarily on realigning energy jurisdiction. And now in 1984, the Quayle Committee on Committees primarily addressed the Senate assignment system. If you will recall, for a time, the committee service limitations adopted were implemented but many of the limitations they imposed have since been watered down a little bit.

Indeed, in their testimony before this Joint Committee, I believe both the Senate Majority and Minority Leaders noted that the committee assignment system was one of the major problems facing the Senate.

Although prior reform panels made significant contributions to the structure and procedures of the Congress, this set of hearings by the Joint Committee suggest that there are still a number of Members who believe that there is still more left to be done as commented by yourself, Mr. Chairman and Vice Chairman Dreier, a lot to be done by most Members.

Now, with regard to the service report on committee reorganization options. Members of Congress have already received a report prepared by CRS at the request of the Joint Committee to serve as a starting point for discussion of possible committee reorganization options and jurisdictional realignments.

A companion analysis of these options has also been provided. While it may have been intended only to foster initial discussion,

our understanding is the report has already been the topic of interest among many Members.

The report provides models for reorganizing the committee systems. The charts on display and also in your booklets, hopefully, identify new committees which might be established from under the various reorganization schemes identified in the record.

Organizing principles for designing the alternatives variously included the number of panels, rational jurisdictional alignments, workload parity, the disparity of chamber size and the possible impact on committee organization, applying the organization of the executive branch or Federal budget functional categories to committee structure, and to a lesser degree, the committee assignment system.

In selecting and delineating options, no consideration was given to feasibility, political winners or losers, options for timing or processes for implementation.

Finally, consistency in jurisdictional approaches was not sought in part to illustrate that various subjects are open to categorization under several topic areas. While many issues relating to the committee system are covered in the document, there are other issues integral to the committee system reorganization that were not addressed in the CRS report.

Senator DOMENICI. Mr. Chairman, might I ask for a clarification?

Chairman BOREN. Surely.

Senator DOMENICI. Tell me, on trying to do something where the functions of government that are contained in an executive budget match up better with committee jurisdictions, did you also look at appropriations jurisdiction to match those.

Mr. MULHOLLAN. Yes, sir. The appropriations is one of the plans that is here in the report that is here, so aligning themselves with appropriation categories with the subcommittees themselves.

Senator DOMENICI. Thank you.

Thank you, Mr. Chairman.

Mr. MULHOLLAN. Plan M, for motherhood and apple pie.

Finally, if you will, while many issues relating to the committee system are covered in the document, there are others as I mentioned that are not covered. Among these are committees assignments, bill referral procedures, staffing, oversight, and the legislative process in committee.

The history of efforts to enhance the congressional committee system suggests that this Joint Committee may wish to consider in its deliberations a number of interrelated questions about congressional committees.

Perhaps more important is whether there is in fact a systemic problem with the committee system. If the Joint Committee determines that the committee system is basically sound and needs nothing more than fine tuning, its focus might include such issues as:

One, adjustments in jurisdictions at the margins and points of overlap among committees. Perhaps another would be ways to encourage committees to collaborate on subjects of mutual interest. And three, ways to maximize the use of a Member's time spent on committee work.

If more radical changes appear to be appropriate, then the Joint Committee may wish to consider the following questions:

How should committees and subcommittees be organized to reduce scheduling conflicts while still coping with an extensive workload? Another question would be: What should the appropriate assignment limitations and process be for both committees and subcommittees?

A third would be: What is the optimum number of panels and what should their size and ratio be? Or how should the Congress organize and manage its committee system to deal with the problems of jurisdictional overlap? Or how should panels be organized to encourage them to give early attention to emerging problems?

How can broad policy questions be examined in a comprehensive rather than fragmented manner? And what should the relationship between the House and Senate committee systems be?

CRS and the Library of Congress are, of course, willing to assist you in exploring these questions. We at the Library are proud of the assistance that we have provided the Congress for the past half century in assessing Congress' needs for the post-war environment. We are again pleased to have the opportunity to assist this new Joint Committee in assessing the needs of Congress for a new domestic and international agenda and environment which are poised to begin the year 2000.

I thank you for the opportunity to be here before you this afternoon. Myself and my colleague, Ms. Schneider, are available for questions.

[The prepared statement of Mr. Mulhollan is printed in the Appendix.]

Chairman BOREN. Thank you very much.

As I understand, as I said in my introductory comments, you have attempted to take the staff and the committee mandate and look at a wide array of plans without coming to any endorsement yourself of any particular approach?

Mr. MULHOLLAN. That is correct, sir.

Chairman BOREN. When we get into different questions, for example, you said I guess plan M is what Senator Domenici just asked you about a minute ago.

If we were trying to have our committee structure really track the various budgetary functions so that the agencies of the executive branch with related sorts of programs by expenditure area would fall under the jurisdiction of the same committee so that you have, for example, there is Commerce Justice, let's see. Well, these are really tracking the current subcommittees on appropriations.

Mr. MULHOLLAN. The appropriation, there is one that follows budget categories as well.

Chairman BOREN. Which one follows budget categories? M really tracks the subcommittee.

Mr. MULHOLLAN. Plans A and B, I believe, you will find—plans A and B are those that follow on the budget functions.

Chairman BOREN. As really described by the way the executive branch is broken down?

Mr. MULHOLLAN. That is plan B, parallel with the executive branch agencies. You have the executive branch agencies is one

model. You have the appropriations subcommittees and then you have the budget functional categories.

Chairman BOREN. Let me ask you this question: On each one of these plans, for example, if you are taking the subcommittee categories as now established in the Appropriations Committee, so for example you have Commerce, Justice, State which is now a subcommittee of the functional area of appropriations, or let's suppose you take parallel with executive branch so you have Education, Energy, Health and Human Services, Interior and so on, on those proposals, did you make those parallel between the House and Senate?

In other words, on virtually every one of these plans before us, I see some are not the same but on most of them, have you tried to make them parallel to House and Senate so that you have whatever plan you go with, whether it is Appropriations Committee, traditional jurisdiction, or whether it is executive branch organization, that you try to have a parallel committee structure between the House and the Senate?

Mr. MULHOLLAN. That is correct on most of them. Some of them, that is not the case. But most of them there are parallels between the two chambers.

Chairman BOREN. Now, as to the number of committees, what assumptions did you use in terms of how many standing committees do we now have in the House and how many in the Senate if we include select committees?

Mr. MULHOLLAN. Well, 22 standing committees in the House and 16 in the Senate.

Chairman BOREN. Twenty-two and 16.

Mr. MULHOLLAN. Yes, sir, and we had various options.

Chairman BOREN. That does not count select committees?

Mr. MULHOLLAN. In the Senate that does not.

Chairman BOREN. It does in the House?

Mr. MULHOLLAN. With the exception—on the House, with the exception, of course, of Intelligence, they no longer exist.

Chairman BOREN. That is right. When you say 16, is that counted in after Indian Affairs and Aging.

Mr. MULHOLLAN. In addition to the 16, those two panels would be included.

Chairman BOREN. In addition, OK. So have you started with any assumption about the numbers of committees we would want to have?

Mr. MULHOLLAN. There is one series of plans that calls for the different number. I would have my colleague, Judy Schneider, one of the authors, to elaborate for you if you would like. But one started with eight and went on to 20 and 37.

Chairman BOREN. You have got a 12. Plan G is 12 committees per chamber. Is there any way—let's suppose that you took the complaint. If you were to list the complaints about the current committee system, I think, number one, people would say Members serve on too many committees. That is a whole different question that is not outlined in your charts. That is an issue you have not addressed.

Mr. MULHOLLAN. That is correct.



Chairman BOREN. So if we were to decide instead of serving 12 committees, the subcommittee members could only serve on six or seven—

Mr. MULHOLLAN. In each of the assumptions, Senator, we note the number of assignments that would be likely, given each of the scenarios.

Chairman BOREN. So if you had 12 committees—

Mr. MULHOLLAN. The number of assignments that would likely take place.

Chairman BOREN. You would be able to tell us how many committees the average Senator would serve on?

Mr. MULHOLLAN. That is right.

Chairman BOREN. Let's just take the plan G for a minute as an example, and this assumes 12 committees per chamber as opposed to 22 and 16, when it is really 22 and 18 or something like that if we count selects in the Senate side.

What do you assume there about subcommittees or do you make any assumption at all about the numbers of subcommittees?

Mr. MULHOLLAN. As we note in the assumptions there, sir, the subcommittees would be limited in that proposal.

Chairman BOREN. How would they be? Would you limit—do you have a total number of subcommittees?

Mr. MULHOLLAN. Total number of subcommittees per committees.

Chairman BOREN. Would be how much?

Mr. MULHOLLAN. We didn't make an exact number.

Chairman BOREN. You just said that you could do that.

Mr. MULHOLLAN. Yes, sir.

Chairman BOREN. I suppose if we stayed with appropriations the way they are now with some subcommittees.

Mr. MULHOLLAN. Thirteen.

Chairman BOREN. Could we very well look at all the other committees and say no more than three and let the committee itself determine the jurisdiction?

Mr. MULHOLLAN. That is correct.

Chairman BOREN. So long as the parent committees had parallel jurisdiction. Are there ways—and let me just ask this and I will turn to my colleagues—if you take the complaints that are usually brought to us, one too many committees and subcommittees, that is one complaint.

So let's say you start with a plan where you seek to reduce the total number of committees and subcommittees. The other complaint often raised is nonparallel jurisdiction between House and Senate. And I suppose the other complaint that I hear most often is overlapping jurisdiction so that the same executive branch agency is reporting to 20 congressional committees all on the same issue, say.

How do we dispose of nuclear waste when 30 different committees now have partial jurisdiction?

Well, is there a way of putting a matrix together that takes these three competing—not necessarily competing but there are three things you want to do at one time—reduce the number of committees and subcommittees and you want to improve parallel jurisdiction wherever possible, House and Senate, and you want to

as much as possible have executive branch agencies and particular issues falling in the jurisdiction of a reasonable number of committees as opposed to 20 or 30 or 40.

Mr. MULHOLLAN. You may want to pay attention to plan J, which is the committee and subcommittee reduction plan, which limits it to a total of 50 total work units.

Chairman BOREN. Does that include subcommittees as well?

Mr. MULHOLLAN. Yes, sir. The underlying assumption there, of course, is that you have a potential there that you, by requirement, will coalesce additional issues within the units because that is the only place for them to go as far as the topic.

Chairman BOREN. You have Banking and Economic Development. I assume that would include Taxation and would that include the things that both the Finance—

Mr. MULHOLLAN. There is a Fiscal Affairs Committee as well.

Chairman BOREN. I see. That is really a separate question.

Where would entitlement programs like social security and health, would they go under—

Mr. MULHOLLAN. Human Resources.

Chairman BOREN. Human Resources, which would then take on entitlement programs as well. Well, that is the kind of—again, not looking at that list, not knowing whether that is practical, although I see they are not exactly parallel in the jurisdictions.

Mr. MULHOLLAN. Pretty close. You have the unique role of the Committee on Rules maintained on the House side.

Chairman BOREN. Otherwise, are they pretty much the same?

Mr. MULHOLLAN. Yes, sir, they are pretty close.

Chairman BOREN. Pretty close. Well, so we could really look at some of these and try to meet three or four objectives, sort of taking one as a base and overlaying upon them other objectives in terms of the executive branch areas to be covered. So this is very helpful information.

Let me turn now to Senator Reid and then to Senator Domenici and then to Senator Cohen.

Senator REID. Mr. Chairman, I have no questions of the witness. I think that the work done by the Library, though, is excellent. This will give us some, in effect, working papers when we sit down to decide what we are going to do.

I think that we are going to have to make—I would hope we would have and we do make some decisions as to how many committees Members can serve on.

One thing that we need to take a look at that we haven't done yet is also look at jurisdiction of committees. I mean, why should EPA report to—I think it is 19 different subcommittees—and why should FEMA report to 16 different subcommittees. I think we really have to somehow, before we finish our deliberations, get some input as to how we can limit the executive's responsibility to reporting to us.

For example, I serve as chairman of the subcommittee that has jurisdiction over FEMA. I can't get very excited about that when I know 15 other subcommittees also call that little agency in to tell them what is the right thing to do.

So I think that should also be part of what this Joint Committee decides when we finish our deliberations, not only the committee structure. But who reports to the committees.

Chairman BOREN. Thank you very much, Senator Reid. I think we all certainly agree with your comments.

Let me turn now to Senator Domenici.

Senator DOMENICI. Thank you, Mr. Chairman. Let me ask you, in putting together various approaches like parallel with the executive branch or committees based on budget functions, do you have an opinion, if I am assuming correctly, the executive branch is not necessarily organized as well as it should be? There is a huge duplication of effort there.

So it would seem to me that if you just willy-nilly said, Well, let's take the executive branch and model it up. We might have some discrepancies in terms of being appropriately focused and niched, would we not?

Mr. MULHOLLAN. I think that is a good observation, sir, that the question is of course in making a parallel one of the possible advantages of the executive branch is you might have less overlap as far as the issue that Senator Reid had brought up.

On the other hand, the prior question I think is a question that is interesting that, at some point, you may wish to consider which is what are the principles by which the executive branch organizes itself and are those—should those be the same principles and organizing division of labor and public policy and issues of government and society that the Congress does, inasmuch as the fact you are serving in looking at Congress 535 separate individuals who are represented by people as opposed by the executive which is one person elected and then appointed officials. They come from their government's role in different ways.

Senator DOMENICI. From my standpoint, I would like to ask you which one of these do you think would do the best job of eliminating or minimizing the multiplicity of subcommittees that have jurisdiction over executive branch affairs?

That is what he just said. That wasn't our principle reason for coming into existence, but which one would do the best job of that?

Mr. MULHOLLAN. I wouldn't be prepared—what we could do is do an analysis as to what the implications are on that. I am not prepared to give that to you now, some of the disadvantages and advantages of each versus that question.

Senator DOMENICI. Would that be difficult?

Mr. MULHOLLAN. We would be happy to do that for you, sir.

Senator DOMENICI. I think that would be very helpful and I think some of our Members would like to see that.

Mr. MULHOLLAN. OK.

[Subsequent discussions with CRS staff suggest that Plan N—jurisdictional parallelism between Congress and Executive branch agencies—would probably minimize overlap the most.]

Senator DOMENICI. If we took your examples—you have done this based on five different approaches, as I understand it; is that right? Committees based on function, changes within the current system, fiscal consolidation of the committee structure, number based committee structure, and parallel committee structure; is that right?

Mr. MULHOLLAN. That is correct, sir.

Senator DOMENICI. Now, with reference to each of these, have you given us the benefit of what each of these would do to current membership by names? That is what we have got to end up having.

Mr. MULHOLLAN. The jurisdictional language for each of the committees is included in your report.

Senator DOMENICI. But I mean the makeup, who are the people on the committees.

Mr. MULHOLLAN. That was not part of the effort. That could be provided for you, sir, but we have not done that.

Senator DOMENICI. I think they ought to do that and ask for a report and final analysis. We may not like that.

Mr. MULHOLLAN. Assignments nor seniority are included in the analysis.

Senator DOMENICI. Right. We are going to make people mad. We ought to try to make only two or three instead of 10 or 12. We will make plenty of them upset anyway.

My last question. Let's take this one committee based on budget functions. I don't quite believe what you have under the line there. You have options. Appropriations, Ethics, Rules.

Mr. MULHOLLAN. That is to add those committees in the process. You can incorporate them or have them exist separately. That is an option to be considered in that format.

Senator DOMENICI. What would you assume all of these committees that are based on budget function? Would you assume this would be a list of authorizing committees?

Mr. MULHOLLAN. That is correct, sir.

Senator DOMENICI. And then if you were to put appropriations on that as another committee, you have a number of options about appropriations. But if you are streamlining pursuant to budget functions, you probably ought to have appropriations streamlined as to budget.

Mr. MULHOLLAN. That is an option.

Senator DOMENICI. I don't expect you to give me your opinion, although I would tell you the Congressional Budget Office got more bold with years they never would tell us their opinion. But frequently they have given all kinds of opinions. OK. I understand that.

Thank you, Mr. Chairman. I really do appreciate your work. If you get those two additional studies, I am sure we will have some more for you, but my time is concluded.

Chairman BOREN. Thank you very much.

Senator COHEN.

Senator COHEN. Thank you, Mr. Chairman. As we look through these various charts and try to make some kind of coherent sense out of it, do we start out with the premise that our current system is not working; is that a fair statement?

Mr. MULHOLLAN. Not necessarily, sir. One of the options as noted, that in fact, basically, it was one of the things to consider if the committee decided in its deliberations in talking with your colleagues that it was basically sound that there could be an approach of doing changes on the margin.

Senator COHEN. All right. Is the complaint that we are hearing too much of and the other witnesses will testify we have too many committees and too much work; is that a fair statement?

Mr. MULHOLLAN. You can say too much work and too many committees, yes.

Senator COHEN. That what we are coming down to now is we are going to have fewer committees and less work or more work?

Mr. MULHOLLAN. I think that that is a fair question. And one of the things to look at is to what degree you can in fact have sufficient overlap of work to justify the changes that are made. And I don't know if there is any inherent. One of the questions of which the committee wishes to consider is, what role competition plays in committee jurisdiction.

And as I was mentioning, Dr. Dexter maintains that there are some advantages of overlapping duplicity as part of the American congressional process.

Senator COHEN. You mean duplication, not duplicity?

Mr. MULHOLLAN. Duplication, yes.

Senator COHEN. There is a slight difference. Well, what I am wondering about, we have Senator Pryor here, for example, that a number of people will recommend that we abolish all select committees. We had an Aging Committee hearing here in the Senate this morning in which there were as many as 200 to possibly 300 people attending to examine the issue of long-term care.

We can point for example at the Aging Committee has a budget of roughly about a million dollars. According to all the studies, they will show that we saved the taxpayers about \$200 million by making changes in the medicare law dealing with medical equipment. Just last year, these were designed to save about \$200 million to the taxpayer. So we have made a very good investment for a small amount of money.

One of the arguments is, you don't really need this committee because you simply fold it into another committee. As I start to look around and I can perhaps point to, let's call it, human plan F, Human Resources, we have eight committees per chamber. How many resources I assume under Human Resources, you would then have to have two or three key subcommittees. You would have to have Health, Education, and Welfare or something along those lines.

Mr. MULHOLLAN. That is correct.

Senator COHEN. Then within the Health Subcommittee, you have to assume the total workload of the Aging Committee I would assume, correct?

Mr. MULHOLLAN. Yes. In fact, in the discussion, we estimate the workload of the eight committees would at least double.

Senator COHEN. So now we are going to have fewer committees but double the work within those committees?

Mr. MULHOLLAN. That is correct, sir.

Senator COHEN. So my understanding is, then, that in the current structure we have too many committees and we are underworked.

Mr. MULHOLLAN. I haven't heard underworked.

Senator COHEN. But you see, if we have all of these committees and we are not carrying out and doing our job, it seems to me our answer is now, well, we have got too many committees, we are going to reduce the number down substantially. And then we are going to give you more work because now you are on the Health or

under Labor and Education of the Health Subcommittee, you will now take over these entire jurisdiction of Senator Pryor's committee. You will have all of that workload which is enormous.

So have we really achieved—I guess the question I am asking, have we really achieved reform if we take his committee, put it as a subcommittee under Education and Labor or Human Resources and move all of that staff over into that one subcommittee. Have we achieved reform or are we simply moving these boxes around?

Mr. MULHOLLAN. One of the issues, Senator, in here as noted would be a question of balancing assignment with jurisdiction. In this instance, it would be one assignment per Member in that model if you want to consider it.

When looking at—I was struck by the fact that the A committee model has some parallels to the proposal by the Ashe conference back in 1971 to reorganize the executive branch into eight large agencies and expand it to nine. The whole argument there, instead of trade-offs with the budget office, that you have trade-offs within the agencies themselves, and so that you have policy decisions made on the policy level rather than at the budgetary level and the consequences.

One of the arguments can be made for consolidation is the question that you have again trade-offs within the committee itself. But the important issue, as I think you noted, is the assignment issue that in fact you limit the assignments.

And of course the trade-off on assignments are manifold because of the multiplicity of demands placed on Members and the constituents you want, and need niches for a whole heterogenous—both with the Senate and with the consequences of the congressional districts, that you have got the districts are less than homogenous. You have different constituencies to address.

Senator COHEN. One final point. I see we have a number of former colleagues in the audience and, no doubt, in view of the history you presented of congressional reform, that these 14 options that you have presented to us have been presented before to the various oversight committees. Senator Stevenson, Senator Brock will be testifying momentarily. Which of the 14 were examined by our predecessors?

Mr. MULHOLLAN. I think many of them are. In fact, I was talking to my colleague, Roger Davidson, who talked about remembrance of things past as we visited a number of these things because they are rational approaches in your thinking out of rational options.

Senator COHEN. All of these have been considered virtually?

Mr. MULHOLLAN. A good number. My colleague just notes that in the underlying assumptions, we note when it has been proposed in the past.

Senator COHEN. Thank you very much.

Senator DOMENICI [presiding]. Let me just inquire for a moment. Senator Pryor, you arrived when two Members on the other side—

Senator PRYOR. Let them go ahead first.

Senator DOMENICI. They were here and left to vote.

Senator PRYOR. I am in no hurry.

Senator DOMENICI. That was my question. If you were not in a hurry, I thought we would proceed to Mr. Dreier.

Mr. DREIER. Why don't we ask Ms. Dunn.

Ms. DUNN. Thank you very much, Mr. Chairman. And I am sorry I missed your testimony. I would like to have heard it.

Mr. Chairman, I wonder if I might ask unanimous consent to submit an opening statement which I am not going to read.

[The prepared statement of Ms. Dunn is printed in the Appendix.]

Ms. DUNN. I would just like to make some observations, what I have noticed as a freshman Member of this Congress, Mr. Mulhollan. And then I want to ask you a question.

I have noticed several things about the committee system that make it difficult for us to focus on the job that we were sent here to do and to do it effectively.

First of all, I have run across the issue of proxy voting in committees and that is an incentive to allow us to list more committees than we might do otherwise and, therefore, to have lots of conflicts when schedule calls us to be in several places at the same time.

Secondly, out of a very positive impulse to be responsive, this Congress creates committees to consider lots of different issues. Third, the committees try to maximize their legislative turf, I have noticed, and that of course creates multitudinous jurisdictions and, therefore, problems in getting issues considered in the most effective way possible.

Fourth, each of the committees must have hearings on the issues they share with other committees to protect their turf, and that means we have to vote repeatedly on different facets on the same issue and I suspect the public rarely understand understands when an issue is really put to rest.

Fifth, the pressure of the overwhelming hearing schedule shortens, and really I have found decreases the quality of the time that we Members spend on the Floor of the Congress. This is one of the most frustrating things I have run into.

You have seen us leave just now, interrupt your testimony, go up to the Floor, take two votes, and really not have a chance to listen and debate on the issues or discuss important issues with our colleagues or your different points of view.

Finally, of course, I suspect that this whole thing looks very confusing to the viewer watching C-SPAN. And so I think it is just imperative for us to get on this and straighten this whole problem. I do consider it a problem, out in the length of time we have by the end of this year.

I would like to ask you a question. In your work and your research into this issue, have you come across any potential changes that could be considered pressure points? For example, the whole idea of proxy voting that would be at the base of several other changes. For example, if we could not vote in committee by proxy, we would have to be there, and therefore be present and therefore would not be able to join the number of committees maybe could cut back on the number of committees.

Have you come across pressure points, simple changes that would create substantive change?

Mr. MULHOLLAN. There have been service reports identifying other factors that have been addressed in the past. We would be

happy to refer to that and get that to you. The specific study here did not take into account committee procedural issues.

Ms. DUNN. Thank you, Mr. Chairman.

Chairman BOREN. Thank you very much.

Before I call on Mr. Dreier, let me mention to my colleagues, Senator Brock, who is due to testify with Senator Stevenson next, is going to have to leave in about 45 minutes or a little more than that, so if I can, I know my colleagues also want to have an opportunity to hear both Senator Brock and Senator Stevenson testify in the next panel. We might try to move along as quickly as we can. I don't want to cut anyone off.

Mr. Dreier.

Mr. DREIER. I got the message, Mr. Chairman. Thank you very much. And this always happens when he turns to me.

Let me just in light of that warning from the chairman ask just one question, and that is I think there are 15 plans, if you include the status quo, that have been submitted to us. I have had the opportunity to go through all of them when you first submitted them.

The one question that I would pose is: Were there any other plans that came very close to inclusion that you all did not include among the 15? Was there something else that was possibly out there that you considered bringing into this package for us?

Mr. MULHOLLAN. My colleague has said there are of course other ways to cut the issues, but these are illustrative of different approaches. But there are others available to look at if you wish.

Mr. DREIER. Out of respect for Senator Brock, I yield back the balance of my time.

Chairman BOREN. Senator Pryor?

Senator PRYOR. Thank you, Mr. Chairman. I will take just a second because I, too, want to hear our former colleagues.

Are the committees that you are recommending and all of the plans that you have, all of these committees that you propose, give us options to look at, would they be classified as legislative committees?

Mr. MULHOLLAN. That is correct, sir.

Senator PRYOR. They would be legislative?

Mr. MULHOLLAN. In some plans are select committees as well. There are select committees in the traditional roles also as given some of the options. May I make one clarification? There are no recommendations here.

Senator PRYOR. I understand that. Those words were ill-chosen. Second question, and I am sorry I missed your testimony, in your plan A and B, I noticed that you have no Appropriations Committee nor do you have a Budget Committee. And I know this is repetitious. Where would those functions fall?

Mr. MULHOLLAN. They are options that could be available at the bottom, that you could have Appropriations and Budget as an option within the committees.

Senator PRYOR. Third question. In all of the plans that you present to us today, are you presupposing in those plans or those proposals or options that we retain the 1974 Budget Act, therefore the Budget Committee process? Is that presupposed or presumed?

Mr. MULHOLLAN. There is no position taken on the budget process itself.



Senator PRYOR. I think about nine out of 10 of these, the Budget Committee—

Mr. MULHOLLAN. In some instances, the Budget Committee is eliminated.

Senator PRYOR. Is eliminated. But on most of the plans, the Budget Committee is built into the option phase, I think.

Mr. MULHOLLAN. I don't know in most. There is a goodly number that retain the Budget Committee and others do not.

Senator PRYOR. OK. Finally, did you factor in this in any way the number of hours or legislative days that we spend each day in the Senate or each day in the House as to the determination of priority of keeping committees or expanding jurisdictions or eliminating jurisdictions? Was time spent per each committee a factor?

Mr. MULHOLLAN. As mentioned, workload parity was one of the factors among other factors incorporated into the analysis.

Senator PRYOR. Is it true that probably the Budget Committee in the Senate probably consumes more time on the Senate Floor than any other Senate realm of responsibility?

Mr. MULHOLLAN. I don't know. We can find the answer for that.

Senator PRYOR. Thank you, Mr. Chairman. I thank you very much.

Chairman BOREN. Thank you Senator Pryor.

Mr. Allard?

Mr. ALLARD. Thank you, Mr. Chairman. I would like to have things move along, too, so I will try to keep things brief.

But one thing that I am curious about, we have administrative committees: For example, Library of Congress. Do we have a complete list of those administrative committees?

Mr. MULHOLLAN. Congress has four principal administrative committees: House Administration, Senate Rules and Administration, Joint Committee on the Library, and Joint Committee on Printing.

Mr. ALLARD. I think that would be helpful. I think one of the things that is missing on this list is those administrative committees and if we could have those, I think it gives us a complete idea of what is happening in the committees.

Mr. MULHOLLAN. In the end of the full listing. You do have a listing of the joint committees, for example, in your options there.

Mr. ALLARD. Is that further down or is that in a separate list?

Mr. MULHOLLAN. For instance, let's say on plan C you will see, for example, a listing of some of the joint committees.

Mr. ALLARD. OK. That is just a partial list?

Mr. MULHOLLAN. That is correct.

Mr. ALLARD. If you would have a complete list, I think that would be helpful for myself and the committee.

Thank you very much, Mr. Chairman.

Chairman BOREN. Thank you very much.

Mr. Swift?

Mr. SWIFT. Thank you, Mr. Chairman.

One question. In the Bolling Commission report, one of the reforms that we adopted was to establish the current means we have in the House of joint structural referral. Do you recall what the rationale was behind that particular reform at the time?

Mr. MULHOLLAN. There was one of the things on allowing referrals was, I believe, the expectation that was proposed to the sub-

committee that there would be subsequent work for changing committee jurisdiction. But that was not followed through on.

Mr. SWIFT. So it was connected to another portion of the reform that, in fact, didn't occur?

Mr. MULHOLLAN. That is my understanding.

Mr. SWIFT. Thank you.

Chairman BOREN. Thank you very much. And again, we want to thank you for the work that you have done, Mr. Mulhollan, you and your associates and staff members.

Mr. MULHOLLAN. Thank you very much.

Chairman BOREN. It has been very, very helpful to us. I want to thank both of you for being with us today and we will be continuing to work with you.

And I would warn you that your testimony today is only going to increase our questions to you and our appeals for assistance because certainly you have done a very thorough job of laying out the information for us.

Mr. MULHOLLAN. Well, that is what we are here for, sir, and we are grateful to be able to help.

Chairman BOREN. Thank you very, very much.

Chairman BOREN. I am going to ask now if Senator Stevenson and Senator Brock would come forward and take up positions at the witness table.

Our second panel today consists of two former Senators, well known to both of us—to all of us on this committee. Both of them were known to all of us. They led the temporary select committee to study the Senate committee system in the 94th Congress: Adlai Stevenson and William Brock.

Mr. Stevenson served in the State of Illinois from 1970 to 1981, served in the Senate representing the State of Illinois. In addition to chairing the Stevenson-Brock Committee, he was chairman of the Senate Ethics Committee. I would say Senator Stevenson had a large amount of interesting testimony earlier on the subject of the Ethics Committee as jurisdiction procedures and how we might change it. After leaving the Senate, he resumed a private law practice in Illinois.

Senator Brock served the State of Tennessee in the Senate and as Senator from 1971 to 1977. He previously served in the U.S. House of Representatives, representing Tennessee from 1963 to 1971. He was cochairman with Senator Stevenson of the Reform Committee. He did such effective work.

He has held several important posts for government, U.S. Trade Representative and Secretary of Labor with only a temporary fall from grace during his tenure as Chairman of the Republican National Committee.

We are extremely pleased to have both of you with us and I understand that Roger Davidson, who served on the staff of the Reform Committee, will also be with you.

Let me say to both of you, we miss having the two of you serve with us in the Senate and particularly as we have gotten into the work of this committee. We understand the difficulty of the task and we have all the respect for what you have accomplished and the dedication to this institution and the public service you ren-

dered by leading the Joint Committee on Reform and the results from it.

So we welcome you back. We look forward to your advice. We hope that you will share with us any secrets that you may have in terms of how we can achieve success as you look back on your own efforts, both the things that perhaps in retrospect you did right, the things you think you might have done differently, and how you think we should conduct ourselves, given the task we face.

I don't know, I haven't been told which one of you wants to lead off, so do you want to flip a coin? I will recognize Senator Stevenson first, then, as the Chairman of the Committee and then we go to Senator Brock.

**STATEMENT OF HON. ADLAI E. STEVENSON, A FORMER U.S.  
SENATOR FROM THE STATE OF ILLINOIS**

Senator STEVENSON. Thank you, Mr. Chairman. I am very grateful for those kind words. If those words about our success were actually serious, we wouldn't be here today. For me, it is a pleasure to be back and I feel as if I am attending a reunion of the survivors of the reform effort of 1976 and 1977.

That includes Senators who are old hands as well as our excellent former staffers, many of whom I see here assisting in this effort, though I heard today that one of those staffers, after having survived our exercises in 1976 and 1977, entered the ministry.

The Bolling and Stevenson Committee reports, the many studies which precede yours, and I suspect most of the testimony that you receive, will agree substantially on the need for congressional committee reorganization. And in spite of some of the differences I have heard expressed here today on the principles underlying reorganization, what it really means.

So, Mr. Chairman, I have been asked to talk a little about what we did in the Senate in 1976 and 1977 and, more importantly, how we did achieve a degree of reorganization in that body.

In 1975, Senator Brock and I introduced a resolution with the support of Senator Robert Byrd who was then chairman of the Senate Rules Committee. That resolution was approved in 1976, in February, and it created a temporary select committee to study the Senate committee system, the committee of which Senator Domenici was a member.

The members of that committee were disproportionately reform minded and evenly divided between the parties. We had a very strong staff as I already mentioned. The committee began with exhaustive research, much it looks as you are doing. That research was aided by the Bolling Committee report from prior such exercises.

We sought to learn from them as you are. This research proved and documented what we knew as Senators. Senators had an average of 20 committees, subcommittees, commission, and board assignments, far more than they could handle. The research produced a large compendium of data entitled the Senate committee system.

It helped to prove the case for reform and identify the most demanding subjects of reform. We knew then and could demonstrate

that the Senate had to rationalize committee jurisdictions, it had to reduce the number of committees and subcommittees and assignments thereto. It had to redistribute power and workload for greater equity and efficiency.

The select committee held very few hearings. They drew little interest. They drew familiar complaints. And we were pretty much on your time frame. We had no time to waste. The chairman and staff, a number of us presented the committee not with 14, but with three options for reorganization. One was for five super committees, a radical efficient management option. There was a middle-ground option for 12 functionally organized committees with clear-cut comprehensive jurisdictions, and a third inefficient minimal change option.

With these options on the table, we held another hearing. I haven't been around here, so I don't know whose toes I am treading upon.

Senator BROCK. Before we get through, we will get them all.

Senator STEVENSON. With those options, that is three. We wanted to focus attention. We held another hearing. By then, it looked like the select committee was threatening to do something. Some 25 Senators were heard from and a smattering of interest groups. Out of that process, we got exactly what we expected, exactly what we wanted: A mandate from the committee to proceed with option two.

From then on, within the select committee, it was a laborious but not an excessively contentious process. Tactically, we decided to go for 140 percent hoping to win about 75 percent of what we wanted.

From the mandate, we proceeded step by step to logical conclusions. The committee proposed the abolition of all special, select, and joint committees, arguing that the interests of small business, veterans, aging and so on are better served by an effective Congress and by committees with legislative jurisdiction.

Special committees make interest groups feel good. They offer platforms to Members and they offer jobs to staffers, but they fragment the process and diffuse responsibility.

Committee jurisdictions were rationalized, made coherent and updated to reflect emerging subjects of national importance. For example, the old Interior Committee became the Energy and Natural Resources Committee. Public Works became Public Works and the Environment.

That mandate produced an unusually businesslike process for what is an intensely political exercise. Because it was sensible, because it was middle of the road and the methods impartial, outcomes were easier to defend, the losers easier to console. Being rational, the outcomes hit at irrationalities and anachronisms, often indefensible testaments to the Senate's irresistible tendency to indulge its Members, especially those with power and rewards to dispense.

That process inevitably, though, produced more winners than losers. There was a conscious effort throughout as was an effort to avoid disturbing the barons of the Senate. We wanted them on our side. The select committee's logic was capable of giving ground but only to expediencies that were unavoidable and therefore understandable.

Foreign Affairs, Appropriations, Finance and Armed Services were undisturbed. Russell Long—it is hard to think of Russell Long without giggling a little, but I also weep a little, too. Russell Long, Chairman of Finance had left nothing to chance.

Five members of the Finance Committee served on the select committee. At least one of them is here. Our failure to chip away at its disproportionately extensive jurisdiction was a disappointment and, in my opinion, one of the committee's largest failures. We didn't even try. Today I feel even more strongly that it is important to consolidate international economic policy; that is to say, monetary affairs, trade, and foreign investment perhaps in the Banking Committees.

In a few instances where we did try to deprive committees of jurisdictions, we failed. We compensated no such failures and the inevitable jurisdictional overlaps by giving standing committees the new comprehensive oversight jurisdiction. Commerce, for example, had oversight for all of science and all of transportation, a useful tool, I still believe for enterprising Senators with an interest in dealing comprehensively with complex subjects.

The select committee also proposed a procedural means by which the leader could establish ad hoc temporary committees to cope with matters that fell between cracks or across the many jurisdictional divides. We lost that proposal, but I commend it to you as a means of bringing key Members together temporarily to legislate on cross-cutting issues of national importance like health reform.

Failures notwithstanding, the committee's report was a sweeping proposal for reform. Committees were to be reduced from 31 to 15, committee assignments from an average of 18 to eight. Chairmanships were spread around by limiting the number each Senator could receive.

On the first day of the 96th Congress, the first day, Senator Packwood, Senator Brock's successor on the select committee, and I introduced a resolution incorporating the select committee's recommendations.

By prearrangement with the Leadership, it was referred to the Rules Committee with instructions to report by January 19 and with no committee assignments in the meantime for the 18 newly elected Senators. That was a providential decision which made newly elected members extremely unhappy, but it built up pressure for action and permitted no more investments in the old system.

The hearings in the Rules Committee demonstrated a phenomenon with which you may already be familiar. Except for a sacrificial, noble few, members fight to retain power but not to take it from their distinguished colleagues. You will win opposition without winning corresponding support.

The witnesses in the Rules hearings, Members and spokesmen for scores of interest groups by now, fully energized, swore their support for reform. But the reform was usually for everybody else.

The Capitol switchboards were tied up by irate veterans. We were vilified for being cruel to senior citizens and Native Americans. Yes, we had a Hunger Committee, too. Some of us were condemned for grabbing power. And reform constituencies don't, like the Pope, have many regiments. We gave up the low ground as in-

tended. We had no desire, anyway, to eliminate Ethics, Intelligence, and some of the joint committees and they were restored. But in Rules, we began to give up high ground also.

Five committees were given new leases on life in the Rules Committee. Committee and subcommittee assignment limits were raised from eight to 11 and at least, in one case, jurisdiction was recovered.

Senators Magnuson, Hollings and others demanded the return of oceans from the new Environment Committee to their Commerce Committee. They literally marched into the Rules Committee and refused to leave until they got oceans back and rolled over me.

We lost more ground on the Senate Floor. That is where the elderly caught up with us and recovered their committee. But when the debate was over, the resolution was approved by 89 to one. The sole dissenter, a valued friend and a chairman who had lost his committee. This can be a painful path that you are embarked upon.

The Senate had reduced its committees by a quarter, subcommittees by a third, and average committee and subcommittee assignments from 18 to 11. Jurisdictions were rationalized, albeit imperfectly. The Minority had received a right to budgets for staff. The Leadership's committee referral powers were strengthened and other procedural measures adopted.

So, Mr. Chairman, your work can be done. That brief recital may contain a few pointers but it is missing the one that is clearest in my mind. We had the unstinting support of our leaders. Senator Byrd made telephone calls, brought chairmen together and presided at meetings where I would brief them, coax them and with his indispensable assistance, get them together one on one to resolve conflicts peaceably. Senator Brock can speak better for his side of the aisle.

At Senator Cannon's invitation, I participated in the Rules Committee markup, in effect, as a member without a vote. We managed the resolution jointly on the Floor. At every step along the way, the select committee had the strong support of Robert Byrd, first as Rules Committee chairman and then as Majority Leader, also Senator Cannon and the Minority Leadership.

In the end, of course, we didn't succeed or we wouldn't be here today. After the reorganization, Senator Cannon and I took turns guarding the reorganization against requests for waivers. The rear guard action resumed and we began to lose more ground. The life of the Indian Affairs Committee was extended beyond its agreed duration. I think it is still in existence.

Senator DOMENICI. Didn't it go away and come back?

Senator PRYOR. It came back as a legislative committee.

Senator DOMENICI. Wasn't there a little period—

Senator PRYOR. I am going to try to do that with the Aging Committee.

Senator STEVENSON. It is *deja vu* all over again. I will conclude this with this final point. I haven't been back much since 1981, but my strong sense of it is that the reform, especially the limitations on committee assignments, came undone if the Senate succumbs to its old habit of indulging its Members.

We tried in the select committee to guard against this unraveling by requiring periodic Rules Committee review of the committee system, but evidently that hasn't worked. So my final point, Mr. Chairman, is you will need the full support of your leaders, not only for the reorganization, but also for its preservation or this will all be for nothing.

Maybe one way of insuring that is to recommend, as was the case when I first entered the Senate in 1950, small cohesive Majority and Minority policy committees that meet periodically and include all the chairmen, the Majority and Minority Leaders, probably the Speaker of the House and perhaps a few others, individually, who to make it more representative and to establish legislative priorities, elective policies and among themselves but probably as quarters of the leadership to preserve the integrity of the committee system.

Leaders, you will need the leaders, but the leaders need support if they are indeed to lead and perhaps that should be part of the decision. Thank you.

Chairman BOREN. Thank you very much, Senator Stevenson.

[The prepared statement of former Senator Stevenson is printed in the Appendix.]

Chairman BOREN. Senator Brock.

**STATEMENT OF HON. WILLIAM E. BROCK, A FORMER U.S.  
SENATOR FROM THE STATE OF TENNESSEE**

Senator BROCK. Thank you Mr. Chairman. I shared those anguishing times and shared in some with a sense of pride. We did accomplish a lot. The erosion has been substantial, but it is still an important venture and I think it does lay down certain ground rules for what might work in the future.

I was a little worried when I came in and I guess 10 minutes after I got here and there were no House Members and I said we are back in the same situation we were in 1976 when the reforms were Senate-wide but not House-wide. And I think that is maybe the largest single failing we had. It is almost impossible to have a coherent reorganization of one body unless the other body does something along the same lines so they can avoid the disconnect.

Let me begin by noting that what I think to most of you as friends is obvious: I love this institution. I spent 14 of the best years of my life here. The friendships that I made are deeply cherished and are going to last me for my life, and I mean that and that means a lot to me.

And the friendships that stem from a mutual respect, they go across party lines and across ideologies. They stem from an affection that is based on believing that the people in this body come to it, both of these bodies, out of a commitment to public service and the commitment to the people of this country and commitment to its institutions and values and I think they are good people.

Having come to praise that part of Caesar, let me go to the institution. I think that the organization of Congress is a disgrace. I think it is a disgrace to the founding fathers who created it for us in an instrument of the people's will, an instrument so rooted in the constitutional value of representative government that it was

then and remains today an almost unique expression of man's highest aspirations.

It is a disgrace to the American people who, for all of our faults and foibles, I think deserve better and have a clear right to demand better. Perhaps most of all, the organization of the Congress is a burden to those who serve in it and that is a shame because, by and large, those who serve their States and their districts are decent, reliable, caring, committed people. It is inexcusable that their representation should be degraded by a process so fundamentally flawed.

A new arrival from another planet might rightly wonder if the same confused and destructive mind had not been engaged in organizing both our schools in the country and its Congress. Like America's children, Congressmen run not from class to class, but from committee to committee. Members of House and Senate find it almost impossible to maintain an overall perspective as they jump from issue to issue, meeting to meeting, problem to problem.

I think the thing that troubles me most of all in this town in this executive branch, too. It is extremely difficult to maintain a sense of balance, a sense of the whole, a sense of context when decisions are made. There isn't time. There isn't time for real contemplation. There isn't time for communication, for a sense of community that builds an institution and makes it breathe. And there has been an erosion, at least from the outside, of a sense of community that we had in the 1960s and 1970s.

I think to have, in the case of the Senate, a Senator serving on 11 or 12 committees and subcommittees is outrageous. I think to have 60 or more Members on any committee or 200 Members on a conference committee—which is what happened last year, if I remember correctly—is outrageous.

Congress has raised masochism to an art form. I think that is stupid because it is not in anybody's interest. Everybody loses. The consequent loss of public confidence in this institution is a threat to our national sense of community and institutional respect.

I don't think reform is just a nice thing to do. I think it is an imperative. Not just reform at the margin, but radical reform.

When Adlai and I started talking about this in 1975, we knew some of the problems we were going to face. We probably knew about 10 percent of them, because we found a lot of new ones. But with all of that, I think what Adlai Stevenson said is true, we really accomplished something. And in part we did it because we did think about the component parts of the solution and we did have the leadership behind us. And I don't think it would have been possible had we not had that support of both parties aggressively fighting for the reform.

You must involve your leadership in this battle. As I said earlier, nothing of comparable magnitude happened in the House is the sad thing. If we have learned anything, it is that reforms have to occur on a similar pace and in a similar fashion in both bodies, otherwise there is a disconnect. A disconnect exists today and it is having an extraordinarily deleterious effect on the operation of Congress as a whole.

Let me just state some basic beliefs: One, I don't believe anybody can rightly argue against the fact that there are too many commit-



tees and subcommittees. I don't believe there is a Senator in this body that is presumptuous enough to argue that they can serve effectively on 12 different committees.

Secondly, I think business learned a long time ago to organize itself along functional lines. Why not here. Twenty years ago or thereabouts, in the early 1970s, we were having some interesting conversations in Washington and particularly regarding the executive branch about organizing the executive branch along functional lines. That should not have stopped. It was and it would be worth revisiting with regard to the executive branch.

Third, I know of the sensitivities, but there is really no reason in the world to have three stages in the process on budget authorization. This process can be cleaned up to everybody's advantage. It is utterly irrational to have authorizing committees hamstrung on the high, by a Budget Committee on which they have inadequate voices and below, from an Appropriations Committee on which they have an inadequate presence.

If you just think about what happens to an authorizing committee and juxtapose that against the Appropriations Committee, in every instance, the Appropriations Committee is going to appropriate less money than has been authorized. Almost every instance. What that says is that they are trying to fit a smaller budget into a larger plan.

Well, how about having the people who made the plan do that. I know I am mentioning the magic words, but I think the appropriate committee is anachronistic and I think it is thinking about whether or not these functions can be merged.

I like the suggestion that where this is going is taking the Ranking Member and each chairman of the authorizing committee and let them propose a Budget Committee. And I think almost everybody on the other side knows, but that is one way of tying the accountability and the responsibility and the authority together.

I want to mention two areas very briefly that I think deserve your attention. I think the public perception of the ethics procedures of the Congress is awful. It may not be fair, but I think that is the presumption. And I hear, too, many people in this body criticize self-enforcement of different industry associations who argue that the Congress is one institution that is capable of self-enforcement. I think you ought to think about that. I have heard suggestions about former Members or something like that. But some change would respond to public concern.

Second, I was involved in the congressional reforms of the early 1970s. I was a believer. I fought for it. I am not talking about the one Adlai and I participated in. I am talking about the 1970 reforms and the 1974 reforms. And I want to promise you that every reform that I have ever seen or participated in have come back to bite those who engaged in the reform.

One example: PACs. Political Action Committees were designed to create some balance in the process. They may have created a balance between labor and management but, by golly, they created an imbalance between candidate and incumbent, and that is wrong. If you are going to have PACs, at least limit their ability to give to the political parties so you remove from this body any taint. It is too important not to do something like that.

There are a lot of reforms that would make a difference. I encourage you to look at them, just to repeat what I said about reforms not always achieving their intended purpose. So I urge you, as you go through this path, to have a healthy skepticism about magic solutions. There are not many and I have experience.

But having said that, I plead with you that you don't try to do this job at the margins. Go for the big ring. Make it comprehensive. Make it effective. Be aggressive. The opportunity for reform doesn't come along more than a couple of times a century. This is the time to do that. It is really important. Seize it.

A lot of us are praying for your success. Good luck.

Chairman BOREN. Thank you very, very much to both of you. You have given us a lot to think about. It is perhaps a good thing that we had you both at this time in the process before we all agreed to serve on the committee and take leadership positions. Senator Domenici has already been through this before, so he knew what he was getting into before he joined this effort to try to build on what you have already done.

Let me just ask a couple of very brief questions. One is going back to the old question of how many committees the Members can serve on. And it is very interesting when Senator Byrd appeared before us and I have thought back over his testimony several times, because he began to try to figure out where do you start. Where is the starting point in the process of how many committees you have? What the jurisdiction is. How many committees Members serve on.

And in a way, he encouraged us, I think, if you really think about his testimony that began with the whole question of on how many committees can Members serve and really do a job and not be so fragmented if they are not really to have an input on policy in important areas.

You started out by targeting eight as the number of committees and subcommittees that eroded to 11 as I understand the process. And then, of course, we are going to an average of 12. But we have almost half the Members of the Senate serving on more than 12, some as high as 22. So we have had a lot of backsliding in that regard.

There was the implication, if that was the one of the first decisions we made, how many committees and subcommittees on which Members could serve, and try to find an enforcement mechanism that you begin to depopulate if you sort of push that out, some of the committees' unnecessary subcommittees, for example, on committees that perhaps you wouldn't have such a strong attachment to them if Members started on the point that they could only serve on six, seven, eight committees and subcommittees.

How important do you think that decision is and is it possible that we should impose a new enforcement mechanism, for example, requiring a vote of the entire Senate making this a rule that applies to both parties, obviously, and then requiring that any waiver be granted by some highly visible means, like two-thirds vote of the entire body in public session as opposed to granting these sort of waivers in steering committee meetings and Committee on Committees internally within the parties where it is not a very visible process and no one really sees what is happening?

Is there some other enforcement mechanism that might work that would really prevent the erosion of this standard if we are forceful enough to adopt a really strong standard? Do either one of you or both of you have thoughts on that question?

Senator BROCK. I am sure we both do. I think it is fundamentally important and it is important for two or three different reasons. First of all, too many committees don't justify a Member's attention, too many committees create a situation in which you are fragmented in view of the overall circumstance.

The fewer of the committees you have, the more you have this ability to look comprehensively at a broad range of issues. I really like eight committees. I could live with 12, but if you go much beyond that, I think you are doing damage to your ability to maintain that sense of perspective.

And I make this comment with regard to the Senate because I think it fits this constitutional role more directly than it does the House. But I think in terms of utility, I think it affects the House as well. So, first of all, it is important to have committees with broad enough jurisdiction so they look at these individual issues not as pigeonholes or same lines, you consider it without considering the whole but in context.

Secondly, in terms of Members' time maybe more important their attention, I listened to Bill Cohen talking earlier about the need to look at these things. And maybe we were just reducing the number of committees but increasing the amount of time. I don't think so.

There is an economic theory that relates to friction and when you have too many bodies, you have got too much friction. You are wasting too much time going from committee to committee. You also are wasting, more importantly, your capacity to think because you are ad hocing every thought process. You come into a situation that you haven't had time to prepare on before and then you have to draw back and say, "Wait a minute, how does this relate to what I was doing 20 minutes ago?"

It really is tough for the best human being to engage in that process. And if you have got to do something, Adlai suggested maybe some temporary ad hoc solutions that allow you to pull the best of different committees in to look at something broad like health care. Maybe that is one way of dealing with these cross connections. But if you don't pull back from this proliferation of committees and subcommittees, no other reform is going to pull this Congress out of it.

Chairman BOREN. What do you think about the possibility of enforcement mechanism on the number of committees on which you serve that would require the whole Senate to vote?

Senator BROCK. If I were here, I would vote on it. But I wish you well.

Senator STEVENSON. I address that in my written statement which I thought would be in the record. Those limitations, subcommittee assignments, and committee assignments, in my opinion, should be written into the rules and then procedure established to make it extremely difficult to change those rules to prevent dispensations for anybody.

As I was also indicating, and I am not quite clear how you could do this, the policy committees have, I gather, at least in the Senate become very broad, too many really to be meaningful. When Mike Mansfield was chairman of the Policy Committee, it was basically him, the Whip, and the committee chairman. It got broader under Senator Byrd.

I can't speak for the Minority, but when I was on the Policy Committee, we really used that to establish policy, to establish priorities and that is what gave the leader his strength, because he had the support of his Policy Committee after he had worked with the Policy Committee.

And somehow in that process, in addition to trying to get those limitations in the rules, I think you have to rely on your leadership to object to the unanimous consent request or whatever and with the backing of a Policy Committee or it may not do it.

Chairman BOREN. What about subcommittees? Obviously, the number of committees, we have seen various numbers from as few as 266 committees and subcommittees, now to as high as 299, in terms of our various assessments as to how many there are.

How important is it, in your opinion, for us to also reduce the number of subcommittees as well as getting the number of standing committees reduced to, say, 12 in each House or at least a manageable number and also broad enough that you have the full picture of the broader scope of policy reforms as Senator Brock has just said.

Do you have any suggestion for us on how we should do that and should we attempt—let's suppose we want to reduce the number of subcommittees from 200 or 175, how many there are now, down to 75 or something like that.

Would it be wisest to attempt to define those or would it be wisest to say, except for appropriations, other committees would only have X number of subcommittees and let the committee members or chairs and Ranking Members work out within an absolute number the jurisdiction of the subcommittees for those standing?

Senator BROCK. I would opt for the latter. I think you have to leave it up to the committees. I frankly think there is a difference in the House and Senate. You have got a lot more members in the House. You have got a lot more discrete interests and you may be able to have more committees there by a factor of three or four over what you would have in the Senate.

But I think it is crucial that the Senate really substantially reduce the number of subcommittees for the same reason: To pull that individual Senator back into the broader view as the Constitution envisioned.

Senator STEVENSON. Mr. Chairman, you get 80 percent of the way there essentially by limiting the number of committee and the number of subcommittee assignments. That is number one.

And then we, as we recommended, I think you should put some overall limits on the number of subcommittee assignments but that secondary you have to make some exceptions for the Appropriations Committee and reflect the different requirements of the committee. But the main thing is, limit the number of subcommittee assignments and then enforce those limitations.

Chairman BOREN. I have a feeling that even the chairman of the full committees and the Ranking Members of the full committees would probably welcome that because now they are under great pressure in the Senate, for example, to give virtually every single member of the committee their own subcommittee with, usually, an additional staff person or two to help staff the subcommittee.

These generate a tremendous number of time consuming hearings and legislative proposals that then again fragment the time.

Senator STEVENSON. I don't know, Mr. Chairman, where you are now. In the Senate, we also limited the number of chairmanships and that tended to spread the chairmanships around and take off some of the pressure.

Chairman BOREN. I think we have done fairly well on that, but there has been some backsliding on it.

Vice Chairman Dreier.

Mr. DREIER. Why don't we go to Mr. Emerson.

Mr. EMERSON. No, go ahead.

Mr. DREIER. Thank you very much, Mr. Chairman.

I thank you both for your very helpful testimony and I am really saddened to see your level of frustration. I guess you are right, if you had been more successful, I guess we wouldn't be sitting here.

Senator Stevenson, you and I talked a few minutes before the hearing about the implementation of a plan here. And when Warren Rudman testified before this committee, one of the first hearings we had, he talked about the idea of phasing out the committees when Senator Domenici raised this issue for the last panel about names as we look at these committee chairmanships. That is going to be the political challenge we are going to face.

I wonder what the two of might have to say about this issue of phasing in our plan which would phase out committees and over what period of time we might be able to do this.

Senator STEVENSON. We had your same overall time frame but at a different stage of the session and yours is a more difficult assignment because your life is going to expire mid-Congress.

See, ours expired at the end of the Congress and we held up the organization of the Senate and enacted on reorganization. There couldn't be a reorganization of the Senate until there was reorganization. And, as I mentioned earlier, we wouldn't have the rule in—the Senate doesn't permit any newly elected Member of the Senate to get committee assignments until we had reorganization.

So you may have figured out to put over your recommendations or make them effective in time at the beginning of the next Congress. Doing it in the middle of the Congress offhand, to me, sounds pretty difficult.

Senator BROCK. I think it is extremely difficult to phase these things in. You are talking about fundamental reform and the real changes in jurisdiction and confidence and coverage. I don't know how you phase those things in because you are not dealing with social issues, you are dealing with personalities.

My guess is you have got a better chance of doing it, frankly, if you have got to concede by what we did concede on two or different small committees. And as Adlai pointed out earlier, one of them is still phased in.

Senator STEVENSON. I agree. I think a piecemeal phase in approach won't work.

Mr. DREIER. As you know, this is the first time since the committee there has been a Joint House-Senate Committee to do what you said, an attempt to try and have both Houses do it simultaneously. Both of you are political experts.

What advice would you give to this committee as far as our attempt to implement—as we face the challenge of trying to implement this, getting 15 votes in the Senate, 218 in the House?

Senator Boren said at one of our meetings that we are going to be dining alone in our respective restaurants because we won't have any friends amongst our colleagues. It is true that we have—I had several chairmen figuratively and one literally grab me by the collar telling me he doesn't want us to do much in this area. So it is going to be a challenge. I don't know what advice you all are going to be able to offer us in this area.

Mr. BROCK. The American people want a change. They weren't just talking about the line item. They were talking about the Congress. They were talking more about the Congress than about the White House.

This institution is in real trouble. And that is dangerous for all of us. This is the most important protection that people have. If we can't restore confidence in it, we have got a problem.

I don't think there is any alternative. If you want to look at how you put the politics of it together, my guess is that in the House particularly what you have got is a situation where if you get the leadership—and you have good leadership, both sides—if you get the leadership together, you can do this thing.

You are going to have a lot of middle managements, but everybody is going to be happier when you get the job done because life is going to work better and you are going to look better.

Mr. DREIER. Thank you very much.

Thank you, Mr. Chairman.

Chairman BOREN. Thank you very much.

I think Senator Domenici is going to depart.

Senator DOMENICI. Mr. Chairman, let me say how pleased I am that both of you came.

I would give the committee a few observations about the committee the two of you co-chaired, which I was on. I was in all of 3 years in the Senate when it happened. I was thrilled. Let me tell you, there wasn't very much public enthusiasm for what we were doing. The enthusiasm was inside. We never had coverage from anyone, because it was, "So what, you guys must be frustrated, who cares?"

So I think the big difference now is, it seems like people are perceiving this is important business for the people of the country. That gives us a little different kind of momentum.

But I would suggest that we also focus a little attention on how we might avoid duplication of effort or repetition of legislative events around here, along with the talk about subcommittees and reorganization in that context.

Let me just suggest if there was some way we really did not have to appropriate everything, every year, let me just give you an ex-

ample what would happen. The Armed Services Committee would lose a two-year, three-year authorization bill. Because we insist on appropriating every year, they insist on writing an authorization bill to match right up to it, which turned out to be a rather frustrating experience in our body, I guarantee you.

The same thing with budget resolutions. The only thing that changes in budget resolutions are economics. You can have an automatic 3 or 4 months, have an automatic. It doesn't take a long time now. It takes 5 or 6 days on the Floor as compared with much of the other. I think you could mandate authorization committees, produce multi-year authorizations, which would be very, very helpful.

So it seems to me that the distinguished Chairman of the Appropriations Committee said this to us, and I just borrow his two words, "We are too fractured in our attention." And I think both of you might be saying that: Too fractured in our attention.

But I don't think this is exclusively the committee work. I think what has happened is that Members of Congress have taken on another role outside of the committee structure, that is gaining their attention day by day. I think the sooner we can find our way to return our Members to their principal roles as legislators and not get into caucuses, joining all kinds of organizations, giving all kinds of speeches up here on the Hill—now, it is not for money so it must be for something else. Just figure the time we use that we can't find time to go to committees, whether we have less or more.

I believe we have a chance to change all of that and I think we will be making sense out of the process, and that is not just arbitrary numbers. That is making some sense out of the jurisdictions, be it appropriations or otherwise, because you can better focus attention if it is rational. Pretty hard to focus attention on appropriations if you are on VA, HUD and Independent Agencies. It is an incredible diversity of interests who fight each other for no good reason other than they are on that subcommittee.

So I believe some rational approach to the jurisdiction you have, and lesser numbers of them, go together. And also it seems to me that if we can make the work on committees less repetitious, we save a lot of time and do an awful lot of good. Other committees have more time.

I think that is essentially what we have to shoot for, Mr. Chairman. Thank you for the time.

Chairman BOREN. I very much agree with that.

Senator COHEN. Mr. Chairman, may I indicate for the record Senator Domenici was one of those for reform in the 1970s. He has been dining alone ever since.

Senator DOMENICI. Senator Boren picked up the few friends I had.

Chairman BOREN. Senator Brock, if you have just 5 more minutes, we will try to move along as quickly as we can.

Mr. EMERSON. Thank you, Mr. Chairman.

Thank you both for your outstanding testimony. It has been inspirational. I believe that we will turn many times in the course of our deliberations to the comments that you offered us here today.

One of the most significant and long-lasting changes in the operations of the Senate brought about by your committee of a number

of years ago has been the division of committee resources between the Majority and the Minority, and to a two-thirds/one-third ratio.

In the House, such a division does not exist, and it is a matter of great contention that it does not exist. It is a factor that is very relevant to the destruction of whatever comity may otherwise exist in the House. This is a very sore point.

While some committee chairmen have been more generous than others, the situation is that the Minority holds—and this is across the whole spectrum—24 percent of the committee staff slots. On many committees, and particularly the Budget and the Appropriations Committees, the percentage is much lower than that.

Could you tell us, share with us the rationale behind the important reform that you did bring about, and how you believe it has affected the Senate over a period of time, and might not the House take some measure of instruction from what the Senate has done?

Mr. STEVENSON. One of the other points I made in my written remarks is that throughout the deliberations of the select committee, there was never a hint or suspicion of any partisanship. This was a labor of love for the Senate of the United States.

The proposal for the allocation for the money for staff came from Senator Robert Griffin, and I suppose all such promotion have to, to some extent, reflect the ratios in the respective bodies. In other words, if the Republican Party were to be eliminated in one of the selections, we wouldn't have gone for one-third, which was arbitrary, but it was in rough proportion to the seats which the Minority held in that body.

It therefore seemed fair, as I recall—and Roger Davidson can correct me—there were some adjustments made to decrease that by amounts that were needed for certain nonpartisan overhead, in other words, management for the benefit of both parties in the committees.

Like everything else we tried to do, it was—and still seems to me at least fairly obvious, and therefore the Democrats accepted it. I don't recall any controversy over it.

Mr. BROCK. The astonishing thing is that the House hasn't done it, because it removed a bone of contention that really did bother people, that caused a reduction in friendships and comity and community, that is unhealthy for the body.

Mr. EMERSON. Very.

Mr. BROCK. I was teasing at one point, and I think I may have suggested privately that the Republicans ought to have two-thirds and the Democrats one-third, because the Minority needed more help. Then I decided really the Democrats needed more help, so maybe it was the right thing to do to give them two to one.

But after all the teasing there was no contention, because it just made sense to make sure that every Member was served with an adequate staff so they could participate in the discussions and bring whatever experience and knowledge they had to the discussion. That is important. And it is crazy not to do something like that in the House as well, I think.

Mr. EMERSON. It seems a point that could be so simply addressed, too. You know, Speaker Foley in his opening statement to this committee back at our inception this year said that one point of recommendation he would make was that he thought the Majority



should approach their task here as though they were the Minority, and the Minority should approach it as though they were the Majority, and that we would have a better understanding of each other's perspective.

Mr. BROCK. That is a very thoughtful comment.

Mr. EMERSON. I thought it was profound, and I am somewhat puzzled as to why, when we go about our daily business, and I share your view that the majority of people in both bodies are high-minded individuals who want to serve their country and serve it well, why we can't agree upon some fundamental basics, basics of fairness in the staff ratios, so that everybody can be better enabled to do their work. I don't know why we can't agree on that.

Mr. BROCK. I agree.

Mr. EMERSON. Thank you both very much.

Chairman BOREN. Senator Cohen?

Senator COHEN. Thank you very much, Mr. Chairman.

Let me welcome two former colleagues to the Senate. I couldn't help identify what Senator Domenici said as he left about trying to simplify our lives so we can try to be legislators.

I was showing Senator Pryor my schedule, and I noticed I had 18 separate meetings today, including three hearings and 10 constituent meetings, not to mention the votes we will have this afternoon that we are anticipating, and that is a very typical day. It will be almost impossible to be a conscientious legislator without a lot of other functions we have to carry out.

I agree with Senator Brock and I assume, Senator Stephenson, that there is no way that you can seek to amputate a major part of the body politic in this case and then allow the surgeons to take a six-month sabbatical after making the first cut. You either do it or don't do it. But I think to try to phase it in, as some have suggested, is simply not a workable solution.

As I listen to Senator Stevenson raising the issue about getting Senate leadership behind our efforts, I was reminded of that old Socratic dialogue where Plato through Socrates raised the question about beauty. He said, "Is beauty pleasing to the gods because it is good or is it good because it is pleasing to the gods?" It seems to me you are raising that fundamental question. Is reform good because it is pleasing to the congressional gods, or is it pleasing to the congressional gods because it is good?

Put another way, should we seek to recommend—let me put it this way. Should we shape our policies to conform to leadership support or should we try to shape leaders to try to conform to our policy recommendations?

Mr. BROCK. I think yes.

Senator COHEN. In other words, we have got a problem.

You made a recommendation to endorse essentially the Kassebaum proposal. Why don't we get rid of the Appropriations Committee, merge it, or have one committee carry out a function where we have three levels now, let's have two, let's have the Budget Committee, let's have another committee carry out both the authorizing and the appropriating.

Should we seek to do what is desirable or what is achievable? Should we start out with the premise that we aren't going to be able to achieve a certain goal even though it is a better solution, so

shall we take half or quarter of the loaf? Or shall we go for the whole loaf and hope the leaders will support this? Or should we recognize we aren't going to have support and do the best we can around the margin?

Mr. BROCK. Senator Stevenson said in his opening remarks that we had basically three options, one radical, one, we thought, very common sense, and then the one you have. We decided to go for what he called I think the 140 percent solution, expecting to get at least 75 percent. And I think that is about what we achieved. Maybe we got a little more than 5. If we had asked for only a hundred, I guarantee we would have only gotten 50. I think you do have to ask for more, and then you have to go into the conversations being aware of what compromises you can make without destroying the plan.

Senator COHEN. Let me pose to you, we go to our congressional leaders. We say, We would like to eliminate the current system; we think the three levels of budgeting, authorizing and appropriating is not duplicitous but duplicative, and we want to simplify it and expedite matters, and we would like to achieve this, we want your support, Leaders, knowing full well we will not get that kind of support.

Do we press ahead or make a concession up front? If we go out of existence in August, perhaps we can get a life extension for a month, but really we are talking about reform, we have to come down to the basic split between the philosophical desirability of something and the practical implementation of what we can get.

Mr. STEVENSON. Senator Cohen, we did go for 140 percent. The reason for doing that was to go for something that was so logical that it became defensible. It became explicable. Every contention we made was a concession to some irrationality.

That is not to say that there can't be honest differences of opinion. I think what needs to be done is far more obvious than maybe many of your witnesses will concede. My hunch is that the reports you have got, including the Bolling and Stevenson report is in substantial agreement on what needs to be done, just as it was in our exercise in the Senate.

But when you get to such questions as eliminating the budget—or doing something within that budget-appropriations authorizing process, you are touching on an issue that we did not get into.

I can't tell you whether that is right or wrong. My hunch is that it would be politically impractical, and I really offhand would have to be convinced that it was a sensible suggestion. But if you all agree as a committee or a substantial majority of you agree as a committee that this is what needs to be done, then do it and take it to the leadership and convince the leadership that this is beauty, it needs to be supported because right.

Senator COHEN. Thank you very much. My time is up. I appreciate it.

Mr. DREIER [presiding]. Senator Pryor?

Senator PRYOR. Thank you, Mr. Chairman.

I just would like to reiterate, I know it has been said a couple of times already, what a debt of gratitude we owe our colleagues, Senator Stevenson and Senator Brock. These gentlemen have really demonstrated to me that they care about this institution, and not

only want to see it survive, they want to see it prevail and come back to its original being and the perception that the people had.

I think something Senator Brock said is so on point, and that is, I don't know quite how you said it, Bill, but people are angry with us, they are frustrated. I think in the 14 States where term limitations were on the ballot last November 3, in every one of the States, in all 14, they voted to limit the terms of public officials in our States, State legislators, senators, congressmen, et cetera. Whether that will be legal or not remains to be seen, but at least the expression was there.

I also think that we may be closer to reform than some of us think. I know we sit here day after day and frankly I don't get enough time, and I know a lot of our colleagues here don't get an adequate amount of time to come and talk about these things. We know we have got to deal with it. Like we said, look at Senator Cohen's schedule today, mine is the same, and frankly when I got to comparing what was important and not, I said, this is more important than doing other things, so I just canceled the rest of the schedule.

I became involved with some of my colleagues and Senator Danforth 5 or 6 years ago in a little group trying to work at reform through not necessarily the committee structure but the rules of the Senate. And I felt from time to time that we were on the verge of making some change. And frankly, I got frustrated and worn out with it. I kept at it for a long time. And I guess I just gave up on it.

I think the thing that kind of killed it was that it was a nice little bipartisan group, and we were trying to stress that we wanted to see it work better. Someone someday pinned a phrase on it, called it the Quality of Life Committee. Well, I guess that implies that Senators want a better life, shorter hours, more pay, et cetera, so somehow or other our function was diminished in the public mind.

The role of the reformer is no task for the fainthearted, and we have got to keep at it and keep dealing with it.

Finally, and I will mention the Aging Committee because Senator Cohen has mentioned it here, that was a unique situation, and one of our colleagues, several, decided, I guess, that we needed to have a passed vote in the Senate about whether we were serious about saving money or cutting down the number of committees or dispersing jurisdictions or what. But we had a vote and the Aging Committee prevailed, at least for the time being. But I heard more strange reasons for and against the voting to eliminate and to keep the committee I think than almost any vote I have heard passed.

Some of them said, We just had to vote that way; I did because we needed to save that money or we needed to show we are serious about reform. But the best of all reasons is one of my colleagues—I won't mention his name—he came up the day after the vote and said, I got back to the office, I voted to eliminate your committee, and he said my office staff said, If I had known you were the Chairman, I would have voted to eliminate it. So I didn't make a very good impression on him.

I think we have got to look at the entire package, not just one committee, not just one little sliver of jurisdiction, as you were telling us about a while ago, and it was good historical perspective, but

I think the time has come, and I hope that the recommendations of this committee will be considered favorably. They may not all go through, but I want to pledge my very best efforts to help make this a better institution.

Thank you.

Mr. DREIER. Thank you very much, Senator.

The gentleman from Washington, Congressman Swift.

Mr. SWIFT. Thank you, Mr. Chairman.

Senator Brock, you suggested two things, and I sense some tension between the two areas. One, you pointed out the doctrine of unattended consequences that inevitably come from the legislative process, and certainly with reform. And then you suggested: But don't tinker around the edges, do radical reform. It seems almost axiomatic to me that the more radical reform, the greater the unintended consequences that you are likely to run into.

Also, it has been my observation that the more radical the change, the more radical the reaction to it. Hence the unraveling process, if we were successful, would probably be more vigorous.

Would you care to talk about whether you see any tension between those various observations?

Mr. BROCK. I watched the House try to reform itself since 1971, and it is a mess, with all respect. I don't think it succeeded. I think it has gotten substantially worse. I think there is a great deal more partisanship, more discordance in the House. It is not as happy a place as it was when I was there, in my judgment.

I believe that part of the problem is those who were there and those who followed were engaged in incremental efforts that didn't deal with the substance of the problem.

If my cautionary note is—I just want to be sure that I explain to you the fact that these things do have monetary consequences. Therefore, be skeptical. There is nothing wrong with a little healthy skepticism. But I am afraid if you don't go for the whole banana, you don't try to look at the substance of the institution and how it works and how it doesn't work, and deal with the fundamental essence of it, I don't think you are going to get there.

I really do believe what happened in the Senate was important to the well-being of the Senate after 1976. I think it does operate better than the House. I think another reason is, we did do those things we said we were going to do, some of which have been eroded, but the fact is we went and we cut the average number of committees by at least 50 percent, which was a major step. We cut the number of committees by a third. Those changes made a difference in the operation of the Senate.

I would be really worried about another effort to engage in incremental change. I don't think it works. This body is flawed.

Mr. SWIFT. But I could point out that the reforms which failed in the House were not the incremental. It was the attempt to do it all at once that failed. And the result was nothing was accomplished.

I must tell you that there were a few in the House, probably about 435, that think the House works better than the Senate, and that should be put on the record.

Mr. BROCK. There is a reason for that.

Mr. SWIFT. As a colleague of mine in the statehouse said, You must remember that the Republicans are only the opposition; the enemy is the Senate. So there is an institutional bias.

The point I am making is that I quite agree, there are some things that need to be done, but one of the things that I am hearing across the land and my colleagues repeat over and over is, the public said they want change. I heard precious few people interpret what they wanted, what end they wanted change to. And if in fact all we have got to do to satisfy the public is change something, then I think we can probably be enormously successful around here.

What I suspect, my personal interpretation of what they were saying is, we want to change things so the damn thing works. And I am not sure, my skepticism is I am not sure but what we can overlook some important, rather undramatic changes that can make it work better in our search for finding out how radically we can change it so we can bear our breast and beat it and say, "We, by God, had change."

When we get done with the change, if it still doesn't work, the public is still going to be mad. If we make little changes, the press and the public will say we didn't do much. But if after we do it, it works, I think that the problem will go away.

Mr. BROCK. I think I would illustrate my point by looking at this. Plan C suggests jurisdictional changes among current House and Senate committees. I don't know there are many people who honestly believe the problem is caused by jurisdictional changes. And that would be an incremental change that people could go back to their public and say, That is what we did, we changed the jurisdiction between Interior and Energy or whatever.

If you look at some of the other plans, particularly those that really do substantively reduce the number of committees and the competition between the Senate and the House, so that at least between those two bodies you have more ability to think together and work together, it seems to me you are addressing a number of problems that really do exist that relate not just to Members' time, as I said earlier, but their attention. That is the most important thing you can bring to the task.

It isn't the physical energy, it is your mind.

Mr. SWIFT. And my last point, spinning right off of that one, is, of all the reasons one might raise to change jurisdictions it seems to me that saying we have to do that in order for Members not to have as many committees seems to me to be a very backward way of achieving a goal.

I was going to suggest to the Chairman maybe one way of enforcing that is not let anybody put more than two committees on their letterhead. They might not find as much need to serve on all those committees.

But more seriously, if that is the problem, the number of committees we serve in, there has got to be a more simple and direct way of doing that than taking on what is clearly an extraordinarily difficult job of changing the whole committee jurisdictional structure in order to solve the problem of people serving on too many committees.

Mr. BROCK. If the committees are the problem, and some of us think they are, then you can't solve that problem by dealing with the problem of Members' time. I think both problems, both are equal.

Mr. SWIFT. I would agree with your configuration, but what I am saying is, if the problem is the fact that we all have too many committee assignments or feel we do, if that is the problem you are trying to solve, there ought to be a more direct way to do that than deal with committee jurisdictions. Overlap, redundancy, some of those other problems may well require changes in jurisdiction.

But how you get leadership in the House—both caucuses have limits on how many committees you can serve on, and they are ignored regularly. Sometimes the leadership comes to you and asks you to take on additional responsibilities beyond what the caucus rules say.

Now, if you can't get Members and the caucuses and the leadership to do something as simple as limit the number of committees you serve on, then I don't know how you are going to make these more elaborate things happen.

I thank the Chair.

Chairman BOREN [presiding]. Thank you very much.

Mr. Spratt?

Mr. SPRATT. Thank you, Mr. Chairman.

I will pass except to thank the witnesses for their fine presentation.

Chairman BOREN. Mrs. Kassebaum?

Senator KASSEBAUM. Essentially I will too, Mr. Chairman, because it is getting late, but I very much appreciate the thoughtful comments of two former colleagues who spent a lot of time on this issue and know it well.

I happen to agree strongly with what you are saying. And just to illustrate, obviously I think the public is as confused as we may be on occasion. We are dealing with a \$1.5 trillion budget. That in and of itself is a far larger budget than, of course, 20 years ago we had to contend with, and with everything else that has grown up around that and the process, as you have pointed out, is so hard. We have a budget resolution, then we have an emergency supplemental, then we have a five-year budget, all of which is out in the public right now and the public is trying to sort through, as are we, where it fits and how the debate relates to an understanding of it.

I spent a lot of time on this in the last 2 weeks at home. There is a great desire for accountability and common sense.

Now, that is difficult, not necessarily achieved by changing committees, but I would agree with you that if we don't do it now, we ourselves, I think, are going to be looked at and realize that we missed an opportunity.

And in my own concept, it isn't in recommending that the authorizing and the Appropriations Committee be merged. It is not that I think the Appropriations Committee has tried to administer. I think the authorizing committees haven't always done their jobs that efficiently and effectively either. But what I think is important to us today is to find the right means of changing the process so we can feel there is greater accountability.

What you spoke to eloquently is our own need to try and give it our best efforts, not fragment ourselves so much. The thoughtfulness of the process in both the Executive and Legislative Branch today has grown exponentially. We have created, since I have been here, two new Cabinet Secretaries—Education, Veterans.

Senator PRYOR. EPA?

Senator KASSEBAUM. That is why I said three, but it hasn't happened yet. Energy was before I came. But I think that, again, you know, it is both places. Both sides, as you mentioned. But no easy answers.

And my question was going to be about implementation, what you saw as the biggest problem. It has been somewhat answered, but just to thank you, I think you have both given a valuable service to your experience in helping us deal with this.

Thank you.

Chairman BOREN. Thank you very much.

Ms. Holmes Norton?

Ms. NORTON. Thank you, Mr. Chairman.

I regret that I was not here to hear the testimony. I would like to ask a question. Reading Senator Stevenson's testimony, I must say, Senator, that it chases away any inclination anyone I think on this committee might have had to be bright-eyed and bushy-tailed. I think it is very important to have that experience spelled out before us as we close in on what we ultimately will do.

Although we are by definition a political body, we have had to remind ourselves constantly that we are dealing always with the politically possible. Even though that ought to be axiomatic, the reason we always come back to that is that we have seen far-reaching ideas and have had to imagine whether or not the rather unruly bodies to which we return today would even consider some of the thoughtful, rather visionary ideas we hear.

As one who would like to move in that direction, I have pondered whether or not there is not some way to break through the inertia or the contention that will result.

I would like to try out one of the ideas that has occurred to me. I wonder what you would think of the notion of trying one of the ideas or some of the ideas on a model, that is to say, perhaps taking a committee or two from the Senate and House, and saying, for purposes of helping the Senate and the House to find their way to a new way, who will do, God knows, there are any number of things we could take to do, and essentially do the kind of experiment that people would do if this were not a legislative body in the first place.

Nobody would throw all the cards up in the air and say, now we are going to do it differently. The way to proceed toward reform is by first trying out some version of it, seeing if it works, and then going on—ironing out the kinks and going on perhaps to more wholesale reform.

Now, I recognize that is difficult for legislative bodies to do, but very frankly, I don't for a moment think that if we went back into the House and Senate and asked them to do something very substantially different from the way they now do it, we would get very far.

What I have been trying to do now for the last several weeks is to try to think of a way to get people to test the waters at least for doing something very differently. Given your own experiences in the Senate especially, I would ask for your comment on that idea.

Mr. STEVENSON. First, if you are talking about committee organization, I don't think it is possible to separate one committee from the whole problem, the committee system, not the operation of one committee.

Secondly, and I think Senator Brock and I have both tried to make this point, when we started out, nobody gave us much of a possibility for reforming the Senate, certainly not in the ways we ultimately accomplished. But we got there by proposing a wholesale reorganization of the United States Senate, and by making it so eminently rational and fair, the procedures, indeed obvious, that to attack it you put it on the defensive. It is attacking all the anachronisms, the irrationalities, the injustices of the system, that is what you had to defend.

Now, we have also tried to say that by going for something that is right, if you look back at all the prior exercises, you will conclude that 90 percent of what is right is obvious too. Then you go to your leadership—this was really critical to us—getting the leadership committed. And when further explanation, which I think Senator Boren or Senator—this time, if you fail, the consequences will be far more severe to this body than they would have been. Our leadership should be made to understand that too.

So I would particularly hope and believe that they would support a rational reorganization of both bodies for other reasons, more positive reasons.

Mr. BROCK. It is astonishing to me that this body will this year consider reforming the Nation's economy and can't reform itself. If you are going to engage in reform of the whole health system of the United States, you had better enter that fray as well organized as you can humanly be.

The fragmentation that I saw in the earlier exercises in the last 2 years, where you had 199 Members in one particular conference committee, was just unbelievable and outrageous and suicidal.

If you think that was a large exercise, just wait until health care comes along. Every Member of the body in the Senate and House is going to be on the conference committee. You are going to have 535 conferees. And everybody has a legitimate claim to be there, because the organization of this body is outrageous.

It doesn't pertain to the world in which we live. And I can't imagine not engaging in the most diligent effort you can to sell your leadership and your colleagues on the need to organize for the world in which we live. And the way you are organized now does not relate to the world in which we live. It relates to constituency responses as opposed to functional responsibilities.

Ms. NORTON. Thank you, Mr. Chairman.

Chairman BOREN. Thank you very much.

Again, I want to thank both of you for being here. It is inspiring to us, and it is uplifting to us, one, to understand that working under very difficult conditions, and even having to retreat on some important matters, as you said, you ceded the low ground and un-



fortunately you had to cede some of the high ground as well, you still accomplished.

I would dread to think where we would be now in terms of total numbers of committees and committee assignments and other matters and even less rationality in committee jurisdiction when your committee has not done its work. And therefore, you have made a very lasting contribution to this institution.

I think you have also highlighted for us the fact that our challenge is a bipartisan one. This is something we must come together and do as Americans. It has nothing to do with which party we belong to. If we don't meet our responsibilities as trustees of this institution, we simply must look at the next generation and say we have not handed on this institution of government to them in the shape that we should, we have not met our responsibility to them.

That responsibility is a far higher responsibility than the responsibility of any short-term gain that might derive from one or the other of our political parties. I think it is almost impossible to determine that kind of assessment of gain for partisan purposes even if one tries to make it, because no one can anticipate which party will be in Majority from one year to the next or one decade to the next.

We can't by any means predict the changes in short-term political thinking and political trends. But what we can do is devote ourselves to the proper functioning of an institution that will be here whatever political winds might sweep across the land, whatever problems we might face, so the American people can be served with a mechanism that will make the soundest possible decisions when faced with challenges that we cannot yet even imagine.

So I think we have a very heavy responsibility, and I think what you have both said to us about the fact that there is more public attention focused upon this effort, public expectations are higher, and I think the level of public discontent with the Congress is far higher now than it was at the time that both of you and your colleagues on the committee struggled for reform. It amazes me when I talk to some of our colleagues, they don't understand the depth of the people's feeling and the depth of their understanding.

People have been watching these hearings. I think when we started, I must say I myself am amazed, many people felt we would be talking about very dry, technical subjects from the point of view of the average citizen. I find that it is amazing how many citizens have been following our deliberations, how expert they have become on the question of committee jurisdiction, and how government can't work when you have conference committees of 200 Members.

I think we are fooling ourselves if we think the American people are not capable of understanding the major issues with which we are grappling in terms of the organization of Congress. They do understand it. They know you can't fragment your time and attention. They know you can't have committee jurisdictions that are so flawed that you don't get the big picture in important policy areas or understand how it fits into the big picture. And the results are all around for us to see.

And when you see 14 or 15 States, however many it was, pass term limitations, by overwhelming majorities on the ballot, I am

amazed that some of my colleagues feel that this is a temporary phenomenon in terms of public discontent that is going to pass away like the emotion of some lynch mob. This is not the emotion of a lynch mob. This is informed public opinion that has come to understand that our institutions of government, including the most important institution of government, the Congress of the United States, within the bounds of our constitutional system, should be reflecting popular views and dealing with problems in the long term, that it is not serving them as well as it should, composed, as you said, of well-meaning, capable men and women. How frustrating it is that more Members of Congress come to serve with greater expertise and experience than probably at any other time in our history, and probably the determination is just as strong as those before it to render public service, yet we are doing a worse and worse job at rendering that public service, I think in part because of the structure of the institution we are working in.

So I think there will be change, and I think if there is not change brought about by this committee in the adoption of the recommendations of this committee's report to the full Congress, there will be change by popular action and popular demand, one way or another, whether it is term limits or through some other process that will be not nearly as well considered as we hoped the deliberations of this committee will be considered.

So you have given us, again, a sounding of the challenge, and you have by sharing with us your own experience, difficult as it was, I think you have put before us again our task and have challenged us to proceed, and proceed in a fashion that will not underestimate what needs to be done.

So I want to thank both of you. I hope that you will be willing as time goes along, especially as we began to get into the decision-making process, as we began to weigh the tradeoffs that will have to be made, the practical decisions that will have to be made, to see exactly how far we can push the envelope of reform as far as possible without losing the entire package, that we can come back to you for practical advice and counsel as we go along.

But I thank you both for being a part of our process.

Mr. STEVENSON. Thank you, Mr. Chairman.

Chairman BOREN. Thank you very much.

I was going to ask now if our last panel would come forward. I am going to go—this goes back to the discussion we were having. We have to go to an important meeting on health policy with Members of the Senate Finance Committee and the Members of the President's Task Force on Health Reform that just now started its meetings. This panel is a very important one, and the experience represented on it is already—in consultation with us has been very helpful to Members of this committee.

Our final panel consists of four experts on the committee system. Roger Davidson, who has already been mentioned when we introduced Senator Stevenson and Senator Brock, as a professor of government and politics at the University of Maryland. He served as a Professional Staff Member for the House Select Committee on Committees in 1973 and 1974. And he has already sat for the Stevenson-Brock committee, so he is a veteran at reforms efforts and

he has seen firsthand proposals that have worked and those that have not worked.

Roger Sperry is Director of Management Studies at the National Academy of Public Administration, and we have already had some testimony from that body.

Former Congressman Jones has been before us, and the academy has done some excellent studies indicating the difficulty in making decisions on important issues when committee jurisdiction is so fragmented. Many, many committees having jurisdiction over the same problem and with many people having jurisdiction, it ends up no one takes care of the problem. He spent 26 years with the Government Accounting Office in various leadership positions. In addition, he has served as a Professional Staff Member of the Senate Governmental Affairs Committee.

Tom Mann and Norm Ornstein are familiar members. We sort of make them honorary members of this committee. Mr. Mann is Director of Governmental Studies—

Mr. DREIER. Can we take a vote on that, Mr. Chairman?

Chairman BOREN. I think all present, I am sure, would vote to do that.

Mr. Mann is Director of Governmental Studies at the Brookings Institution. Mr. Ornstein is a scholar at the American Enterprise Institute. They were both influential in helping us and advising us with the legislation that created the joint committee. Having played that role, we felt it only appropriate that they stick around and help us solve the problem now that we have been given jurisdiction to look at it.

So I want to thank you all for coming. Unfortunately, and although I don't think you would say unfortunately because it indicates the interest of the Members of this committee in the testimony we have heard and the subject we are covering, we have, of course, gone on late with our earlier witnesses. So I hope we can keep opening comments as brief as possible, and then turn to the comments from the Members of the committee.

As I say, I am going to pass the gavel to the Vice Chair in just a moment, and hopefully I will return from the health policy meeting in time to hear your concluding comments.

I don't know at which point we are going to start. I don't know if you have drawn straws, Mr. Davidson, or Mr. Mann. Why don't we start with Mr. Davidson, who is accompanying our last witnesses, and we will move down the table and have comments.

**STATEMENT OF ROGER DAVIDSON, FORMER STAFF MEMBER OF BOLLING AND STEVENSON REFORM COMMITTEES, UNIVERSITY OF MARYLAND, COLLEGE PARK**

Mr. DAVIDSON. Thank you, Mr. Chairman. I do have a prepared statement and I would ask that it be included in the record.

Chairman BOREN. We will be happy to receive prepared statements from all four of you.

Mr. DAVIDSON. I will not repeat it verbatim. I am happy to be here. I am happy for the invitation. I testified before your predecessor committee in 1965 on some research that my colleagues and I had done about the market for reform among Members of the

House of Representatives and Senate and our message was a fairly sober one at that time and it was borne out, I am afraid, and I followed the reorganization process.

I was a member of the staff both of Bolling Committee in the House and then again the Stevenson Committee in the Senate.

I think it is high time that you look at the committee structure, the numbers and sizes of committees and assignments and jurisdictions. The committee system changes whether you change it or not because jurisdictions change over time as committees change in this constant process of jockeying for position. Sizes of committees go up. Assignment levels go up so that the committee system does change a great deal over time.

And one of the things that you will have to do is to document this and it seems to me make some recommendations as to whether some of these de facto changes should be accepted or whether you wish to reverse some of the trends that have taken place.

I want to summarize what I think are some of the lessons to be gained from the earlier reorganization efforts. These comments are drawn from my own experience and I will be as brief as I possibly can.

Both the Bolling and the Stevenson Committees undertook considerable research both at the staff level and at the member level.

We studied workload data. We looked at committee reports and documents. We studied jurisdictions. We had some of these plans developed that you see before you, but there is no short cut. There is no heat-and-serve recipe for taking one of these plans from the shelf and putting it into your committee report. Nothing will substitute, I think, for the process which you and your staff should go through in slogging through these questions and assuring yourself that the reorganization plan or design that you recommend is the one that you really wish to support.

We even had a staff member retreat at Chairman Bolling's home once in which we went through many of these things. And I might add that our staff and committee operations were pretty much bipartisan both in the House and in the Senate, and it wasn't until later in the political process that partisanship came into it.

I would make the following recommendations about the premises that I think we should start with. The two chambers should have a moderate number of broad-based committees. I think a range from 12 to 20 strikes me as optimum. Both the Bolling and Stevenson Committee came within that range in their original recommendation.

Members' assignments, I think, should look toward the goal of one major assignment for Members of the House and two for Senators. It may not be possible but it should move in that direction. The committee should have relative parity in workload in order to promote efficiency and to attract members. Committees should have broad jurisdictions to attract a wide range of members representing disparate constituencies and viewpoints.

Jurisdictional conflicts and overlaps should be substantially reduced as much as possible. Perfect jurisdictional lines are not possible, will not be possible but major jurisdictional shifts should be concentrated within, I think, a limited number of very pressing public problems. And I would suggest such things as international

trade, health care, and problems of that kind might be areas where this committee would wish to concentrate its efforts.

Committees in the two chambers should, insofar as possible, have parallel jurisdiction although they won't be identical.

Political salability of the plan has to be kept in mind, but it shouldn't become its sole driving principle. And finally I think you should say something about the mechanisms for inter-committee organization and cooperation. You should look at multiple referrals, the use of ad hoc committees or rather the nonuse of ad hoc committees, task forces, overlapping memberships, special oversight jurisdiction. They should be arranged so that the two chambers should be able to use them in a flexible way so that these kinds of arrangements would not become permanent or rigid.

Any proposed changes that you make, no matter how minor, will encounter resistance because they touch individual legislators and their staff, their individual power bases, and their careers. We found that Members quickly pick on those provisions which affect them directly even when they don't have much of an idea about the overall reorganization plan. Affected Members are often more willing to consider changes that are neither as fast or outside live groups that lobby them to retain certain committees or jurisdictions.

Those who stand to lose power are always more vocal than those who stand to gain. Even Members in groups expecting tangible benefits quite often are leery of supporting change because they will have to rewire their political networks. I call this the "replacing your Rolodex" phobia.

Groups bent on protecting established relationships are far more numerous and mobilized than that handful of groups dedicated to the government, most of which have abandoned that and gone into substantive policy issues anyway.

The mass media, finally, shows typically little interest in the reorganization process. But the specialized media can be expected to cover in great detail the imagined impacts on their clientele groups.

I would urge you, because of the difficulty of these kinds of changes, to be rather bold in your initial planning. I think you should seek out a plan, not necessarily one of these taken immediately from the ones you have before you, the one that you feel you can support and work with and work with it in great detail, go to the leadership.

The leadership role was absolutely crucial in the eventual success of the Stevenson plan. It was also, I think, a lack in the House situation where the Bolling Committee would have benefited from having the leadership, although they initially supported the effort that would actually get down and help in the brokerage process because you will have to broker whatever proposals you come up with with a myriad of individual Senators and representatives and groups.

I suggest that you try to emulate the Stevenson Committee. Make your report reflect a bold blueprint rather than simply some marginal adjustments at the edges to existing arrangements, but make sure that your plan is politically realistic, otherwise it is going to be dismissed out of hand.

Considering that even the most modest proposal will get great resistance, a bold and compelling report will not only best serve Congress' institutional needs, but I think will be the best defensible course of political action, especially in the atmosphere we find ourselves.

So your reflections should reflect an overall conception of how committees should confront public issues and how Members' schedules should best be arranged.

I hope your plan will move toward the following goals:

Reduce jurisdictional overlap and competition, fewer scheduling conflicts with committee meetings and hearings, more coherent jurisdictional clusters, more equalized Member and committee workloads, better intercommittee cooperation on cross-cutting issues, and a simpler linkage between committees and executive branch agencies.

A plan that promises progress toward those goals will, I think, have the best chance of acceptance by Members, by the media, and by interested citizens. Moreover, it will provide ample room for the adjustments and compromises that inevitably are going to have to be made. As Senator Stevenson said of the Senate Committee on Reorganization, you should ask for 140 or 150 percent in order to get 75 percent of what was desirable and necessary. Thank you.

[The prepared statement of Mr. Davidson is printed in the Appendix.]

Mr. DREIER [presiding]. Thank you very much, Mr. Davidson. Maybe we should ask for 200 percent in hopes that we might get our 100. I hope we will be able to be both bold and politically realistic and that is the challenge that we face.

Mr. Sperry.

#### STATEMENT OF ROGER L. SPERRY, DIRECTOR OF MANAGEMENT STUDIES, NATIONAL ACADEMY OF PUBLIC ADMINISTRATIONS

Mr. SPERRY. Thank you, Mr. Vice Chairman, members of the committee. I have a short statement that focuses principally on the implications of congressional jurisdiction over policy outcome. It is based in part on a study the academy has done entitled, "Beyond Distrust" which was discussed in a hearing before you in January by Jim Jones, so I am going to skip over that.

I am going to touch on a couple of case studies that were done for this report.

For most of its 25 years' existence, the National Academy, which is chartered by Congress to improve the effectiveness of government at all levels, has focused principally on the executive branch both at the Federal level and State and local levels as well, but in the last several years we have done a number of reports and become increasingly aware of the important role that Congress plays in the implementation of public policy in addition to its development and the management of government, so much of what I talk about will deal with that today.

In terms of committee jurisdictions, the Congress and the President are jointly responsible for making government an effective instrument of the people. Our recommendations rest on the central premise that each branch must have appropriate internal capacity

to engage the other on the overriding long-term national problems and improve its capacity for comprehensive consultative policy development. Congress needs to examine its committee structures and jurisdictions with this goal in mind. Our report, "Beyond Distrust," has a quote on that.

Let me move to the policy implications of this. Several academy reports cite the effects of committee jurisdictions on Federal agency management in the implementation of policy. A 1988 report on congressional oversight of regulatory agencies noted the diversity and fragmentation of the jurisdiction over the Environmental Protection Agency. This has already been talked about today. It was talked about by Senator Mikulski at an earlier hearing of this committee.

In "Beyond Distrust," the result is a "highly complex fabric of environmental legislation in which it is very difficult to identify priorities, reconcile conflicting directives or discern a comprehensive view."

In a 1991 report on surface transportation organization, we noted that more than 40 committees and subcommittees have jurisdiction over one or more elements of surface transportation. When the Department of Transportation was established in 1967, many hoped and expected that Congress would adjust its committee structure accordingly. However, jurisdictions continued to mirror the individual transportation modes and their associated interest groups.

While Congress deserves praise for enacting a landmark surface transportation bill in 1991, implementation of integrated approach for solving transportation and their associated environmental problems, the new act's broad goal, may be hampered by this fragmentation.

In fact, OTA says this jurisdictional fragmentation and competition "make it difficult for committees to deal comprehensively with transportation issues, much less to treat the topic as an integrated system."

How legislation is treated in the congressional budget process provides a different example of how jurisdiction affects policy. The case developed for "Beyond Distrust" on the prospective payment system for hospitals under medicare showed how budgetary politics dominated policy development and program implementation. Policy considerations and decisions were shoved into the reconciliation process, where considerations of dollar savings and cost control were dominant. I think you will see this in case after case of policy issues that have gone through the budget process.

Most recently, our February 1993 report on governmental responses to natural disasters noted that congressional jurisdiction over emergency management functions and the Federal Emergency Management Agency is so splintered that no single authorizing committee has either the ability or interest to examine either one in their totality. This splintered jurisdiction reinforces fragmentation within FEMA as well as programmatic authorization tied to specific kinds of disasters such as earthquakes or radiological disasters, indeed, as Senator Mikulski called the Subcommittee on Appropriations the one-stop shop.

This appears also under the Goldwater-Nichols Defense Reorganization Act. Here the House and Senate Armed Service Commit-

tees, with primary jurisdiction over the Defense Department, fashioned comprehensive reforms in defense organization and operations, notwithstanding executive branch opposition. Congress passed what most have called thoughtful, comprehensive, and coherent reform legislation. In addition, Congress has used the law as a platform for further fine-tuning of defense organization and process.

To sum up, in "Beyond Distrust," we argue that the organization of Congress is "out of sync with the dimensions of the issues facing the country and the processes of policy implementation in and beyond the executive branch. No systematic effort has been made to match congressional responsibilities and priorities with the committee structure and professional staff appropriate to contemporary problems and challenges."

We recommend that both Houses of Congress "develop broad policy expertise, focus legislative and oversight responsibility, reduce the conflicts resulting from committee jurisdictional overlaps, and strike a more productive balance between the value of redundant committee involvement and the requirements of effective decision-making."

And to sum up, the National Academy does stand ready to assist the Joint Committee and will be available to offer specific suggestions for congressional reform as the committee continues its work.

[The prepared statement of Mr. Sperry is printed in the Appendix.]

Mr. DREIER. Thank you very much, Mr. Sperry. And now on to our unofficial, nonvoting Member of the Joint Committee on the Organization of Congress, Mr. Ornstein.

#### STATEMENT OF NORMAN J. ORNSTEIN, AMERICAN ENTERPRISE INSTITUTE

Mr. ORNSTEIN. Thanks very much, Mr. Dreier. Like Roger Davidson, I had the pleasure and privilege of working with Adlai Stevenson, Bill Brock, and Pete Domenici and others in the Stevenson committee earlier.

As Senator Cohen was talking about the Aging Committee and what we ought to do with the workload here, I turned to Senator Stevenson and said, "Sounds familiar, doesn't it?" Indeed, if you think about the goals that were articulated by the Bolling Committee and we have in our statement, and we are making progress. The last time we testified our statement was only 71 pages, now we are down to 28 so we are getting there.

They are the same goals basically that we would articulate today, the same goals that Roger has articulated, the same goals, if you go back to every reform effort in the post war period and they are there for a reason. They are there because they express at least in an understanding way a set of values that we want the committee system to do and be and individual Members to be as a part of this institution.

And it is pretty obvious because we keep rearticulating those goals that we are not getting very far in dealing with them and even when we do we tend to move back because of some other forces inside this institution.



We want to address a little bit of that today and what we might do about that. Let me just start by saying that Tom and I began our whole exercise by trying to step back and say what is it fundamentally that we want Congress to do?

We don't want to reform or renew or change this institution because public pressure says change, because some people outside say do this because it is good. We want to start with what this institution should be and should do and then try and find ways to make it perform those functions better.

We have two fundamental building blocks that we believe are there and have been there since the frame before this institution. One is finding a way to set priorities and act upon them. The other and a very fundamental one is to be a deliberative body. Deliberation is at the essence of the American forum of democracy and that means at one level translating public needs and wants and desires somehow into something greater, into a public judgment.

It means debate, discussion. It means analysis. It means education across the board. The committee system is the linchpin of the deliberative process. It is there for the institution. It is the division of labor so Congress can delve into a whole range of areas without getting bogged down as a group into one. It is there so you can do more than just pass legislation but so you can explore and come up with new ideas, come up with areas that may not be there for the policy process to consider but that society needs to have considered. It is there so that individuals have a way to channel their energies and make a positive impact on this process, develop the kind of expertise that is needed to be a deliberative body.

So all of these specifics that we point to, both in areas and in specific suggestions really try to come back to how Congress and its individual Members can be a deliberative body, be a better deliberative body and also how we can work so that we can set some priorities for this institution within the institution for individual Members and also have the capacity to act when one needs to act.

Now, in this area we believe basically is to share goals that others have and go a little bit beyond. Four elements need to guide the approach here. First and foremost, we believe that reducing the size of committees, and we come back to the size which is almost as important as the number of slots that are there for individual Members, the number of committees as well, all has to be at the center of what you do. It is fundamental.

When you have large committees with too many Members serving on them, too many assignments, you lose the capacity to deliberate and become fragmented. You can't set priorities. You end up expanding a workload beyond what it should be and not dealing with the finite amount of workloads. As in the discussion we had about the Aging Committee before it was suggested, you expand it beyond perhaps what it should be and you fragment the focus that is there.

Second, to help accomplish that goal, you should reduce the number of committees, consolidate and partially realign jurisdictions so you can highlight emerging policy areas. Jurisdictional alignment should be done periodically because issues change but also, as Roger said, to create a better balance in the workload and attractiveness among the standing committees.

Committees at one level are supposed to be little legislatures. We can't function well over a long period of time if they are not roughly representative of the chamber, if people who see them, Members or others see them as tilted one way or the other to an ideological cause because of the particular interest, regional or otherwise. You have got to have some breadth there to attract a wide range of members and improve the deliberative process.

Third, we agree with Senator Stevenson. You need to put more teeth into the mechanism as ad hoc committees so you can deal with pressing national problems that necessarily cut across committee lines. Even if you had an absolute blank slate, you could not consolidate jurisdictions perfectly. It is impossible to do so. You can't pull health jurisdictions together without doing violence to the tax jurisdiction, armed services administration jurisdiction, and a number of others.

Fourth, it goes to something Mr. Emerson talked about earlier. This isn't just assignments and jurisdictions and numbers. The committee process also includes procedures, ways of increasing attendance. You can't deliberate if nobody is there to deliberate. You got to improve the quality of information gathering.

The standard process of hearings, as we see all the time, is not the most efficient way. It is certainly not the only way to gather information. You have got to find a better way through the committee system to strike an appropriate balance between the Majority and Minority rights and responsibility and that includes staff and we have to improve the allocation of staff resources generally, not just Majority, Minority, among and within committees.

Now, having said that, let me just expand on a couple of these points. We can't get into all the specifics that we have and we have a long list of specifics.

Dealing with the assignments is the most vexing problem that you have. We all went through this with the Stevenson Committee and, indeed, we really made some great headway in writing assignment limits that meant something into the rules. The backsliding started immediately. Adlai Stevenson did yeoman service getting the Floor prowling around trying to raise objections, but the fact is you had a consensus across both parties, across the entire institution to yield to the preferences of the individuals whenever, and the whims of the individuals whenever that opportunity arose.

Within a year, you have 40 of the 100 Members of the Senate violating the assignment limitations that were written in there. Simply putting them into the rules is not going to be enough. You are going to have to focus on different ways of making it more difficult to have those limitations waived constantly because it is the easy thing to do, because you don't want to discomfort individuals, because when you have a little bit of a difficulty leaders need to resolve, the easiest thing to do is just add a position or add a slot or do favors for people by giving them something more.

One of the suggestions that we have beyond requiring Floor action and requiring unanimous consent to waive some of these rules and trying to make it more difficult to cross over additional hurdles is we recommend that not only the House write size limits for committees into the rules as used to exist before 1975, as exists in the Senate, but there ought to be real numbers there.

We also think you ought to write in a limit of the overall number of slots for committees and subcommittees for the institution. Provide a little bit of leeway because you have got to provide for temporary select committees or for other circumstances, but put a real cap on the numbers so that you can put additional teeth in there. We are under no illusion that is going to work perfectly. Nothing will if both parties basically conspire constantly to get past these things.

But if you look at the numbers here, we have a table that looks at the increase in the size of committees. For example, over the last decade, it is astonishing to see how virtually all the committees go up and up. The size of the chambers don't change, the size of the committees go up. The number of slots, the number of assignments inexorably continue to rise and inevitably if you get inflation in assignments that means you devalue the currency. It becomes much less meaningful to begin with.

Now, consolidation, we have some principles there as well which we won't get into in great detail here that go back to what the Bolling Committee, what the Stevenson Committee and what their predecessors have also done. The principle of coming to a smaller number of broader base committees that have as much as you can in equivalent attractiveness and breadth of consideration so you can attract Members from across the country.

And ideological boundaries is enormously sensible when we look at committees like the Aging Committee. The Aging Committee in the Senate now, the Stevenson Committee tried to eliminate and have its jurisdiction consolidated with another committee back then is back again. There are wonderful people who do their work in those committees. It is difficult to challenge personalities, but the fact you have committees that don't have legislative jurisdiction that end up not being able to focus on the problem areas, that end up having the institution lose its capacity to set priorities and indeed to bring about some kind of action.

Far better to bring those jurisdictions substantively where you can and otherwise as we did with the Stevenson panel with a broad base oversight capacity for a committee into a committee that cannot only hold hearings but that can actually act on something that it is responsible for and if you could do that in ways that broaden the attractiveness of committees that now have problems attracting a wide range of Members.

Now, for example, we recommend that you take the narcotics oversight jurisdiction that was in the select committee that has gone out of business and put it in the Judiciary Committee, which can't find enough members. Give it some clout and you will actually do more for the area and you will do more for the committee and the committee system in the process.

Take the jurisdiction over Hunger and put into an Agricultural Committee and perhaps create a broader base so it isn't a committee dominated by people from agricultural regions. There are lots of things you can do to make this work better.

When we consumed the Post Office and Civil Service Committees and the District of Columbia Committees in the Senate into an expanded Governmental Affairs Committee we took a committee that had been government operations which was a really second level

player in the institution and made it a much more vibrant and important committee. And if you can do that with a little bit of sensitivity and make sure you keep a mandate for areas that matter, you will do more, not less.

And I don't think you can make the case that the Senate has fallen in its responsibility there compared to what it had beforehand.

Ms. NORTON. That you could, sir. That is because they rely on the House to do the hearings. And I just want to say right here, because I am not going to be here when you get through, that the notion of putting people who get on a committee primarily in order to deal with the larger subject matter over the District of Columbia, which is too seldom treated as a sovereign jurisdiction, is absolutely unacceptable to the people of the District of Columbia.

Mr. ORNSTEIN. I knew we wouldn't have unanimity in that one or in others, but maybe we can get into some discussion of that particular case as we move along.

You can find ways to consolidate smaller committees and continue to have the jurisdiction that is vibrant. And I think if we look back at many of those smaller committees over a longer period of time you will find that there were lots of periods when they did more destructive things than constructive.

Now, we have some tests we set up for what you should do with jurisdictions or with smaller committees and we have some areas where we specifically recommend consolidating jurisdictions, including international economic policy. And we can perhaps discuss more of those as we get into our give and take as well.

Mr. DREIER. I wonder, since your proposal has been unveiled, how your relations have been with other of our colleagues in the Congress.

Mr. ORNSTEIN. We should know tomorrow morning.

Mr. DREIER. Mr. Mann.

#### STATEMENT OF THOMAS E. MANN, THE BROOKINGS INSTITUTION

Mr. MANN. Thank you Mr. Dreier. We are having an opportunity to meet with some House committee chairmen tomorrow morning and perhaps we will learn more about the reaction to some of our proposals. Norm has more than adequately summarized our testimony and there is no need for me to buttress or duplicate it in any way.

I just simply want to make a couple of very brief points. One, when we were here with you in February, Mr. Hamilton asked if we would elaborate on our ideas for committee reform and that is what this testimony is. It is fully consistent with what we argued in February but fills in some of the details.

We believe the need for committee reform is avoiding either underreaching or overreaching. Underreaching means you fail. You haven't really dealt with the guts of the legislative process and gotten to some of the biggest constraints on genuine deliberation in this body. But overreaching is dooming your entire reform efforts to failure.

Committees are so central to the lives of individual Members that it is absolutely key that you find the right balance, that you

do something significant to improve the well-being of this institution and the lives of its Members and its responsiveness to the public, but at the same time do not propose changes whose major objective is to alter the power arrangements within the institution.

It is fine to alter power arrangements if it serves some larger purpose, if it helps to focus the agenda, if it produces better policy outcomes, but don't do it just for the sake of getting even.

I would submit to you that one of the proposals on your table, one of the more visible proposals is of that genre which is mainly designed to alter power relations, but I think should serve no larger purpose. That is the proposal to eliminate the appropriations committees and turn the appropriating power to the authorizing committees. This is the one power of Congress that is a genuine one and the appropriations committees are one aspect of Congress that works.

Now, I don't deny that there are improvements that can be made in the process. We suggested a number of changes in the budget process when we were with you last time. The appropriations committees themselves can be improved, but I think it would be a terrible mistake to move towards such a radical restructuring of the institution without having a larger public purpose clearly in mind. It is not a large public purpose for authorizers to get angry at appropriators because they have had a bigger piece of the action over the last decade and it is, frankly, not a large public purpose to avoid, quote, "overlap and duplication." That is a fairly minor objective.

Tell me about the quality of deliberation decision-making and then we begin to get serious about the larger purpose, which reminds me of another point we made when we were last with you. Your great challenge is to reconcile the Democratic critique of this institution with its Republican needs. The public is mad as hell and wants change but honestly they don't have a detailed sense of what changes would actually strengthen this institution.

That is your job. That is why there is a legislature. That is why there is a division of labor within the legislature. It is your job to figure out what will strengthen this institution and go back to the public and say, "You were mad. We understand it, but these are the changes that will actually make this institution stronger and more effective in dealing with the problems that confront the country."

I think the plan we presented here makes sense in those terms. Don't start from scratch. Take the present system, look at the objectives and begin to make some changes. I think in the end of this process you can make some profound changes in the way this institution operates for the good.

I think it is possible politically if you go about your work in a very careful and deliberate fashion. Thank you very much.

[The prepared statement of Mr. Ornstein and Mr. Mann is printed in the Appendix.]

Mr. DREIER. Thank you very much, Mr. Mann. Let's begin with Mr. Spratt.

Mr. SPRATT. Mr. Ornstein or Dr. Ornstein, I didn't, listening to both your testimony, get the full sweep of what all these charts are

and I still haven't integrated the meaning of all these charts that you have lined the room with.

Mr. ORNSTEIN. They were not ours.

Mr. DREIER. These are from the Congressional Research Service.

Mr. SPRATT. I beg your pardon. I was sitting here waiting for an explanation.

Mr. ORNSTEIN. The explanation is ignore the charts. The Congressional Research Service, at the request of the committee, came up with a whole range of possible plans for realigning the committee system from radical change to more modest change along the lines of the budget process or the appropriations process or agencies and the like and so these were laid out at the beginning of the hearing.

We haven't done that and we haven't come up with a detailed blueprint for moving every single jurisdiction around. We have taken a more conceptual approach and then given a number of specifics based on past performance and in other areas what we thought change would occur. So this is just wallpaper for us.

Mr. SPRATT. Do you care to comment on the arrangements of choice that is here before us?

Mr. ORNSTEIN. You know, it is an interesting exercise, I would say, to look at whether or not you want to have the House exactly parallel with the Senate or the House and Senate exactly parallel with executive branch agencies. It is worth looking at what would happen, as we did with the Stevenson Committee if, in fact, you did consolidate down to five committees that had sweeping jurisdiction over an enormous range of areas and one assignment per Member.

In the end, I don't think they are going to move in that direction. That kind of parallelism is, I think, reform for textbook's sake, for efficiency's sake. That isn't going to hit the political realities of an institution or what you really want a committee system to do.

When you look at the numbers of committees to start with, you can have too many, there is no question. And I think we do. You can have too few. You want to have appropriate opportunities for people to channel their energies and you want to have some overlap. That is inevitable, but there is some synergy that comes from overlap.

It is a question of striking the right balance. You want to have some rationale for why you have a committee. The committee, in our judgment, ought to be something that has a broad-based legislative jurisdiction. The capacity to have a select committee ought to be there because new issues will come along. You want to have a finite period of time to raise those issues and highlight them and then if there is enough interest and there is a compelling reason to do so, you move that jurisdiction into a broad-based standing committee that can handle it.

You have got to have some way of deciding what your priorities are by the committees and across the system. And so it is on that basis that we have focused first on limiting the number of assignments where we think individuals are driven by their schedules. There is no time to think, no time to set priorities individually and, frankly, what ends up happening is you have people coming in and out. People don't sit down and work things through very carefully and the whole system suffers as a consequence.

Second, you reduce the number of committees that you try and follow some reasonable logical balanced approach for doing so. There are reasons for focusing on select committees. There are reasons why they are almost always set up for a 2-year period, just as there are reasons why we were discussing the Indian Affairs Committee before and we mentioned it here in the testimony. People promised up and down 2 years and that is it. Sixteen years later we are back and not only does that committee still exist, but they are trying every effort they can to make it permanent so they won't have to go through it again.

You have got to guard against those things. The reasons why you don't want to have narrow-based committees that have more of a clientele is you want to have something that deals with a broad-based substantive area. That is what these rationales are for. We are not really eliminating them, but merging them with larger committees.

There are reasons for making some jurisdictional shifts driven by changes in the times, driven by obvious compelling needs, so we recommend a greater consolidation of transportation jurisdiction in the House, taking for example railways from commerce and moving it into the transportation area and public works transportation.

We recommend a strong consolidation of international economic policy in the post Cold War world and we would suggest in the House that it be put in the Foreign Affairs Committee and make it into a broader committee. There is a committee that has real trouble attracting broader members and didn't have the jurisdiction. That is what we stand for.

Mr. SPRATT. Thank you for your answer. You consumed the rest of my time, but just one comment. I have understood the gist of your testimony, all of you, all along to be that there is such a thing as having too few committees, particularly in the House, that would become mega-committees and not only would they stifle individual participation, but they would confuse jurisdiction. That jurisdiction would be, Ms. Holmes Norton would even argue, things like the District of Columbia blended in with other committees with lots of other jurisdictions would get pushed to the back burner and get forgotten and that is one of the problems you got as you blend jurisdictions here over a broad range.

On the other hand, I think in the House one thing in particular that is important around the House and which, I think, limits participation fairly well and fairly extensively in the House, you want to allow people to find a niche for themselves, a place where they can develop their own talent and for the House purpose they can become an asset for the House because they develop expertise or ability in a subject matter. They participate. We don't have a House of 435 Members of whom 300 are back burners who sit back and heckle the other participants in the House. It is not that kind of legislature.

So I think one of our quests is to find a way to help people participate in a meaningful process.

Mr. MANN. I think that is very important. The legislative reorganization of 1946, frankly, went too far in terms of consolidating,

and within a matter of a few years the Congress began to change it because it couldn't live with that.

Members have to have opportunities for meaningful participation, so if you go too far you do damage. On the other hand, in recent years, Members have come to collect committees and subcommittees on their letterhead and it has become a joke. There is an inflation and a devaluation of the commodity.

Mr. SPRATT. Thank you very much for your testimony.

Mr. DREIER. Thank you very much, Mr. Spratt.

Ms. Holmes Norton.

Ms. NORTON. Thank you, Mr. Chairman. I want to say, Mr. Ornstein, I don't want my remarks to be misunderstood. I want to elaborate. I approve of what you did in the Senate and in a moment I will tell you why I think it was a very good and important reform and I want to tell you why it works.

Moreover, as I am sure you know, I don't think the House should have any jurisdiction over the District of Columbia. Let's set up a Maryland Committee and a Texas Committee and see how everybody feels about it.

I, of course, am trying to gradually get to the point where there is a "no jurisdiction in the House over the District" Committee, but I am the first to recognize that that is not likely to come tomorrow.

I do think there are a number of reforms that could streamline the work and that the Senate reform is an example of one such reform.

I believe, for example, that while it may be impossible to abolish the District Committee today, which is my preference, we should curtail it. It should be reduced in its staff. It has got far too many staff for the amount of work that has to be done. I hope it has even less work to be done when some bills go through this year. It should not have staff comparable to the staff of other committees which have a full jurisdiction.

They do their work very well, but it is a waste of time and it is overstaffed and I say that even though the people that are there do excellent work.

The Senate reform worked. Let me tell you why it worked. Because the House does all the work. It is a wonderful reform. You ought to look at it. What the Senate does is to send staff to the House hearings so they don't repeat the same hearings in the House.

So when the District of Columbia has a hearing on one or another subject matter, they send one of their senior staff persons over and that person writes a memo to all the Senators. The reason it works is that the Senate has engaged in benign neglect when it comes to the District of Columbia. My hat is off to them for it and off to you for proposing that.

Let me tell you what would happen if, in fact, somebody wanted to get—nobody wanted to get on the Post Office Committee in order to get on the District Committee. You can bet your bottom dollar we have to recruit people to be on the District Committee and we do try to recruit people with some sensitivity, but because people would want to get on this committee for other reasons, neither you or anybody could guarantee any sensitivity for the home rule for the District of Columbia. Imagine the rage in the District



of Columbia that we are third in capita in tax being paid for Federal Treasury.

More colleagues than most of my colleagues in the Senate and House yet there is some committee sitting over there looking at laws my city council passes. There is some committee looking at the \$2 billion budget that we raised in the District of Columbia and changing it. Can you imagine having somebody who really got on this committee because of some other thing now having a say-so over the laws of an independent jurisdiction with 600,000 people in it?

What you would see happen is people doing what they do in the House Floor all the time. Playing politicking at the expense of the residents of the District of Columbia. They don't like that we like abortion for poor women when they desire it. They don't like that we have a domestic partnership law. Now, they are on the XYZ committee that includes the District of Columbia Committee.

Now, of course, the dagger is in our heart in the committee and not on the House Floor, where it often is the case. For God's sake, until you give the District of Columbia Statehood at least don't pile us in with some people who want to wring our necks and bleed the Democratic blood out of us.

Reduce it. Keep the House the way it is. And there is another reform that ought to be done. There are two bills before the House. Essentially the House of Representatives is a super city council in the most blatantly undemocratic fashion. Every alley closing in my city comes to sit in this House for 30 days to see if some Member wants to rise on his feet and go to the Floor and say it shall be overturned. Every budget—every budget comes here after it has gone to the green eye shades of OMB as if we were the HHS or the State Department and then may be rearranged in any fashion that a Member sees or can get a majority in the committee to rearrange.

What kind of democracy is this? What we could do about that right now and streamline is to say, look, instead of your bills coming to sit here for 30 days, let them go into effect immediately and not wait 30 legislative days which, gentlemen, sometimes means months because the House and the Senate are out of session. Or our budget, let it go into effect immediately. This would take nothing from the present power of the House and Senate because a Member could introduce a bill in any case to overturn any law we passed and a Member could introduce a bill in any case to rearrange any part of our budget.

So if you are seriously interested in streamlining, we have to do that in the District of Columbia through substantive ways. And as you have noted, I have not even approached the contingent subject of Statehood. I asked only for the kind of reform that I think almost anybody in a democracy would call moderate reform of the Democratic kind and terrific streamlining reform for the House and the Senate.

Mr. ORNSTEIN. Ms. Norton, let me just quickly respond. I share your goals. I don't think the Congress should be spending time overseeing what the city council of the District of Columbia does. I think, in fact, the Senate works better now because it hasn't been heightened, the primacy that it had before.

I go back. When I first came to this town John McMillan was the Chairman of the District of Columbia Committee. It was a very important committee. I don't think you would have preferred to have it as important as it was during that time.

Ms. NORTON. Exactly.

Mr. ORNSTEIN. Now, you work hard to recruit people for the committee, but I can tell you that the kinds of people that you get on now are not necessarily the kinds of people that are going to be on forever.

Ms. NORTON. You want to know how to get on the District of Columbia Committee? You have got to come past me first. At least the leadership allows me that courtesy, sir.

Mr. ORNSTEIN. Now, but at some point in the future I can imagine if you have a full committee that has kind of heightened power what it suggests that Congress has an even greater role and importance to give to overseeing and sticking its fingers into what the District does. I think over the long run, frankly, that the District is going to be better off if it suggests this is not a major—

Ms. NORTON. The committee protects the District from that kind—the committee has three rules. It says we won't overturn a law of the District of Columbia unless it is unconstitutional, violates the Federal presence. The only way that the laws enacted by the District of Columbia get overturned is somebody is able to by hook or crook to get them to the Floor of the House. It is a friendly committee and I believe that as long as we have small-D Democrats in the leadership that is going to be the case. We don't need to have the committee heightened in its responsibility because it is a part of a more prestigious committee. We need to leave it, let it wither away and die.

Mr. DREIER. Thank you very much. What do you all think of the idea of rolling quorums taking place in committees?

Mr. ORNSTEIN. I note the absence.

Mr. MANN. What a seamless segue.

Mr. DREIER. That is about as well as I could do. Since I have raised it maybe we should get into some of the procedural matters that exist in committees presently. And Mr. Davidson and Mr. Ornstein are veteran staff members having served on committees that were attempting to reform this institution in the past.

And I would first like to ask what proposals that emanated from previous reform committees do you believe are relevant today and what can we do to implement them?

Mr. Davidson?

Mr. DAVIDSON. One thing is that both of these committees proposed or supported Minority staffing. Essentially a third of the staff would be devoted to the Minority. And my understanding is that this is followed pretty well in the Senate. In fact, one of the most contentious things that happened when the Senate changed parties in 1981 and again in 1987 was the turmoil of the staff level as they readjusted those party ratios.

My understanding in the House is that there is that 2 to 1 ratio on statutory staff and that, I believe, is 30—a total of 30 staff members per regular committee, but that it does not extend to the investigative staff. I certainly urge that that be extended to investigative staff as well as the statutory staff.

Mr. DREIER. Mr. Ornstein.

Mr. ORNSTEIN. I second that and that is something that has come up in every one of the proposals in the past. It worked in the Senate. It worked in part because it was less of a partisan atmosphere at the time. It is another lesson, by the way, that has to be learned from the Stevenson Committee. It worked because it was a bipartisan approach.

It was one that really did not have—I don't remember a single element of partisan conflict in the deliberations or the recommendations that were made of any real significance and obviously that is a lesson that has to be learned here.

You got to have at least some not unanimity, but some consensus that is going to cut across parties. It also worked because there was a lot of staff sloshing around the Senate, to tell you the truth, so the sense was there were riches for everybody.

One of the things that was done at the time in terms of procedures that you are going to have to focus on again, we basically put into place or gave greater status to so-called associates in the Senate. They were called SRES-60 staff. It really meant staff members for all the individual members of the committee to do their committee work. That was a tremendous expansion of staff and, frankly, I think it went overboard and I think we see it now.

You got a lot of people when it happened you decentralized the resource base of the institution and it makes it much harder to come to any kind of a judgment. And if we are going to somehow bring a greater discipline to the process that ought to be reconsidered.

There was consideration of proxy voting and we can clearly come back to that. We testified on that before we recommended some changes, although not as nearly to the degree I think you would prefer.

Mr. DAVIDSON. I would like to second that statement on associate staff. It is a historical development that occurred at the time that many of the younger Members did not have access to the committee staffs in a fair manner. I don't think that is a problem today and I think that the whole phenomenon of associate staff has gone far beyond what is necessary and is duplicative and wasteful.

Mr. DREIER. Well, Messrs. Ornstein and Mann have already come forward with their plan and they don't want to particularly respond to the 14 proposals that have been put forth from the CRS.

I wondered if Mr. Sperry or Mr. Davidson would like to comment on these proposals that we have heard about from Mr. Mulhollan.

Mr. SPERRY. I would in this way: In looking at these proposals, what I see is a lot of attention to the past and to the present in terms of how a committee should be structured. I haven't had a chance to review all the charts in detail. I think it is also important to look at the future as you are talking about restructuring committees.

Let me try to illustrate that with three subject areas. One is the information revolution. I have looked at all these charts, at least all I can see. I don't see anything on here that talks about what is going to be the largest public works project probably in the United States. Whether it is done by the Federal Government or whether it is done by the private sector, it is going to be a major impact on

our society, how the broad issues of information technology of the type that have been raised in Senator Gore's and the President's proposal on this get handled in this structure.

Second, one would be the issue of communities. Henry Cisneros of the Department of Housing and Urban Development is trying to implement a new philosophy in there which says something like that the Federal Government really is going to be in the business of empowering communities to help themselves in a comprehensive sort of way.

If this does catch cold in any of these alternatives where do you deal with this broader issue of community and all the Federal programs that go to strengthen community and family for that matter.

A third area that may be related to that is the issue we have been looking at recently of human investment. This is another subject that really is trying to deal with all of the things that government does across the board to try to enrich the lives of people that need the help of government and people outside of their own family for that matter.

How do these larger, more integrated, holistic issues get dealt with in the kind of structures suggested so far? I don't have any specific answers to these kinds of issues, so I just urge the committee as it is looking to the future and to possibly altering the jurisdictions, that it keeps some of these kinds of issues in mind, those that are emerging, as well as those that are already here.

Chairman BOREN. Mr. Davidson?

Mr. DAVIDSON. I didn't come in with a specific plan partly because I think this is something that has to be worked through in some detail. I think you should look not only at the jurisdictions in some detail, but also at the workloads and the flow of legislation, oversight hearings and so on.

And you may very well find some patterns that will help to suggest to you where committees and subcommittees ought to be perhaps consolidated or new ones created or proposed or what have you. I just don't think that there are any formulas that would be helpful in the absence of the kind of work that your staff and you are going to be doing over the next few months.

I think these are—these plans that you have before you are very useful exercises. You might want to pay particular attention to G and H. They seem to have the kind of general range—I think they came from the Bolling and Stevenson Committees. But I don't think that anything, particularly anything that was devised 20 years ago is going to specifically address the most pressing problems that you have confronting you that we have.

Like health care, for example. The House and Senate do not have an adequate organization to review a comprehensive health care plan and this might be one area where you could propose the test that an ad hoc committee be created or some expanded jurisdiction be created that would involve the present committees' jurisdiction.

Mr. DREIER. That has been done in the past when there have been other items.

Mr. DAVIDSON. Very rarely. Too rarely. The leadership should be urged to use that device. Not make these into permanent select committees, but truly ad hoc committees.

Mr. DREIER. We have many select committees that aren't permanent today.

Mr. MANN. Mr. Chairman, may I add just one brief point?

Mr. DREIER. Yes.

Mr. MANN. Plan K is perhaps the closest to what we have been suggesting to you; that is, the House can learn this case from the Senate. It can do some of the consolidations of minor committees into major committees, more better equalize the jurisdictional responsibilities of the committees.

If you look at the detail on plan K it doesn't call for some of the larger jurisdictional switches that we recommend, say, pertaining to trade legislation, but it is a good beginning point. However, we would add to that and say do away with the joint committees. We have in our testimony provided a rationale for eliminating virtually all, if not some of the joint committees, so I commend plan K to you.

Mr. DREIER. Let me get back to a question that I raised with you during the last time that you testified and that has to do with the use of the discharge petition. You said to me that you were going to research that between that meeting and the next time we met. You haven't had a chance to do that?

Mr. MANN. Mr. Dreier, you are going to have to invite us back again. I am sorry.

Mr. DREIER. I assured Members here you wouldn't be coming for another appearance when asked if you would be. We have about 6 or 8 more weeks of hearings, but I guess we are going to have to discuss that one privately.

I know that Mr. Ornstein had said before when I had raised that question of the use of the discharge petition making public those names that are on the discharge petition that you thought it was probably best that we let it stay as is, because it is the one opportunity for Members to, in fact, not respond simply to public pressure when taking action. Is your position still the same?

Mr. ORNSTEIN. My position is the same. Getting back to the broader question of deliberation, we have, I think, a popular misconception of what our democracy is supposed to be about.

It is not supposed to be about popular passions pushing Congress to taking action that simply complies with those popular passions, and there have to be some mechanisms inside a body that has Members elected every 2 years that can keep some issues that have enormous surface popularity that are difficult, maybe impossible for Members to resist if they are right out there in public from being pushed to a vote prematurely or being pushed to a vote.

The example I used—and I got the mail last time and I will get it again—is the notch babies. It is an example of every Member of Congress will nod knowingly and wince knowingly when the issue comes up.

I can say because I am not an elected Member of Congress that, frankly, there is a consensus privately in the institution, as there is a consensus publicly in the policy community, that any public

policy action taken that would satisfy the desires of these so-called notch babies by giving them more would be unwise public policy.

If we brought that to a vote it would pass overwhelmingly. To give them those things it would not be wise public policy. I think we have got enough checks and balances and to make these changes we will have opportunities for input to have opportunities for debate on issues that have more of an input for a minority, minority party or otherwise to get the point of view across.

I am quite content to have some kind of a balance that keeps us from being forced to vote on some of those things that would rely on the end in the institution more on immediate passion than on a reasoned, deliberative mode of decision-making.

Mr. DREIER. As a representative of many retirees in Southern California, let me go on record, I totally agree with you and I don't believe there is any action we can take on the notch baby question.

Mr. ORNSTEIN. Good for you.

Mr. DREIER. Let me say that Mr. Emerson had to leave to testify before the Appropriations Committee while it is still in existence and he extends his apologies and he would like to submit to you questions for the record.

Senator Boren also said that he would like to submit questions for the record. And we are approaching a quarter of 6, and I thank you all for staying as late as you have.

I have some more questions that I would like to submit, but I have to leave, as I am sure you all do, and I am sure there are going to be other questions that will come to you from other members of the committee.

And I look forward to private exchange with all four of you and thank you very much for your very helpful testimony and the committee stands adjourned until Thursday. Thank you.

[Whereupon, at 5:40 p.m., the committee was adjourned.]

# COMMITTEE STRUCTURE

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THURSDAY, APRIL 22, 1993

UNITED STATES CONGRESS,  
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS,  
*Washington, DC.*

The committee met, pursuant to notice, at 9:30 a.m. in room SC-05, The Capitol, Hon. Lee H. Hamilton and Hon. David Dreier (co-chairmen of the committee) presiding.

Mr. DREIER. The committee will come to order.

I have a brief opening statement and then I will look forward to welcoming my friend and colleague, Mr. Glickman.

## OPENING STATEMENT OF HON. DAVID DREIER, A U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. DREIER. As we continue our examination of the committee system of the Congress, we begin a series of hearings that will extend over 6 days in which the Joint Committee will receive the advice of some of the most respected members of this institution, the chairmen and ranking republican members of the full committees. I am certain that their testimony will very helpful to us. Certainly, the Joint Committee will consider all issues related to the functioning of the committee system, and these issues are clearly not all partisan ones. I do, however, want to stress one important item on behalf of my House republican colleagues in the elected leadership and on behalf of every ranking republican member.

One of the major reforms undertaken by the Stevens-Brock committee in the Senate was the equitable division of committee staff resources on a two-thirds/one-third basis between the majority and the minority. In the House, such a division does not exist. While it is true that the minority is treated fairly on some committees, and we in the minority appreciate the courtesy of those chairmen in equitably dividing resources, the practice throughout the House at large has resulted in the minority receiving 24 percent of the committee staff. On some committees the allocation is even worse than that.

I would like to insert in the record at this point, and without objection I will, a letter written to Mr. Hamilton and me from the elected republican leadership and all of the republican ranking members urging the Joint Committee to address this question, and further urging us to endorse the two-third/one-third principle. I believe that this is an issue on which progress can be made and I am certain that the resolution of this problem would lead to more effective committees and a sharp reduction in the level of partisan tension that exists in the House.

Mr. DREIER. At this point, I would like to call on my colleague, Ms. Dunn, to ask if you have an opening statement that you would like to make.

Ms. DUNN. Thank you, Mr. Chairman. No opening statement today.

I welcome you, Mr. Glickman. I think this testimony will be especially interesting. As a member of the republican freshman class, we proposed an amendment to the funding of the committee budgets that would require on the investigatory sides a two-to-one ratio for staffing. We think that is a good way to cut costs but, more than that, it creates fairness in the system. And I do hope that perhaps in your testimony or afterwards in the questions we will be able to get to this one, discuss what you think about it and how it would work.

Mr. DREIER. Thank you very much.

Now we are very fortunate to have the gentleman from Kansas, my very good friend and colleague and the very able chairman of the Select Committee on Intelligence, Mr. Glickman.

#### STATEMENT OF HON. DAN GLICKMAN, A U.S. REPRESENTATIVE FROM THE STATE OF KANSAS

Mr. GLICKMAN. Thank you, Mr. Dreier, Ms. Dunn. I appreciate your inviting me. I want to thank the committee for allowing me a chance to discuss committees' organizations and how we can make the Congress function better.

I come in two capacities. One as chairman of the Permanent Select Committee of Intelligence, and the other as a nine term frustrated Member of Congress who is continually frustrated by an archaic and silly and unrealistic congressional committee structure that I think needs to be modernized desperately. And I do so because the discussion often tends to be related to turf issues. Who has got jurisdiction over what. And turf is this incredible, perpetual, human characteristic; people want to protect their own.

But what I want to talk about today is how these issues affect peoples' lives and how we, in organizing Congress, actually affect what happens out there in the country substantively. And then I will offer some suggestions on changes and then move to the Intelligence Committee where I have some additional comments.

Unlike in the private sector, in Congress there are no systems in place to ensure accountability. Under the current system, it is easy for us to assign fault to legislative failure without picking up specific responsibility. Just as Congress used to blame gridlock on the President, congressional committees often blame each other for holding up important national legislation. I would like to address three specific problem areas.

1. No one is in charge when it comes to major committee legislation unless the Speaker personally intervenes. Bills are assigned to several committees by the parliamentarian. Too often, once important bills are introduced, they simply get lost in the morass of committee jurisdictions. Good ideas are tossed aside without discussion because overlapping jurisdictions make progress on a bill too difficult. Ironically, in an institution where turf is so important, the lines of demarcation are drawn and implemented very loosely. In-



stead of orderly, clearly drawn missions, our committees have areas of influence that represent a gerrymandered congressional district. With no one in charge, with too many sequential and joint referrals, very little gets done on important issues. And I am going to give you some suggestions on how to deal with this.

2. Members are on too many committees, and I know Mr. Ornstein and Mr. Mann and others have talked about this. I am on four committees. I am probably one of the worst offenders in this House. But let's ask why are people on too many committees. Let's be honest, it is because other than Energy and Commerce, Ways and Means, and Appropriations other committees have diminishing jurisdiction and clout; thus, members must stretch themselves thin fighting for influence wherever they can find it. We are a talented, articulate people for the most part. We want to do things for the country when we come up here, our constituents expect to do that, and we're looking for ways to expand and augment our ability to do that. For the most part the power tends to be focused in three or four committees. The rest of the committees do not have a significant amount of legislative power and clout. That is why members move on and find themselves on other committees. It is another key reason why caucuses have proliferated.

3. The next problem is accountability is limited. Due to our current committee structure, committee chairmen have become too powerful and too independent. The Speaker, the Majority Leader, and the majority party's role in controlling the agenda is weaker than it should be. In many cases, it is like pulling teeth to get a committee to act.

Now these are kind of three basic problems I see, not the only problems in the institution but three practical problems. Now let me propose some solutions.

1. Let's end the practice of assigning joint referrals of bills except when the Speaker personally intervenes. If the Speaker believes a split in jurisdiction is necessary, the burden should be on him to demonstrate why. Sequential referrals could be approved on a limited basis. Joint and sequential referrals needlessly slow down consideration of legislation and in many cases they simply stop an idea. And let me give you some examples.

This is from Tuesday's Congress Daily. "The Energy and Commerce Committee today postponed consideration of a financial fraud bill sponsored by Chairman Dingell and Representative Ron Wyden because of a jurisdictional battle with the House Banking Committee, the latest in a continuing series of fights between the two panels. Nevertheless, the Energy and Commerce Committee is planning to mark up the bill next week. However, unless an agreement is reached, the Banking panel is planning to seek referral of the legislation."

2. Fish inspection. We have no system of inspecting fish in this country, either shell fish or raw fish. We do for meat. Most consumers think we do but in fact we don't, not because we don't need one, many people get sick and die every year because of it, not because there are no problems with sea food quality. We don't have fish inspection largely because of turf battles, both here in the Congress and in the Executive Branch. The Agriculture, Energy and Commerce, and Merchant Marine and Fisheries Committees all

claim a piece of the fish inspection pie. So what happens? Nothing. And this, by the way, is because the FDA or the Commerce Department or USDA will have jurisdiction.

3. Health care. Medicare is in one committee, Medicaid is in another committee. Health care is a growing issue that is not adequately served in the current committee structure. Functionally, it doesn't fit within the current committee structure.

4. Financial regulation. To some extent the failures of savings and loans and banks and problems in the stock market are attributable to the ongoing turf battles, both in Congress and in the Executive Branch. The Banking Committee has jurisdiction S&Ls, the Energy and Commerce Committee has jurisdiction over securities, Agriculture Committee has jurisdiction over the futures markets, the Ways and Means Committee has jurisdiction over regulation of the Treasury Department. And so we get bogged down by constant sparring between these committees.

Let's talk about product liability and tort reform. Jurisdiction here is split between the Judiciary Committee, which generally has opposed it, and the Energy and Commerce Committee which has generally favored it. Add to the mix jurisdiction by other committees, like the Public Works Committee, and you have a recipe for battle royale, turf warfare in its rawest form. And as a result, very little gets done because of this thing. And no one is in charge.

In the private sector, we would never allow this to happen. You would give the responsibility to one person, one organization and say move on it. We don't do that here. We create the environment for gridlock by saying three of you will have equal authority to decide this perspective. Of course, because of that, very little often gets done. I believe that using common sense as a guide in realigning the committees, making them meaningful and powerful with clear jurisdictions, is the key to resolving many of our institutional problems. But any realigning must be done based on function, not history, not tradition, or not personality.

I realize that some may see this as pie in the sky but I think it is important and I have been itching to say this for 15 years in this place. So I am going to tell you how I think the committees ought to be organized.

Central to my thinking regarding overhauling the committee system is the idea that jurisdictions must be made clear and unequivocal. I am proposing that we eliminate a number of standing committees and replacing many of their functions with important subcommittees like we currently have in Ways and Means and Appropriations and, to some extent, in Energy and Commerce. Under what I am about to propose, subcommittees would be much more powerful and influential within a much smaller number of full committees. Let me give you some ideas.

One, combine all legislation involving financial instruments, financial institutions, and related economic issues into one committee. Why are banks and S&Ls in one place, securities in another, futures in a third, and Treasury Department oversight in a fourth? The banking instability of the 1980s is, in part, directly attributable to this split. And, by the way, it is true in the Senate too. On this issue they are a little better than we are but it is still somewhat true.

Securities, futures, banking, and economic regulation should be combined into one committee. Under the current system, we regulate these issues as if it were 1933 not 1993. This must be modernized. This is very important for the country.

Two, combine all domestic social programs into one committee. Why are housing and urban development in banking, food stamps in Agriculture, Medicaid in Ways and Means, and all the rest in Education and Labor? Failure to adopt meaningful welfare reform is in part attributable to the mishmash of jurisdiction. I was on the Ad Hoc Welfare Reform Committee in the 1970s and one of the biggest hold ups was eligibility differences between the programs. At that time, Medicaid, your one eligible; AFDC, eligible two, food stamps, eligible three; it didn't make any sense. But part of it is because we organized it this way, so the eligibility turned down three different paths because of it. It just seems to me that a powerful domestic resources committee makes a lot of sense for this country.

Three, this is one that will affect one of my committees but I think it needs to be done. I think we need to combine the Natural Resources and Agriculture Committees and consider perhaps merging the Merchant Marine and Fisheries as well into this mix. Our domestic resources—farms, minerals, timber, soil and water, and conservation issues such as national parks, wilderness protection—all interrelate. With the decline in population and clout in rural areas, combining these two, and perhaps three, committees would give agriculture, food and hunger, and natural resources issues the clout they deserve which they don't have now.

Sitting on the Agriculture Committee, I watch our clout reduce as the amount of rural population goes down in this country, and I see the fact that timber is in one committee but the Agriculture Committee—timber is in Natural Resources—but the Agriculture Committee has jurisdiction over the Forest Service. It is like it is crazy. It is not regulated functionally. What it does is it stops us from being able to do anything.

Four, health care should be made either into a separate committee in and of itself or jurisdiction should be moved exclusively to either the Energy and Commerce Committee or the Ways and Means Committee. Otherwise, the battle of the titans will continue all this year and all next year on this issue.

Five, this one is somewhat controversial but I think this one is also important.

Mr. DREIER. None of what you have said has been controversial up to this point.

[Laughter.]

Mr. GLICKMAN. OK. And none of it is meant to be personal. It is all meant to be constructive.

The Foreign Affairs and the Armed Services Committee should be merged. After all, your foreign policy and your defense policy are one part of the same national policy. They should be merged to reflect the changes in the world. Defense and foreign policy are now so interrelated it only makes sense to combine them. And, in fact, Mr. Aspin at Defense is making his Defense Secretariat look an awful lot like the State Secretariat because he knows that you can't move troops in or move forces in unless it relates to what

your foreign policy needs and objectives are. And, by the way, while I do not recommend any fundamental change in the Intelligence Committee, if in fact Foreign Affairs and Armed Services were merged, then I could see at some point in time making Intelligence part of that merged committee, like, for example, a subcommittee of the merged committee. Then it would make a lot of common sense to do that kind of thing.

Six, all trade issues should be covered exclusively under one committee, probably Ways and Means. There shouldn't be a schism of trade at all.

Mr. DREIER. Are you aware of the Ornstein proposal on that? They propose that it be under the Foreign Affairs Committee.

Mr. GLICKMAN. Yes, I saw that. I just said Ways and Means but I don't have any objections to the other.

The D.C. Committee should be eliminated and made a subcommittee of Government Operations. And finally, we've got three committees—Small Business, Science, and Veterans. I serve on Science. They are popular and serve very important constituencies but frankly they have very little legislative jurisdiction. These committees find themselves in the position of scrambling often to find work to justify their existence. It is not that they don't have some issues to deal with, but the Science Committee, on which I have served for years, is one of the most popular and has upwards of 60 Members of the House on it. Sometimes I think we struggle to find enough work to keep us very busy. And I think the same thing is true with the other committees as well.

I am not going to get into the Budget-Appropriations Committees' fights. My goal is to strengthening authorizing committees and thus to restore balance. I think that if you strengthening authorizing committees, it will help provide some equity in the House and in the Senate as well. Frankly, I like Senator Kassebaum's idea of giving many of the appropriators' responsibilities to authorizers. But I am an authorizer, thus that inclination is natural. But I think that fight is less important than giving the authorizing the committees, the people who produce the meat on the legislative agenda for America, some power and then reducing their numbers, working to the day where everybody is just on one committee of Congress, but a meaningful, powerful committee in which the subcommittees have a great deal of clout as well.

To some extent, the debate over select committees is directly related to the more issue of giving regular authorizing committees which have legislative jurisdiction the power and clout they need to handle issues and ideas. Committees should be prepared to modify their jurisdictions when necessary. For example, Tony Hall is right when he complains no one is focusing on hunger. There is no committee in Congress focusing on hunger. But the answer shouldn't be to provide a non-legislative committee to deal with it. The answer should be to give one legislative committee, whether it is the Agriculture Committee or this new Domestic Resources Committee, which makes more sense in my judgment, specific jurisdiction on domestic and international hunger.

Now I would like to move on to the Intelligence Committee issue. I am aware of suggestions that the congressional Intelligence Committees be merged into a Joint Committee on Intelligence. For a

number of reasons I believe that it would be unwise to take such action at this time, that is a joint committee. This idea is not new. Its chief proponents in the past have argued that the necessity to protect classified information dictated that only the smallest number of Members of the House and Senate and staff should have access to it. What was advertised as a means to better ensure the security of classified information was, in reality, an effort to limit its availability within the legislative branch.

Many of those who advocated a joint committee did so because they believed that Congress could not keep secrets. This position ignored the fact, and I am telling you this, and I know Mr. Hamilton knows this as well as a former chairman, that the overwhelming majority of unauthorized disclosures of information came from the Executive Branch of Government, virtually none, if any, came from the Legislative Branch of Government.

The Intelligence Committees were established because leaders in the House and the Senate concluded that the oversight of intelligence needed to be conducted on a continuing basis by panels whose intention was not distracted by other responsibilities. The committees were given legislative authority, the only select committees to be so empowered, and charged with reporting an annual intelligence authorization bill. Unlike other Federal programs, no funds may be spent on intelligence programs and activities unless the funds are specifically authorized. This is one of the few areas in the Government where this happens. This requirement is a recognition of the fact that because of the classified nature of the matters, the members of the Intelligence Committees act as surrogates for their colleagues to a far greater extent than is true with respect to other committees whose deliberations are largely carried out in public.

The House and Senate differ both in terms of style and temperament. It has been the practice of the leadership in both bodies to select members for the committees who individually represent varying political perspectives and therefore collectively ensure that the differences are reflected in committees. That diversity has been extremely helpful in convincing members not on the committees that their concerns were being heard, were being addressed, and, in turn, ensured the committee's credibility.

I do not believe that a joint committee could be similarly representative and the confidence of other members in its ability to conduct effective oversight would be diminished. Let me make the point that the Intelligence Committees are legislative committees. We have no other joint legislative committees. Although the amounts are classified, let me tell you, as Mr. Hamilton knows, the annual authorization for intelligence programs and activities is probably greater than any other committee in Congress save one or two; billions and billions and billions of dollars. There is no more reason why the authorization of these sums should be done by a joint committee than the authorization of the agriculture committees or the defense committees or of the health care committees. We do the same kind of thing.

On the contrary, the fact that the intelligence activities must be conducted in secret argues for maintaining the existing structure which put two sets of institutional eyes on the intelligence budget

and the conduct of oversight. And I think the current congressional oversight system has worked well. It provides a measure of assurance to our colleagues that we're monitoring the activities. And while I do not oppose changes that would improve the system, I don't think that a joint committee would be an improvement. And the Founding Fathers did not want joint legislative committees. They strictly set up the Congress to have a Senate and the House passing legislative bills. They didn't want a unicameral legislature when it came to legislation.

Now, saying that, let me go back to the point I said before. I believe that the Armed Services and the Foreign Affairs Committees ought to be merged. I think that defense and foreign policy is one and the same thing. If that were to happen, then I believe that the Intelligence Committee could be folded in to that new Armed Services-Foreign Affairs Committee perhaps as a subcommittee of the vastly expanded committee, because then your subcommittees would have a great deal more clout and power in this process. Perhaps it could be separately named members within the larger structure, I don't know, because clearly intelligence functions relate to defense and foreign policy functions. I might add that the Senate Armed Services Committee already under current rules retains jurisdiction over part of the Intelligence Committee budget. It retains jurisdiction over the tactical and military side of the budget. The House Intelligence Committee has exclusive jurisdiction over all intelligence functions, but the Senate Intelligence Committee actually only has jurisdiction over the half the functions right now. So that is a possibility. That functionally makes more sense and that is what I am trying to do here in this discussion.

Let me conclude by saying we need to reorganize the congressional committee structure simply to help us deal more effectively with the problems of the world. I have come here today and given you six or seven examples of problems, people's problems that are not being dealt with effectively in part because of the way we have organized this place. We are organized like we were in the Congressional Organization Act of 1946. We haven't changed for about 50 years and yet the problems of the world have moved rather significantly. As we move through this process, we must adhere strictly to that basic tenet, not to some arbitrary committee organizational chart that has no relationship to the modern world. That is what modern corporations do all the time. They look at themselves and they say we're not organized to sell this product, we have got to reorganize or we're going out of business. We have to do the same kind of thing here.

Finally, let me say that I believe that reorganization is a mighty task, it is a monumental task, and I am not telling you anything that you don't already know. The three of you, particularly the Chairman, Mr. Hamilton, understand the complexities and the personalities and the nature of turf, that four letter word, t-u-r-f, which is so dominant in personal lives generally—my house, my children, my State, my committee. We act as if it is this proprietary interest that has got an intrinsic financial and economic value to it, my committee; my committee said this or my committee said

that. But, in fact, we are representatives of the folks at home and what they want to know is are we doing their work for them.

I am trying not to be too selfish to you. I have given you two of my own committee, Science and Agriculture, that would be affected by the kinds of things I am talking about. And I have even said that the Intelligence Committee, of which I will no longer be chairman after this two-year period anyway, so it is no personal skin off my back regardless of what happens, could conceivably be made a subcommittee of a combined committee at the end of the two-year period, although I happen to believe that its work is extraordinarily important and you really have to be very careful what you do with this one and not just combine it into some general committee reorganization thing.

But you all have a great opportunity. This is the finest legislative institution in the world. We do great work for the people. It is just that we could do it better and that is why I have come down today and I sure feel a heck of a lot better now I have been able to get this off my chest.

Mr. DREIER. Thank you very much, Mr. Glickman. We didn't realize that the Joint Committee was going to serve as that purpose. You are the first of committee chairman to testify before us and I suspect that many people will be venting their spleen on a wide range of issues.

I guess the most important question to ask at this point is, under the Glickman plan, who will be chairman of the new shared Armed Services-Foreign Affairs Committee?

Mr. GLICKMAN. There is no question, it will be Mr. Hamilton.

[Laughter.]

Mr. DREIER. We have a number of items which you have touched on that I think it is important for us to get on the record. I would like to ask a couple of questions and then I am going to ask that you respond to some questions in writing after that because we are going to ask each committee chairman and ranking member to provide a response.

You have indicated obviously that you believe it is necessary for us to reduce the number of committees in the Congress. That is clear in your proposal for bringing about mergers. I guess the question that I would like to ask is on subcommittees, because we have seen a great deal of proliferation in that area. What should be the maximum number of subcommittees that each of these committees would create? Do you have any thoughts on that?

Mr. GLICKMAN. I don't, but I think you do have to look at Ways and Means Committee as a pretty good example of how they handle their subcommittees. I think, Ms. Dunn, you are on that committee; aren't you? OK. As I understand it, they have six subcommittees. They all are vested with very significant jurisdictions. So if you had a limited number of full committees and you had adequately staffed and jurisdictionally structured subcommittees, you probably could have six or seven on each one.

Mr. DREIER. What about scheduling conflicts. There are a number of people who have talked about having certain committees meet on one day and other committees meet on other day and committees couldn't meet when the House is in session. What thoughts do you have on that?

Mr. GLICKMAN. I am not an expert in organization scheduling, but I think fewer committees will produce fewer scheduling problems. I think that certainly with modern software you ought to be able to schedule major committees without conflicting with each other. But the problem is that at certain times of the year we have got a lot of work to do so it is impossible to do that.

Look, fewer committees, members serving on one or perhaps a maximum of two committees, it is going to help. The scheduling problems are really not the House's, they are the individual members' problems. We have overloaded ourselves. It is as much our problem as it is the institution's problem. What I am talking about here is to reduce the likelihood that individual members would serve on more than one or maybe two committees.

Mr. DREIER. I want to say that your statement concerning American corporations and the way in which they look at problems, assigning certain people or groups to deal with them, is one which should serve as a model for us. I thank you for raising that issue.

Mr. GLICKMAN. If I just may say this again, I feel about it very strongly. A while back we heard the president of Teneco, Michael Walsh, speak to a democratic policy retreat. He said the only way an institution can survive of any type, business, labor, Government, is if it has systems in place and specific accountability—who is responsible to whom. That is why the military is generally successful. That is one of the reasons why there is so much confusion oftentimes here in Congress, because over the last three or four decades we have allowed a situation to develop where oftentimes accountability is not clear and systems aren't in place. All I am trying to point out is maybe we can do something here to help that process along.

Mr. DREIER. Thank you very much, Dan. What you have said is very helpful.

Ms. Dunn?

Ms. DUNN. Thank you very much, Mr. Chairman.

I found your testimony fascinating because it is so rational and logical and why haven't we done this years ago and yet we haven't. We have an opportunity now. What you have pointed out is the fact that turf prevents us from accomplishing lots of these wonderful goals that you've just listed. That is my frustration I think too as a new member coming into a system that is obviously archaic in some ways and complicated and difficult to understand and simply overwhelmed with multiple jurisdictions. I really think we do have a chance now to address some of these problems.

I think a lot of what you have said could be done right now through our current system if there were the will to do it. On, for example, Mr. Chairman, some of our problems with scheduling, the Senate now has the ability to send their members home for one week during the month and then come back and focus on legislation during the rest of the time. I would like to see the House go to that process. I think that is something that might be able to give us some time to help us accomplish some of the focus that we need to have.

My question to you is, as you have looked at this whole process of combining committees, have you come up with any pressure points that would allow us to propose something like this and be



able to talk some of the power people into being willing to make these changes?

Mr. GLICKMAN. I think what you have to do is you have to take it out of the ballgame of turf and jurisdiction, which is an inside Washington, Capitol Hill ballgame, and turn it into a substantive issue of how best can you deal to prevent financial debacles in the future, how best can you deal with health care issues, how best can you deal with the substantive issues. Focus the debate that way so that both we and our constituents will understand it. If all we do is decide, OK, Mr. Rostenkowski, we're going to make sure that your committee gets absolute jurisdiction over trade, and Mr. Dingell, we're going to make sure that your committee gets absolute jurisdiction over health care, then it becomes a personality issue. And I would be a part of that. I understand that. It is a natural thing to do.

Somehow we have to get the focus of the debate out of this protective turf scenario and into a larger scenario of what is the best way to do the public's business. I think you have got to get the public a little bit interested in this as well. The only way to do that is to let them know they are affected by what happens up here.

Mr. DREIER. Thank you very much.

Mr. Hamilton?

Chairman HAMILTON. Thank you, Mr. Dreier.

Dan, I was really quite interested in your testimony. I think you illustrate what we are going to have to ask other members to do, and that is to approach this question of reform not on the basis of how it affects me, but to approach it on the basis of how it affects the institution. I want to compliment you for your cast of mind here because I think your approach to this problem is exactly right—what do you do to strengthen the institution to make it work better—and not immediately begin to think of how am I going to end up after the cards are restacked and reshuffled. So it was very refreshing testimony.

Two things very quickly. You recommend very bold changes in the committee structure. I won't get into the detail of that. What I would like to do is get a political judgment from you. Suppose we did it, suppose this committee comes up with a bold restructuring of committee structure, could we get it through?

Mr. GLICKMAN. I think you would have to phase it in over two or three congresses. I don't think you could do it overnight. The reason for that is because you have institutional forces, chairmen who may be given a time to find — you know, close to retirement or something. I think you have to phase it in just as a practical matter.

Chairman HAMILTON. Suppose you did that, could we get the votes?

Mr. GLICKMAN. You could get the votes if it were not sold as just an inside thing. If it were sold with the world, with the editorial writers, with the country thinking that we could do their business better because of this, I think we could. But I don't think you could do this and accomplish it next year. I think you are talking about something that will take two or three congresses to do, minimum.

Chairman HAMILTON. OK. The second question is a little more technical. You deal a lot with classified information in the Intelli-

gence Committee. Are you comfortable with the way the House of Representatives handles classified information? Do you think one of the areas this committee ought to look at, and I recognize this is not where the focus of our attention has been, is one of the areas we ought to look at developing a system that would preserve classified information better than we do today? What strikes me so often is that the Armed Services Committee handles it one way, the Foreign Affairs Committee handles it another way, the Intelligence Committee probably does the best job of handling classified information. We have a very helter-skelter system of handling classified information I think. What is your impression about that?

Mr. GLICKMAN. I generally agree. Of course, that is one of the reasons why I think ultimately long-term one should look at some form of combination of Armed Services, Intelligence, and Foreign Affairs functions in some capacity and that would help deal with that particular information. I would tell you that, from my perspective, the Intelligence Committee, both staff and members, believe that we're trustees and pretty strict guardians of the classified information we receive.

Chairman HAMILTON. The Senate has this Office of Senate Security. We don't have anything comparable to that in the House at all.

Mr. GLICKMAN. No.

Chairman HAMILTON. In any event, your impression is that we could improve the way we handle classified information?

Mr. GLICKMAN. We can but I would have to tell you that, as you know, where there have been breeches, 99 percent of the cases have not come from this institution, any part of it, they have come from the Executive Branch.

Chairman HAMILTON. Very good. Thank you, Mr. Chairman.

Mr. DREIER. Thank you very much, Mr. Hamilton.

Mr. Emerson?

Mr. EMERSON. Thank you, Mr. Dreier.

Dan, I arrived here very frustrated this morning because I knew you were going to testify. You and I have had an opportunity to discuss what you were going to testify about. As a matter of fact, I saw you earlier this morning and told you that I was making every effort to be here in order to hear your testimony, and I got hung up in a subcommittee that I needed to be at and I couldn't be here. And that comes to the point of a comment and a question that I want to make. I have got another important subcommittee meeting that I am not attending because I think my responsibilities here with the Joint Committee are probably of highest priority because I think if this committee can't get the Congress reformed and figure out how we can, indeed, be at the one place where we're supposed to be when we're supposed to be there, rather than at three or four other places, which we know we can't be at more than one place at one point in time, I'm not sure that anything else is very relevant.

What do you think about a master schedule for the House of Representatives? Subcommittee meetings, committee meetings get scheduled so willy-nilly, never in a combination of a majority of the members of the committee. With all deference, it usually is, and I don't object to this, at the chairman's convenience. This committee

meets on a rather established basis. Our leadership decided Tuesdays and Thursdays at 10 and 2, and we can kind of plan around that. But other committees don't function that way. Is it just too complex, but what about a master schedule?

Mr. GLICKMAN. It is not too complex. With computer software and with reasonable bright minds inputting the process, you could come up with a master schedule. But, Bill, I honestly believe that is the second part of the scheme.

The first part of the scheme is that you have too many committees, too many subcommittees, and members, like me, that serve on too many. When you have this personal proliferation of capabilities and involvement, you will probably never be able to avoid this conflict problem that we're in and, therefore, it makes it very difficult to prioritize.

You know as well as I do, you look at your card, 10, Agriculture Committee, Intelligence Committee, Judiciary Committee, Science Committee, and you say to yourself "What am I going to do?" Then sometimes I end up going to nothing because I am just so frustrated that I just end up staying in my office.

Mr. EMERSON. I know the feeling.

Mr. GLICKMAN. So I honestly think that while master scheduling makes some sense, and we could do a better job of that. You could, for example, have committees regularize their meetings and then coordinate that and that could be put into a computer and people could know that in advance. I don't think you are ultimately going to get at the problem unless you deal with the numbers of committees and the jurisdictions of committees.

Mr. EMERSON. I agree with that.

Mr. GLICKMAN. For example, let me just mention this, I know that you have been one of the leaders on hunger, you and Tony Hall, you and Mickey Leland. I made the point before that we don't organize our committees functionally. Who deals with hunger? Well, the Agriculture Committee has some jurisdiction, the Foreign Affairs Committee has some jurisdiction, the Armed Services Committee has some jurisdiction. But nobody was doing very much and so Tony and Mickey took their committees but they had no legislative jurisdiction, theirs was strictly let's focus on the problem. Obviously hunger needs to be a key legislative part of some committee, whether it is Agriculture Committee or whether it is a new Domestic Resources Committee, and then somebody needs to give it the charge go with it, you've got it. We haven't done that. We have got that in too many issues. Health care is another issue that has no real focus on it in this kind of thing.

I think that is where you all can be of some significance, is to have a process to look at what the problems are in the country and figure out who is going to deal with those problems, who is going to be in charge of dealing with those problems. Like in hunger, nobody was in charge of dealing with it and so the Select Committee came on board and you guys did it. Unfortunately, you didn't have any legislative jurisdiction with it.

Mr. EMERSON. My time has expired. Will we have a second round of questions?

Mr. DREIER. No, we are trying to move through all these chairmen and ranking members. Go ahead if you have another question.

Mr. EMERSON. Just a quick one. I am troubled by the fact that at this season of the year, we know we have different cycles of the year as to when we're here on what days and on what days there are going to be votes, but at this season of the year we are into a three-day work week in the House as the House. It troubles me that it is on those 3 work days that we're here that those are the only days committees meet. So you have got the additional factor of House meetings. Sometimes we have extensive and important legislation to discuss, although that is apparently not the situation this week but sometimes we do. Maybe at the busiest time for House sessions is the busiest time also for committee meetings. It just adds to the frustration, the lack of ability to focus, to properly deliberate. What is your opinion of having a mandatory 5-day work week?

Mr. GLICKMAN. As I think Ms. Dunn mentioned, the Senate does that right now. I think that anything that helps to better structure our time management is a positive thing. But we have to cooperate too. That is, the leaders can only lead for so long. I am sure that Speaker Foley and Leader Michael and others, after they set the schedule to us to meet for 5 days, get plenty of aggravated members that say I've got to be home that Monday. I'm having a this or that. It is not easy being a leader in this place, let's be honest about it.

Mr. EMERSON. OK. But you are elected to serve in the Congress.

Mr. GLICKMAN. That's true.

Mr. EMERSON. Congress meets in Washington. And if the schedule says you have got to work Monday through Friday, then you have got to tell them at home "I'm sorry I can't speak to the Chamber of Commerce on Mondays or Fridays".

Mr. GLICKMAN. Right. All I am saying is that we, as soldiers around here, have to be cooperative in that process with our leaders.

Mr. EMERSON. Right. Thank you, Dan, for your testimony. I'm sorry I didn't get to hear all of it.

Mr. DREIER. Thank you very much, Mr. Emerson.

Let me say that we are submitting questions in writing to all of the witnesses who are here today because we have a number of items that we want to get on record for everyone and we welcome any further questions you might have.

Let me say, Dan, that I feel very fortunate that you didn't look at your schedule this morning and throw up your hands in frustration and stay in the office when you looked at the prospect of coming to testify before us.

Mr. Allard?

Mr. ALLARD. Thank you very much, Mr. Dreier.

It is good to see you, Dan, and thanks for coming before this committee. I agree with you on a lot of what you are saying. One of the areas I have been wrestling with is this concern about authorizations and appropriations and we have appropriations amounts exceeding authorization. I think there ought to be that cap put by authorizations and authorizing committees ought to be forced to act. So I decided to look at some of the areas where it looks like there is a problem. One of those is defense. So I got to thinking what happens in the case of war, does that give us the flexibility if we

have a sudden military situation develop where we don't lock ourselves in because of that one rule. We have always kept that in consideration on the Balance Budget Amendment, for example. Maybe we need to consider that as an exception, and I just bring that up for your discussion because of your position on the Intelligence Committee.

Mr. GLICKMAN. I think Mr. Combest is going to address this issue as it practically relates between Intelligence and the Defense Appropriations Subcommittee in the next statement that you hear. So he may address it more directly.

Mr. ALLARD. OK. The other question that you were asked was can we develop a consensus here in the Congress. Congressional reform was such an important part of campaigns this last election cycle. We had the President talking about how he was going to reduce his staff by 25 percent, he wants to have the Congress do it by 25 percent. You have this issue of term limits and it spills over to term limits of chairmen. Do you feel that we have enough grassroots support and grassroots concern in these congressional districts that if we do come out with a bill that is going to bring about some tough changes that it could happen because of the support that is back in the district?

Mr. GLICKMAN. It can if it is sold as a way to do the public's business better and if you stay away from what I call excessively hot political items. For example, while I think there is some merit to term limits for committee chairs, I wouldn't mess with that issue here. It is an unnecessary problem to deal with right now. I think the much more serious problem is to try to get some sanity in committee jurisdictions, reducing the numbers and size of committees here, and work on the important things which folks at home will know relate to their bread and butter issues, to their health care, to their tax issues. But it can't be sold as just an inside deal. The public has to be brought into this a little bit.

Mr. ALLARD. That is my thought. You have these big issues that the public focuses on so easily that if we deal with just strictly the minor things, and maybe we did some significant change, but because you didn't take on maybe one or two big issues, they may perceive that it was such an inside reform agenda that it really didn't meet their concerns.

Mr. GLICKMAN. Let me tell you just quickly why this is all so important what you are doing. I have always felt the Congress was the great preserver of American liberties. You take all three branches of Government, but really the heart of what the Founding Fathers had was preserving the dignity and the strength of this institution. This is the one they knew would protect the rights and liberties of people out there, this is the one that was responsive to the people. We have got to do those things to make us more responsive or this horrendous negative attitude that is out there that we are dysfunctional will continue to foster, prevail, which will then lead to a situation where, God forbid, we give the Executive much more power.

I have had people at home on occasion ask me why do we even need a Congress anymore. We can't operate with that attitude. We are, in fact, the great preserver of the liberties of this country.

Mr. ALLARD. In light of your comments, how do you feel about congressional exemption, where Congress exempts itself from the laws that other people have to deal with?

Mr. GLICKMAN. I understand this issue of separation of powers but it is impossible to explain that Constitutional principle to people at home. We ought to do our best to cover ourselves under all the laws and do it in a way that I think does not do violation to the Constitution. So I generally agree that we ought to be subject to every law that everybody else is.

Mr. ALLARD. Thank you very much.

Mr. DREIER. Thank you very much, Mr. Allard.

Mr. Lugar?

Senator LUGAR. Thank you, Mr. Chairman. I have no questions. I would just commend the witness. It is certainly good to hear you this morning, your common sense and idealism. We appreciate it.

Mr. GLICKMAN. Thank you.

Mr. DREIER. Thank you very much.

Mr. Swift?

Mr. SWIFT. No questions.

Mr. DREIER. Thank you.

Thank you very much, Dan. We greatly appreciate your very fine testimony. It was bold and dynamic and we look forward to submitting, as I said, further questions to you and your response. Thank you very much.

Mr. GLICKMAN. Thank you.

Chairman HAMILTON. Thank you very much. Were delighted to have you.

Mr. GLICKMAN. Thank you, Mr. Hamilton.

Chairman HAMILTON. Our next witness is Representative Larry Combest. He is ranking republican member on the House Select Committee on Intelligence. Larry, we're delighted to have you here this morning. I apologize for getting to you a few minutes late but you can, I'm sure, understand that. We look forward to your testimony. We appreciate very much the fact that you are willing to do it. You may proceed, sir.

#### STATEMENT OF HON. LARRY COMBEST, A U.S. REPRESENTATIVE FROM THE STATE OF TEXAS

Mr. COMBEST. Thank you, Mr. Chairman, it is a pleasure to be here with you today and I appreciate what it is that this committee is undertaking.

Mr. Chairman, thank you for the opportunity to appear before the Joint Committee today. I would like to offer some thoughts about a few matters with respect to the Permanent Select Committee on Intelligence, on which I have the privilege of serving as ranking minority member.

I would like to discuss some useful reforms regarding the size and composition of the House Intelligence Committee and also the rule governing terms of service by members on the committee. I would also like to discuss concerns about the growing problem of appropriations for intelligence activities which have not been authorized or in amounts in excess of amounts authorized.

First, my thoughts on the size and composition of the House Intelligence Committee. Originally, the House Intelligence Committee had 13 members. Since its creation in 1977, it has steadily grown to its current size of 19 members, an increase of more than 68 percent.

This size entails some disadvantages. It complicates scheduling committee activities and makes deliberations more cumbersome and time-consuming. These are more serious drawbacks than might appear to the casual observer. The sensitive nature and great complexity and sophistication of the subject matter with which we deal put a premium on members being present and being able to maximize the efficiency of their meetings. That is far more difficult for a committee of 19 members than one with 13. Because of the nature of the information involved, members who cannot fit a particular meeting into their schedule are unable to take reading material home and catch up on what they missed. Their chances of getting up to speed and staying there are adversely affected, and the quality of oversight may suffer.

I fear this fallout from the size of the Intelligence Committee may well have contributed to a problem referred to by former Director of the Central Intelligence Agency Gates in a speech in January. He expressed concerns about members' attendance and the problem that "there are too many instances of members of our committees having important misunderstandings, misconceptions, or just wrong facts about U.S. intelligence".

Secondly, a committee with 13 members necessarily entails a reduced risk of leaks, inadvertent or not, than a 19-member committee. It goes without saying that the fewer persons who know very sensitive and highly classified information, the less likely it is to go beyond the original group.

I have long believed that legislative oversight of intelligence ought to be an area where we should emphasize bipartisanship as much as humanly possible. That was a goal of the House when the Intelligence Committee was first created. However, I am afraid that the regular party ratios applied to the House Intelligence Committee, now 12 democrats and 7 republicans, not including ex-officio members, militates that goal. I believe we could give new life to that goal by setting the membership at an even number, perhaps 12 or 14, equally divided between minority and majority. Such a system has generally worked satisfactorily in the case of the Ethics Committee. Bipartisanship should flow more easily from such an arrangement in intelligence oversight. Former, and first, chairman of the Intelligence Committee, Edward Boland commented that his preference when the committee was set up was to have such a parity rule. Regrettably, his advice was not followed.

If parity turns out to be a concept which the majority leadership of the House finds it simply cannot live with, then I would propose alternatively a 13-member committee with a 7-6 majority. It is essentially the arrangement of the Senate Select Committee on Intelligence which has an eight-seven ratio. Most knowledgeable observers seem to agree that the Senate Intelligence Committee has generally enjoyed a good record for bipartisanship under that system. Such a one vote majority ratio would promote bipartisanship in the House Intelligence Committee but still grant the House majority

leadership a majority on any matter which it felt very strongly about.

More than anything else, the 6 consecutive years of service rule inhibits an effective oversight. The issues and programs are so complicated, and getting more so. Moreover, it is highly unlikely that any new members on the committee can have any significant previous exposure to them. These facts combine to limit the proportion of any committee member's tenure during which he has the necessary familiarity with and understanding of the programs to contribute very effectively to truly thorough oversight.

The rule also prevents the development of any institutional memory by the members themselves. For those with any significant experience on standing committees, this shortcoming is readily appreciated. The current rule is the outgrowth of initial concerns that members of the Intelligence Committee might be too easily "co-opted" by the intelligence community. Over the years, that fear has proven groundless. The majority and minority leadership of the House has tried to select carefully more seasoned members for service on the Intelligence Committee.

At a bare minimum, the limit for the House Committee ought to be raised to 8 years, like the comparable Senate limit. But I would urge the Joint Committee to give careful consideration to a longer term, 10 years or even more. Now is perhaps the time to reconsider whether experience does not suggest that there be no limit. I hope that the Joint Committee will have an opportunity to hear from some of the past chairmen and ranking members of the Intelligence Committee on this matter. I recall that in recent years several former chairmen of the House Intelligence Committee, including Chairman Hamilton, have expressed concern about this term limit arrangement in the House. Several testified before the House Rules Committee in the 101st Congress. Former DCI Gates also has singled out this situation as a serious problem in the oversight process. He recommended that the rotation rule be abandoned or "at a minimum the period of service should be extended substantially".

Lastly, I would like to indicate my growing concern over the problem of appropriations in excess of authorizations. This situation has grown more troublesome for the Intelligence Committee and the intelligence community, particularly in the last 2 years or so. It is complicated by the fact that a statute, section 504 of the National Security Act of 1947, prohibits obligation or expenditure of funds for intelligence activities unless those funds have been specifically authorized and appropriated.

Therefore, when we have an appropriation for purposes not provided for in an authorization bill or in excess of the amounts authorized in that legislation, it places the Intelligence Committee and the intelligence agencies in a difficult position. It forces the intelligence community to go through the differing and time-consuming, non-statutory reprogramming procedures of the Intelligence and Appropriations Committees, and sometimes the Armed Services Committee, in an effort to comply with the inconsistent spending mandates between the appropriations and authorizations acts. This puts a severe burden on the Intelligence Committee's ability to effectively manage their budget and deal promptly with some higher priority matters. This is a problem about which Director of



Central Intelligence Woolsey and predecessor Gates have expressed the most serious concern and exasperation.

It also puts the authorizing committees in an awkward position in another respect. We must tacitly accept the enactment of the appropriations bill, with a rule waiving points of order against appropriations not authorized by law, has the effect of implicitly waiving the statutory restriction on using funds not specifically authorized.

While the statutory situation may make it worse in the area of intelligence, this problem is certainly not unique to the Intelligence Committee. It is experienced by most authorizing committee to some degree. It is a problem which needs to be dealt with on a priority basis. Perhaps a first step would be for the House Rules Committee to be more discriminating in granting waivers to appropriations bills containing unauthorized appropriations. Of course, there are numerous times when an authorization bill passed by the House has not yet become law and, for that reason, all or most of the appropriations in an appropriation bill are not authorized by law. But perhaps in such cases Rules Committee waivers could be limited to appropriations only to the extent authorized in a bill which has at least passed the House.

Doubtless, that will be difficult to enforce in the case of intelligence authorizations and appropriations legislation because of the classification situation. Perhaps the nature of this problem as it applies to intelligence ultimately is another argument for those proposing that we do away with the separate appropriations process and return that jurisdiction to the authorizing committees. In any event, I hope the Joint Committee can recommend a wise and workable solution to this disruptive situation in the legislative process.

In conclusion, I want to thank you again for affording me this opportunity to air my concerns and thoughts on these matters.

[The prepared statement of Mr. Combest is printed in the Appendix.]

Chairman HAMILTON. Thank you very much, Larry.

Mr. Dreier?

Mr. DREIER. Thank you very much, Mr. Chairman.

I am going to be very brief. Let me say first that I appreciate the diplomatic way in which you referred, Larry, to the need for our Rules Committee to be more "discriminating" in the way in which it grants waivers on certain items. I am going to take that term and use it up in the Rules Committee.

Mr. COMBEST. Feel free.

Mr. DREIER. Let me ask one very important question. Thank you very much for your testimony, by the way. It was very helpful and I would like to say that there are a number of questions that we are submitting to each of the chairmen and ranking members and I would like to submit those to you in writing for a response for our record.

But let me just touch on one item that you and I discussed the other day in anticipation of your testimony. What are your thoughts on the prospect of a Joint House-Senate Intelligence Committee? I know that has been proposed by our colleague, Mr. Hyde, and a number of other people have discussed it.

Mr. COMBEST. And I have great respect for him. Under the current situation, David, I do not support a Joint Committee on Intelligence. Just simply due to the fact of the experiences we have all had in knowing how hard it is to arrange our own schedules, to try to have a joint committee that has oversight and legislative authority between the House and Senate would seem almost impossible to be able to bring about between the two committees. We have seen that just on the conferences how difficult it is to get together with the other body.

Under a restructure, however, such that as being proposed or certainly being looked at, that there would be a significantly reduced number of committees for which one's time was more able to be spent on the substantive matter of a single or, at most, maybe two committees, I think that is something that certainly could be looked at. But under the present structure of the House, it is not something which I feel we could effectively do given the amount of time that is required in that committee.

Mr. DREIER. Thank you very much. Thank you again for your helpful testimony. Thank you, Mr. Chairman.

Chairman HAMILTON. Mr. Allard.

Mr. ALLARD. I appreciate your comments on authorizations and appropriations. I think that helped clear up some questions that I had and asked Dan about earlier. You have served on a number of committees and now you have served on a committee that has a very specialized function, the Intelligence Committee. Overall, for our committee structure, what do you think is the one thing that we could do that would best improve the operation of the committee system in both the House and the Senate?

Mr. COMBEST. Saying just one thing leaves out a lot of other very important and significant things which could be done. This comes from personal experience and just in the way we've dealt with it ourself. It is just primarily the time that one has to spend on the variety of committees. We have so many committees that in order to fully cover those with people with diverse backgrounds, one serves on a number of committees. Consequently, because, as Mr. Emerson mentioned, we primarily crunch a week's work into 3 days, it makes it impossible to do all of those to the extent one would like.

I think there is a lot of duplicative—I don't want to say insignificant—committees or subcommittees, but if we could better organize the committees we have, giving more of a significant role to the subcommittee structures within a smaller number of committees, therefore giving an individual who happens to serve on that committee more time to spend on that substantive matter, I think that would be most important. But it is simply being stretched in so many directions that I think that is one of the biggest problems we have and makes us maybe not as effective as we would like to be.

Mr. ALLARD. I think eliminating proxy voting, for example, would help a lot in reducing the number of committee because members I think would feel that they have to be at these committee meetings and wouldn't be lining up so many of them. The question I want to ask is, do you have proxy voting on the Intelligence Committee?

Mr. COMBEST. No, we do not. In fact, I was going to comment on that. I have served on committees where there is proxy voting and served on committees where there is not. The good thing about not having proxy voting is that one has virtually been forced to be in attendance on the subject matter that is being voted on. I would be vehemently opposed to ever allowing proxy voting in the Intelligence Committee. And I think that furthers the argument that proxy voting is something that should seriously be considered in being abolished.

Mr. ALLARD. Thank you very much for your comments.

Chairman HAMILTON. Senator Lugar?

Senator LUGAR. Thank you, Mr. Chairman.

Mr. Combest, I agree with you on the discussion you have on the term limits for members of the committee. In the Senate, as you pointed out, it has been an eight year term limit. I had the privilege of starting out when we had our committee formed in 1977 in serving the first 8 years. I have returned to the committee after a lapse of 8 years. You are absolutely correct that the subject matter and the complexity of this lead to the need for people to have much more continuity. The rationale at the time of the Church Committee discussions was that the members of the Senate would be co-opted by the intelligence community and, in essence, they would fashion themselves as members of the Administration and the need to have fresh blood and to continue to churn the committee was required so there would be a check and balance.

What, in fact, almost occurred was that the complexity overwhelmed the legislative members. Just simply digging into the Agency and getting a feel of what was occurring took time and expertise and then that expertise was washed away. One counter argument of course is that it is useful for as many members to have that experience with intelligence as possible so that there is broad based support on the floor as measures come along that cannot have, by their very nature, public discussion. So I appreciate that fact. But I think you have weighed in correctly in terms of either changing the limit in the House committee to 8 years, as in the Senate, or of considering, as I would like to, no limit at all.

I am intrigued, however, by the question raised by my colleague as to why you would oppose merging the two committees. The reason you gave of scheduling is all too true, of getting the two houses together for conference. But at the same time, because of the fact that all of these matters must be discussed in the same room at the same time, it strikes me at first glance there is some utility in having everybody there devoted to intelligence to begin with, persons who are prepared to devote that time. I would wonder if you would comment on this idea.

Let us say as opposed to a 13-member House committee and a slightly larger Senate committee, that there was perhaps a 15-member House and Senate committee, maybe it would have to be level to get equal numbers but with there being at least a tipping point so that there was a majority and somebody was in charge of the situation, and that the leaders of the House and the Senate continue to make the appointments as they do now, but there be a rigorous requirement of participation and attendance and that those members who found that they simply were overwhelmed by

other activities would be asked to leave the committee, those who were able to devote themselves would serve without term limit. It appears in that way we might get the best of the worlds that you are suggesting in terms of continuity and responsible attendance but everybody is there so we do not have a conference committee problem. It is threshed out really at the first instance so that the leaks that you are talking about or the decisiveness that might come or the loggerheads in which no action is taken would be less likely to occur.

Mr. COMBEST. Senator, you make very good points which would make a structure such as you describe, in my opinion, workable. As you know, with rotation, one must maintain other committees to give them something to go back to when they leave the Intelligence Committee. A permanent position on the committee, number one, and the requirement, which we are very serious about from the minority side and I know as well from both the Speaker and Chairman Glickman, the emphasis on the participation by members is an obligation. It is the most sought after committee in the House and there is an obligation that comes with that appointment of dedicating the time that it takes to do the job. All of those things which you have mentioned I would certainly agree with and it would eliminate the biggest problem I have with it. Again, I tried to emphasize in response to a question from Mr. Dreier, my biggest concern now is the amount of time that one dedicates to this place under the current structure and, given what I said earlier about the scheduling problems and such, I don't see it working.

Under a restructuring, and given the fact that we would also have to restructure in the Senate those portions that currently you on the Intelligence Committee don't have that the Armed Services Committee has that we on the House Intelligence Committee do, once those jurisdictional lines were exactly the same, on a permanent selection, be it 13, 15, whatever the case may be, a joint committee is something I would feel certainly at first blush I could support overwhelmingly.

Senator LUGAR. Thank you very much.

Mr. COMBEST. Many of the points you make I wholeheartedly endorse.

Chairman HAMILTON. Mr. Swift?

Mr. SWIFT. Thank you, Mr. Chairman, and thank you, Larry.

The specific testimony with regard to the Intelligence Committee I thought was very helpful, it certainly was helpful to me. I would make the note that I think that the arguments you presented on the term limit issue are also extraordinarily valid as you take that issue as a larger issue, and people should go back and review your testimony in that regard.

It was not the basic thrust of your testimony but it keeps coming up here all the time, and that is that one of the reasons given for need to reduce committees or change committees or horse around with committees is that we all have too many committee assignments. I think there are some good reasons to talk about restructuring the committee situation, that isn't one of them in my judgment. If we just don't want to serve on so many committees, there are several options. One, we can just no; two, we can enforce rules already existing that say that you can't serve on so many commit-

tees. I suggested the other day we let people only put two of their committees on their letterhead. Maybe that would reduce the need to serve on so many committees.

But the idea that we need to go about major restructuring of the committees in order to discipline ourselves so that we don't grab every committee assignment we can get—temporary ones, ad hoc committees, select committees, and all the rest—is, to me, absurd on its face. I just want to start making that point and I am going to continue making that point at every opportunity.

I thank the Chairman.

Chairman HAMILTON. Mr. Obey?

Mr. OBEY. No questions, Mr. Chairman.

Chairman HAMILTON. Larry, thank you. Let me just ask very quickly. You are on Agriculture Committee, is that correct?

Mr. COMBEST. Yes, sir.

Chairman HAMILTON. And Small Business?

Mr. COMBEST. That's right.

Chairman HAMILTON. Agriculture is the major committee. You also serve on the Select Committee on Intelligence. Should the Select Committee on Intelligence be made a major committee? This whole phrase "select committee" is kind of a strange phrase actually. What we did is we had a committee structure in place, we perceived a need for an intelligence committee, so we call it a select committee and we permit people to serve on it who serve on other major committees. Why not just make the Intelligence Committee a full permanent committee?

Mr. COMBEST. I would agree that it should be.

Chairman HAMILTON. It is a very time consuming committee.

Mr. COMBEST. Yes, it is. And, as such, you eliminate the need for us to serve on other committees. Once we rotate off, of course, we go back to those committees on which we initially served. I would, and also as Senator Lugar suggested, be very supportive of it being a major committee and a permanent appointment.

Chairman HAMILTON. I certainly agree with your comments about the term limitation, as Senator Lugar did. May I ask you the question I asked Chairman Glickman, and that is, how do you feel about the manner in which the House handles classified information? I think you handle it in the Intelligence Committee, it has been my experience, as well as anybody. What worries me is really not the Intelligence Committee; what worries me is some of the other committees and the fact that we don't have a unified system. Senator Lugar, I think you have in the Senate a much more unified way of handling classified information. We don't. Could you give us your impression of that?

Mr. COMBEST. I agree that the Intelligence Committee does a very good job of maintaining confidentiality of classified material in the way it is handled. What I would prefer seeing is that all committees who have access to classified material have to follow the same structure that is followed in Intelligence Committee. One of the reasons I think maybe we do, Mr. Chairman, is because we see how something so innocuous out there can have such a damaging impact and those results that other committees don't see.

I think sometimes people think that there is no reason something should be classified and it may be a source or a method or

something else that on a day-to-day basis they don't deal with. Consequently, even though it might not be in their understanding that it has relevance, if it maintains a classification, I think the highest priority of protection should be given to it. There should be a very strict and set standard of procedure by which every committee of Congress has to meet if they deal with classified information.

Chairman HAMILTON. Mr. Dreier?

Mr. DREIER. Thank you very much, Mr. Chairman.

Larry, you were here during part of Dan Glickman's testimony I think. One of the proposals that he has made is the prospect of merging the House Armed Services Committee and the House Foreign Affairs Committee, and then he talked about the prospect of even going further and establishing the Intelligence Committee as a subcommittee of that larger Armed Services-Foreign Affairs Committee. What is your response to that proposal?

Mr. COMBEST. I would not have a difficulty with that, and, again, not in trying to preserve turf from the standpoint that, no, it has to be the Intelligence Committee. The point, I am not trying to interpret his statement, but I think one of the points Dan was getting at, and certainly a point which I would agree with, would be that you put all of those jurisdictional things into one area, that you give a committee or a subcommittee, however the restructure might come about, the prerogatives to deal in those areas.

It makes it extremely difficult, as Senator Lugar knows, in our committee in the House in dealing with portions that their committee in the Senate doesn't deal with. It brings into it another authorizing committee, two more appropriations subcommittees generally that deal with it. Consequently, it becomes so spread not just from the standpoint of the classification of information being that much more widely available, but in the fact that I think you have got a very significant area here that is spread awfully thin.

What I would like to see result from that would be that there would be a restricting of that information that would be brought under one broader committee rather than there being so many committees handling it. I wouldn't have a problem necessarily with the establishment of it that way. I think the involvement of the subcommittee, if we called it that, would be as broad or broader than it is today.

Mr. DREIER. You have given your thoughts on the idea of merging the House and Senate committees. Do you believe that the relationship between the two today is a good one, and are there any ways in which that could be improved?

Mr. COMBEST. Between the House and Senate Intelligence Committees?

Mr. DREIER. Right.

Mr. COMBEST. I think it is a good one. So much of it is, again, because I think we operate in a little different realm than many committees do. We are dealing strictly with subject matter and there is no efforts to be concerned about others being in the room, TV cameras, or press. There is not a problem with the Senate Intelligence Committee, it is just the fact that we do have to deal with the Senate Intelligence Committee and the Senate Armed Services Committee in the conference process. While there are two separate functions that are dealt with, two totally separate areas,

there is a continuity between the two in the ultimate goal, which is to provide intelligence. Therefore, that does create somewhat of a problem that I would suggest we eliminate.

Mr. DREIER. You also serve on the Small Business Committee. There have been a number of proposals that have been made relating to the Small Business Committee. One has come from the Renewing Congress Study that was provided to us by Normal Ornstein and Tom Mann, and the proposal is to see the Small Business Committee merged with the Banking Committee. As a member of that Small Business Committee, you may have some thoughts on that.

Mr. COMBEST. From a legislative standpoint, there is very little jurisdiction in the Small Business Committee other than the SBA. We do have the hearing authority to have hearings on anything that constitutes problems for small business or proposes to. I would not have a problem with that combination. I would hope that in reality what might happen is that small business might even be served better by being given more of a legislative authority to have impact on policy than they currently have.

Mr. DREIER. OK. Thank you very much. Thank you, Mr. Chairman.

Chairman HAMILTON. Thank you, Larry.

Any further questions for Larry?

[No response.]

Chairman HAMILTON. We thank you very much for your testimony.

I might advise members that Mr. Rostenkowski is scheduled here at 11, which is in just a few minutes, so we will take a short break here.

[Recess.]

Chairman HAMILTON. The committee will resume its sitting.

Mr. Chairman, we are delighted to have you here. As you probably know, you have been preceded by two other distinguished members, Representative Glickman and Representative Combust. We know, of course, of your heavy responsibilities and we especially appreciate your willingness to take some time to join us this morning to testify. We welcome you to the Joint Committee. You may proceed as you see fit.

**STATEMENT OF HON. DAN ROSTENKOWSKI, A U.S.  
REPRESENTATIVE FROM THE STATE OF ILLINOIS**

Mr. ROSTENKOWSKI. Thank you, Mr. Chairman. I certainly want to thank the Joint Committee and the co-chairs and vice chairs for the opportunity to testify before you today. My remarks will focus primarily on the committee system in the House of Representatives.

I have served 12 years as chairman of the House Committee on Ways and Means, and I am proud of the committee, its history, traditions, and accomplishments. I am especially proud of what the committee has been able to accomplish in my years as its chairman.

But I do not appear before you to protect or defend the committee which I chair—although I will do that as effectively as I can

when needed. Rather, I ask you to view me as a student of the committee process in the House for the past 34 years. Indeed, since my appointment to the Committee on Ways and Means in 1964, I have been continually involved in the committee selection and appointment process; first as a member of the Democratic Committee on Committees, and then as a member of the Steering and Policy Committee of the Democratic Caucus.

Having been involved with the committee system for many years, I believe there are problems which need to be addressed and I have some suggestions for solutions.

I would first like to point out that House committees exist only as tools of the House and that their principal function is to help the House conduct its business. There is no other reason for committees to exist. As such, the standard against which committees must be judged is whether or not they serve the interests of the House.

This view should be mere common sense but sometimes we seem to forget it. Committees seem to have become ends unto themselves, rather than means to an end.

During my experience of selecting members for committees, I have been concerned chiefly with the manner in which members are appointed to committees and the types of members we elect to various committees. All too often these days, the election process is nothing but a popularity contest in which a member's background, views, and politics are not taken into account in trying to construct a committee that adequately represents the whole House of Representatives. Let me be blunt. The most popular members are not always the most effective members. Good lawmaking sometimes means rejecting fashionable ideas and saying "no" to colleagues. There are actions bound to put popularity at risk, and members who care most about their popularity are going to avoid taking them if they can.

Appointing members to committees on the basis of popularity does not help the House forge effective solutions to the pressing issues of the day. In fact, it results in legislation which, more often than not, avoids critical problems and tough solutions.

Committees have also become arenas for advocates rather than forums for discussions, deliberation, and decision. We have all seen the farm state member who simply has to get on the Agriculture Committee or the urban member who has to get on the Education and Labor Committee. Both of them want to represent the folks back home. But let's apply the critical standard: Is the House well served by a committee system which is loaded with advocates of a particular viewpoint? The undeniable answer is, no. Can you imagine an urban member being told he will have to serve an apprenticeship on the Agriculture Committee? Again, the answer is, no. But the House, and ultimately the American people, are hurt because the legislative product is all too often unbalanced. We need more legislators and fewer advocates in the committees. The selection process should do all it can do ensure this result.

Next, let me turn to the subject of committee size. Twenty years ago, there were six hundred and seventy-nine committee slots. Today there are 869, a 28 percent increase. But the critical question is, has the growth in the size of the committees helped the



House of Representatives do a better job? In my opinion, the answer is clearly, no. In fact, I would say that the House is worse off as its members are spread thinner and each member spends less time on the critical issues he or she faces in committee.

If increasing committee size has had a negative effect on the House, how has it happened? The answer is simple. Individual members want to be seen as being important, they want to be involved in more things, they want more things to list on their letterhead. In short, they want what they perceive to be in their own individual interest. But no one has asked what's in the best interest of the House and, having concluded that the quality of our deliberations matters much more than the number of us deliberating, no one has tried to prevent committees from adding more and more members.

Again, the institution would be served by a reduction in the size of committees, but individual members would feel aggrieved. I ask you, which is more important?

I accept the fact that there may be competing goals here. In point of fact, the tension we feel here is unavoidable. Do we value efficiency more than democracy? Should members know a lot about a little, or a little about a lot? How do members balance the needs of their particular constituencies against national priorities?

There are no absolute answers to any of these questions. Instead, there are constant adjustments. You are here today because of a widespread belief that the reforms of the 1970s introduced too much democracy and ultimately hampered efficiency. And those who, like myself, call for greater efficiency must accept the fact that it will inevitably limit internal democracy.

I also think proliferation of the legislative service organizations and issue-specific caucuses has exacerbated this trend towards members as advocates. Advocates should not be supported in any way with taxpayer's money. Members should see themselves as legislators and not as members of this or that advocacy group who know the answers before the debate begins. Advocates have their place within the legislative process but they should not be based within the Capitol complex or funded with House funds.

I also have become concerned in recent years about the amount and quality of oversight work we do in the committees. The House looks to the committees not only for legislation, but also for effective and continuous oversight of the laws and programs within their jurisdiction. This latter responsibility has been all too frequently ignored as members see the glamour of legislation rather than the tedium of oversight. Ask yourselves how often you have issued press releases trumpeting the fact that a Government program has been made more efficient as a result of your oversight work. Similarly, ask yourself what kind of answer you would get if you turned to a committee with jurisdiction over a particular agency and asked if it was a well-run agency, what problems it had, and what the agency's plans were to fix them. I am sure the answer you would get in virtually every instance from virtually every committee is, "We do not know." Can't we do this better than this? Shouldn't the House demand better from its committees? Don't the American people deserve more from the House?

I feel it is incumbent upon me to also comment on committee jurisdiction. Again, the standard must be what is in the best interest of the House. How can it most efficiently and effectively conduct its business. This standard must result in an examination from time to time of whether or not we have the right number of committees and if the jurisdiction of various Committees continues to make sense. After all, the problems facing the Nation change over time. The committees must be able to change in order to help the House meet these new challenges.

I am sure we can all point to areas of jurisdictional overlap or confusion. For example, over the past several years it has come to my attention that the jurisdiction concerning the use of Federal guarantees to enhance quasi private activities exposing the Federal Government to financial risk is not clear. However, I feel compelled to point out that there are potentially no more explosive issues relating to the reform of the operations of Congress than committee jurisdiction. Indeed, this one issue doomed the work of the last two reform efforts.

My advice to you in this area is go slow. If there is a real problem with committee jurisdiction, you may want to suggest changes. However, I would urge you not to make recommendations simply because the current committee jurisdictional lines do not conform to some intellectually elegant model. The standard of proof that there is a real problem in this area has to be very high. I would hate to see the valuable work that this committee will do in all areas of a broad mandate fail solely as a result of proposed changes in committee jurisdiction.

Up to this point my testimony has been long on analysis and short on solutions. So let me turn to some specific proposals.

With regard to the issue of the size of the committees, I would recommend that you attempt to prevent further increases in committee size. I would, in fact, aim for decreases. I would accomplish this by computing the number of slots necessary to ensure that all members can serve on at least two, but no more than two, committees. After having factored out the exclusive committees and the leadership, I estimate that this would yield approximately 750 committee slots, a 7.5 percent decrease from what exists today, not the 2 percent increase we had this year.

In addition, I would limit a member to no more than two subcommittees per committee, a decrease of 2 percent in the number of current subcommittee slots. If committees were not allowed to increase the number of subcommittee slots which they now have, subcommittee slots would decrease by 10 percent.

Members frequently complain about being spread too thin. Decreasing committee size and further limiting the number of slots addresses this complaint directly. I believe this is an instance where the interests of the individual members and the House coincide. We would all gain if the size of the committees and the number of subcommittees would be reduced.

With respect to the committee selection process, the role of popularity must be reduced significantly. We must strive to see that a balanced mix of viewpoints and politics result from the selection process. To accomplish these goals, I would propose that the initial nominations be made by relatively small, autonomous, and semi-

permanent bodies within each party caucus. Only such groups could ensure the furtherance of the House's best interest instead of the furtherance of individual member's careers.

I am well aware that such a proposal would be controversial because it may limit an individual's chance of getting his or her choices. However, I fear that if the trend towards popularity continues, we ultimately will have a system where the Washington Post publishes a daily schedule of committee and subcommittee meetings and members simply decide which one they want to attend that day. This would result in a system in which legislation is proposed by interested advocates and is reported out almost unanimously whether or not it represents sound national policy. In fact, I am not sure that we are far from this type of system right now.

Finally, concerning oversight. I think that the reforms I have suggested concerning committee size and the number of subcommittee slots would force members to pay closer attention to their committee work and that greater oversight work would result. In addition, House rules could require annual oversight report from the committees with a specific requirement that recommendations for improved programmatic administration be included as well as review the results of the previous recommendations. Ultimately, the rewards in this institution for doing effective oversight compared to legislative activity must be increased. However, that is easier certainly said than done.

In conclusion, if I can leave you with only one thought, it is this. You should analyze the committee system and evaluate proposed changes from the prospective of the committees as tools of the House and focus on what is in the best interest of the House and how the House can best discharge its responsibilities to the American people. We might differ on merits of particular proposals, but if we keep these goals uppermost in our minds, I am confident that your recommendations will bring about improvements in the operation of the committee system and ultimately the legislative product of the House.

Thank you, Mr. Chairman. I will be glad to answer any questions.

[The prepared statement of Mr. Rostenkowski is printed in the Appendix.]

Chairman HAMILTON. Thank you, Rosty. We appreciate your testimony. We will begin questions with Mr. Dreier.

Mr. DREIER. Thank you very much, Mr. Chairman.

Mr. Rostenkowski, it is nice to see you testifying on something other than a rule for something coming out of your committee. I appreciate your testimony very much, Dan. I think that you have some items which I believe are very important. I like your idea of the elimination of legislative service organizations. I think that is something that has created many problems here with the use of taxpayer funds, some of which the accountability of which is seriously questioned.

I will argue with you on one point. I do not believe this committee was necessarily established to improve efficiency. You said that the reforms of the 1970s may have created too much democracy and now we are here trying to deal with a problem of a lack of effi-

ciency. I do not think that is really the specific goal of this committee. I think we are trying to improve the operations of the House and create a greater degree of accountability.

I also believe that we do share your goal of trying to decrease the number of committees and subcommittees in the Congress. There have been a number of proposals that have been submitted to us by the Congressional Research Service. A lot of them have an effect on your committee. A number of items have come from other organizations. The Renewing Congress Project that was submitted to us by our friends Mr. Ornstein and Mr. Mann. I do not know if you have seen their talk of shifting the jurisdiction for trade from your committee to the Foreign Affairs Committee. What thoughts do you have on that?

Mr. ROSTENKOWSKI. As I read their testimony, I see that they are transferring several responsibilities in the taxing area to other committees. I like the idea, and certainly it is because I am Chairman of the Ways and Means Committee, of an independent agency making the justification of what revenues are going to be needed in order to have a function of another committee. I think that what can happen ultimately with respect to a foreign affair taxing provision that policy would then be established pretty much by whether or not revenues can be raised in an area. I do not mean this exclusively for foreign affairs, I mean it in education, I mean it in agriculture.

I think what you need is you are going to need an independent group, such as is presently enacted, to look at what exactly it is that revenues are necessary for. Since it has been our obligation to be the committee that raises the revenue, I must suggest that we are a lot more cautious than other committees that are authorizing because their responsibility is not to raise the revenues. They pretty much hand out the sugar and we bring in the vinegar. So I worry about the idea that every committee can function independently because what you are going to have then is a process of everybody trying to get to the tax dollar first.

Mr. DREIER. As we work towards the goal of the elimination of trade barriers and tariffs, maybe some of those committees will be able to deal with them as we eliminate the tariff structures we see as a number of us are trying to encourage free trade throughout the world. By the way, I should ask you at the outset, we have a list of questions we want to ask of every chairman and ranking member. So I would like to submit to you in writing a number of questions so that we can have response from everyone on that.

We have a number of other members here who would like to ask questions, so I will yield back the balance of my time at this point. Thank you Mr. Chairman.

Chairman HAMILTON. Mr. Allard.

Mr. ALLARD. Thank you, Mr. Chairman.

Thank you for taking the time for testifying before this committee. I am anxious to here what your comments are because of your experience and background in legislative process here in the Congress.

One area that you did not address in your comments and there has been some discussion on this in the committee is the idea of joint committees, that there might be some Committees that you

can combine House and Senate. We just had some members, for example, the Intelligence Committee here this morning. The issue was brought up could that possibly function as a joint committee. This is a joint Committee that we have here. Do you have any thoughts or comments on that issue?

Mr. ROSTENKOWSKI. I am under the impression as well that there is speculation about eliminating some joint committees which I think would be a big mistake, mainly because we would have them dual functions, we would have to spend more money, there would then be a competition. If you did not have the joint committee, you would have the competition that naturally exists between the House and the Senate. And so I think that as far as having joint Committees, if we can get some assurances that the procedures in both bodies are going to function, I do not see that as a big problem. As a matter of fact, I would view that as being a constructive conservative suggestion. But I do not mean that you delineate the authority of the present standing committees in either body.

Mr. ALLARD. In the area of administration, which nobody likes to talk about. It is sort of nuts and bolts and not much glamour with it. But we have functions that are done in the House and functions that are done Senate; security, for example, maybe printing and some of the architect and all that. Can we pull these together and have a Leadership Committee that is sort of overall responsibility of this administrative function in the Capital pretty much like we have in a lot of State legislatures where they have a Legislative Council of some type made up of the leadership House and the Senate that takes care of most of the administrative matters—maybe it is drafting of bills, maybe it is joint rules between the House and the Senate. Do you see any hope for that type of proposal?

Mr. ROSTENKOWSKI. I am not totally familiar with that but if it is a function that would curtail expenses, if it were something that could be coordinated, I would have no problem with something that.

Mr. ALLARD. Thank you.

Chairman HAMILTON. Senator Lugar.

Senator LUGAR. Thank you very much, Mr. Chairman.

Mr. Chairman, I appreciate your reiterating the thought that has been advanced by others, and your endorsement is important, there ought to be two committee assignments per member in the House and the Senate, and not more than two and not more than two sub-committees. If we make that advance, we will have gone far.

Mr. ROSTENKOWSKI. Senator, may I ask that you yield to me for just a minute? I do not know that I am a senior member of the firm here, but when I first came to Washington and was elected to the Congress, ordinarily you would get one committee assignment. If it was considered on the House side a major committee, you would get one committee assignment, that being Banking and Currency, Foreign Affairs, Interstate and Foreign Commerce then. You never got two committees in an assignment unless it was not a major committee. It was then two minor committees and at that point in time minor committees were Government Operations, Merchant Marine and Fisheries, Post Office and Civil Service, and committees like that. If you did not get a major committee, you got

two minor committees. But in the next Congress, if you moved from the two minor committees and to a major committee, you resigned from the two minor committees. Actually, giving you members the opportunity to exercise and educate themselves in the formation of legislation and in the working of the committees.

What happened ultimately was many members would resign one minor committee and get a major committee but keep the other minor committee and, as a result, custom came to the House of Representatives wherein everybody has to have two committees.

Now we have a system where they have temporary assignments. You have members in the House of Representatives that are serving on three committees with about 12 or 14 subcommittees. Nobody can be spread that thin. Every time, and maybe I should not be addressing this to you, Senator, but in the House every time there is a suggestion that somebody that is a temporary assignment to a committee get off in the middle of the term because we have found somebody that wants to serve permanently, there is always the excuse of not getting off. So what we do is we bend these rules to our own disadvantage. I just think that is running in place and wasting the taxpayer's dollar and spreading the membership too thin that they can't serve as well as they should.

Senator LUGAR. That is very important testimony and I hope our committee is successful in trying to weed through the thicket of all of these jurisdictions. I think we can do so; there is consensus to do that. I thought the most intriguing aspect of your testimony was started with the idealism of the proper people being in the proper spots and then you came to the practical point of how this occurs through this small, semi-autonomous selection committee that does not deal with popularity of the members but of their expertise and all. I will have to think about that for a while as to how that would work out in the Senate.

On the republican side of the Senate, as you know, as we come and pick up whatever is there. For example, if there is a vacancy in Banking and a vacancy in Agriculture and one somewhere else, you sort of choose depending on where your seniority is and you sort of work your way up, sometimes, as you say, accumulating more than the two as you go along grandfathering in. One of the problems I suppose is how you match together people who you want in the critical spots without any derogatory comment about any of our colleagues. This autonomous committee might say we have 15 people who we ought to have trying to do the Nation's work on each of these areas who offer dispassionate, wise judgment and so forth. In some ways maybe these people work their way into those positions because they wear the hat for the country as well as for a parochial interest, maybe they don't. I am not really sure how you select these people and how far you can spread even them around, and what you do at the point when you then come to people that you are really not so sure of. They are persons who are very parochial, have no intent of ever being anything other than that, and what sort of placement do you make at that point?

Mr. ROSTENKOWSKI. You know the politics of the structure of these is always going to be there, Senator. Let me just share with you my original service on the Ways and Means Committee when, as I pointed out in my testimony, it was the Committee on Commit-

tees. There were 15 members, 15 Democrats. They were the majority on the Ways and Means Committee and they were also the Committee on Committees. The Speaker would come in and our deliberations which took place just immediately after the adjournment of Congress and we talked about who we were going to place on various committees. The Speaker would come in and make suggestions only to the Rules Committee as to who he would like to see on the Rules Committee. As custom would have it, it was the Speaker's suggestion as to who was placed on the Rules Committee. He was not then appointed by the Speaker, it was suggested by the Speaker. As a matter of fact, of the 1970 reaction here, Carl Albert did not want that authority then.

At any rate, then those 15 of us—and we were not elected on a popularity basis then, Senator. We were elected to the Ways and Means Committee and by service, then the Committee on Committees. Then we would look really at the balance that is represented on committees, the geographical area that is represented on committees, and it really was not a popularity contest. It was a representative from that area saying "I have got to have somebody in this area from the Northwest. We do not have anybody." And to tell you the truth, there were various arrangements made by various zones as to who could get on various committees. One case in point, I think two of the memberships will recognize this. Ben Rosenthal is a member from New York, urban area. We put him on Agriculture. He did one of the most effective jobs that anybody ever did serving urban areas in the Agriculture Committee.

I think in order for us to get product out of committees you can not have people cheerleading in committees for their Army Emplacement Base, Naval Base, Agriculture. I think you have got to get the balance on a committee and I think we are losing that.

Senator LUGAR. It is an extremely important thought. I will not carry on with the time limit. I hope our committee can consider that very carefully. I think that is a very important idea. Thank you.

Chairman HAMILTON. Mr. Swift.

Mr. SWIFT. Thank you, Mr. Chairman.

Just to kind of correct the record, Danny, I did not here you say you were recommending the elimination of any committees. What I heard you say was two other things. That you suggested the reduction of the size of the committees and a strict limitation on how many committees and subcommittees members can serve on, both of which I think make eminent sense. What I would like to talk to you about is something that you did not address in your testimony but because you have served here so long you have more institutional memory than some of us.

Part of the problem with jurisdictional overlap it seems to me grows out of the process of sequential referral that is a relatively new process, early 1970s I think that came in. How did committees deal with the problem of jurisdictional overlap prior to establishing that structure?

Mr. ROSTENKOWSKI. Well there really was not that much jurisdictional overlap. I think the Speaker at a point in time would intervene, as he does now only he does this by edict. I think that if there was a bill laid out before the Public Works Committee that

ultimately had to get the tax dollars from the Ways and Means Committee, it was the Speaker that would urge the coordination of this. As a result, the fact that we have been working with the Public Works Committee for as long a period of time as we have, I have never seen a conflict. I think what happens because of joint jurisdiction, ours and taxes, I think that we somewhat hold the reins in the Public Works Committee because they never know whether or not we are going to fund their requests in the tax area. I think that is good. But there really was not that much joint authority before the Boling suggestions of the 1970s.

Mr. SWIFT. I have been told that there was a greater tendency in those days for a chairman to walk across the hall and sit down with another chairman and kind of work things out if he knew he was treading close to that other chairman's jurisdiction.

Mr. ROSTENKOWSKI. There was always that so-called invisible curtain. You did not want to get into an argument with another chairman. Right now, I do not want to get into arguments with a chairman. But there are chairmen that just feel that their jurisdiction is boundless and they are reaching out for everybody else's jurisdiction.

Mr. SWIFT. And it does rather suggest, it seems to me under the old system where you did not have quite such bright lines drawn as you do with sequential referral and so forth, you could not run to the Speaker as much as some people do and expect him to solve the problem and you could not always go to Rules and get them to solve the problem, so you kind of thought unless I want a whole host of hostile amendments from this other committee on the floor, I better go work things out ahead of time.

What I am kind of driving at is as we talk here about reform, and I think at times we are straining at gnats and swallowing camels looking for huge massive dramatic reforms that may not work—history would suggest probably would not work, may not even be able to be achieved—there are some minimalist things, it would seem to me, that could be done that in fact could make this place flow, the work flow much easier. One of them might be to go back and get rid of that reform of the 1970s of sequential Jurisdiction and what have you and put people back in a place where they know they will have to work it out.

Mr. ROSTENKOWSKI. I think what is most unfair is that if you are ultimately going to get a referral that the leadership gives you a time certain in which you get the referral because they have a schedule on the House floor. Wherein the original committee sits on the bill for 3 months and then the leadership says you have a week to look at this legislation, and in most instances ours is the revenue area and we have got to figure out where do we get the revenue in order to substantiate the legislation and we only get a week or sometimes 48 hours. That is very unfair. I am not in leadership to a point where I make the schedules and I understand what the problems are, but I think that causes havoc and it irritates many members on both sides of the aisle on my committee.

Mr. SWIFT. Thank you very much, Dan. That is very helpful.

Chairman HAMILTON. Mr. Obey.

Mr. OBEY. Thank you, Mr. Chairman.



Dan, I certainly agree with a number of your observations with respect to committee size and with respect numbers of subcommittees. I especially agree with the observation that our principal goal in life should not be to produce an intellectually organization of people. What counts is what works. I think what counts this year is the determination to get something done. I also agree with you Federal guarantees. I think the way those are handled is very strange and very murky.

Let me ask you something specific. It strikes me that we have established an awful lot of fancy hoops that we have to go through—the Budget Act, the Reconciliation, all of that — simply to try to overcome the fact that we don't have the same committee that both raises revenues and spends the money. I guess I have always been biased, because in our legislature it seems to me that tax would have the final say about what it would actually be spent for.

It has always been my view that it was probably a historical mistake to split the Appropriations Committee and the Ways and Means Committee and we wouldn't have to go through all of these procedures we go through if the same people that had the responsibility to raise the revenue had responsibility for spending. What would your judgment be about merging on the House side the Ways and Means Committee and the Appropriations Committee and then folding in other direct spending authority which has over the years leaked to other committees into that one committee so that you, in effect, would not need a coordinating budget committee because you would have the people responsible for raising revenue were also deciding how to spend it?

Mr. ROSTENKOWSKI. I do not disagree with that, David. In my committee since I took over in 1980, I laid the plan out that if you want to spend, you show me where you are going to raise the money. I want revenues to see what you want to spend money on. As a result, the appetite to spend was somewhat squelched. The fact of the matter is, however, that I like the appropriations process but I worry about what happens then if you do combine Appropriations and Ways and Means, what happens with all the other authorizing committees. Do we then divest the authority of raising revenues to each individual committee? I see the competition then horrendous.

Mr. OBEY. No, I do not see that. What I have always rolled around in my mind is the idea that authorizing committees ought to design legislation and that then the finance committees ought to determine after the authorizing committees have laid out what things do you desire to do by way of spending that the finance committee would determine the actual spending level and determine the revenues that would be raised to meet it.

Mr. ROSTENKOWSKI. Well hasn't the Appropriations Committee been doing that in the last 10 or 15 years?

Mr. OBEY. The Appropriations Committee does it. But there are a great many sitting authorities which don't through the Appropriations Committee. Education and Labor, the Agriculture Committee, and a number of others have direct spending authority. It just seems to me there is a tremendous dysfunction here if the same committee isn't raising the money as far as the spending.

Mr. ROSTENKOWSKI. Well I like the idea of having separate and autonomous functions in the House of Representatives because I think what you then do is you have the cushion of saying can we sell this to the other committee. I think that in itself will curtail the appetite of members to reach out and spend money. I do not know, David, I have not looked at whether or not there should be a combination. I would like to look that over and get back to you on that.

Chairman HAMILTON. Mr. Emerson.

Mr. EMERSON. No questions, Mr. Chairman. Thank you.

Chairman HAMILTON. Dan, we have had you here quite a while. Let me ask just a couple of things quickly. Do you have any comments to make at all about the interface with the Senate conference committees? You deal a lot in conference committees. Does that process work OK as far as you are concerned? One of the suggestions is that we have more parallel jurisdictions between the two houses. Does that cause you problems?

Mr. ROSTENKOWSKI. The Finance Committee on the Senate side has pretty much the same jurisdiction except the division of health in the Ways and Means Committee. We have Medicare and the Commerce Committee has Medicaid. Bentsen or now Pat Moynihan has to deal with both me and John Dingell in this area. I do not envy him.

[Laughter.]

Chairman HAMILTON. Because of you or because of Dingell?

[Laughter.]

Mr. ROSTENKOWSKI. Certainly not because of me. But in most instances the Finance Committee of the Senate and the House Ways and Means Committee work pretty much hand in hand.

Chairman HAMILTON. Let me ask you another question. Are there particular Senate rules that you find just really quite egregious—I hope Senator Lugar will pardon this question—you find egregious and cause you all kinds of frustrations and problems?

Mr. ROSTENKOWSKI. Well the idea that one person can delay consideration on measures that certainly there is a dire need that the country be exposed to is unbelievable to me. Although I am opposed to, and I was opposed to televising, the events of both the House and the Senate, I thought that maybe that would bring the public to understand that this is an intolerable situation. Senators are very good at evidently coloring this to the individual's prerogatives. I should think that if you have a majority, you should be able to function.

Chairman HAMILTON. Do you think staffs are too large in general in the House?

Mr. ROSTENKOWSKI. Yes. I think that we could do with less staff. Mr. Chairman, I have a problem with this because if you want to analyze just what we are doing in Reconciliation, \$350 billion of Reconciliation is going to be obligated to the House of Representatives with respect to their consideration; \$300 billion of that is in my committee. I do not have the largest staff.

Chairman HAMILTON. I was under the impression generally that Ways and Means is pretty thinly staffed as compared to many. That is one of the reasons I asked the question.

Mr. ROSTENKOWSKI. The fact of the matter is that I have not increased the numbers in my staff since I have taken over. We are in keener competition with downtown, so to speak, than any other committee. The idea that we used to be able to make forecasts, to make projections, now every law firm downtown is doing that and is hiring people that have been educated on the Hill, not exclusively in the Joint Committee or the Ways and Means Committee, and we have such keen competition.

I do think in some instances that everybody has to prove his or her worth and generates into the ear of the Member of Congress things that are his or her priority. As a result, we see a lot of Legislation introduced that in my opinion should be stopped in committees if introduced. But here we are again in the popularity contest. Everybody wants to push it over to the floor and let the floor make the decision. I do not see a lot of steel in the stomachs of the Members of Congress on controversial matters on the floor of the House either.

Chairman HAMILTON. You have been in the House a good many years. Is it your impression that reaching an agreement and reaching a consensus today on a lot of these tough policy questions has become more difficult than say 20 years ago or 25, and why is that the case?

Mr. ROSTENKOWSKI. I think it is the immediacy of news. I think it is the jurisdiction that we have in the Federal Government expanded our authority. When I first came here, Mr. Chairman, on the table were usually veterans affairs problems, Post Office problems, social security problems, and Appropriation Bills. After that it was pretty much left to the several States to decide what they wanted to do. We came in with revenue sharing, we took over the authority and expanded social security. We have really expanded the authority of Federal Government where we are affecting the lives and styles of communities. You can walk down the street of a neighborhood in the city of Chicago and if the lights are out it used to be the city's fault. Now it is because the city did not get the appropriation of dollars from the Federal Government that the lights are out. I just think that we have become more involved in the life style of the American people.

Chairman HAMILTON. Do you see any connection in the difficulty in reaching a consensus with the size of the staffs and the involvement of the staffs? Is there a connection?

Mr. ROSTENKOWSKI. No, I would not jacket the staffs with this problem. I think it is the new media exercise that we are in, it is campaigning, it is availability, it is constituent service, it is letters to the people, it is corresponding and getting closer in touch. All these things generate correspondence and make people more aware that we are there to serve.

Chairman HAMILTON. One final question. You recommend a reduction in the size of the committees. Have you thought about how that would be achieved?

Mr. ROSTENKOWSKI. By attrition I should think.

Chairman HAMILTON. Should we do it by law? Should we do it by rule of the caucus? What is the best way to get at that?

Mr. ROSTENKOWSKI. We are all legislative and I certainly believe in the elasticity of being able to legislate if you have leadership

that is very strong and is willing, as I said in my testimony, to say no. The problem here is that it has become a popularity contest. It is popular to get on the Steering and Policy Committee. It is popular to try to get your individual member placed on the committee that he wants. And so what you are doing is you are negotiating all the time.

I think that maybe we have to go to a rule with respect to the size so that there would not be the elasticity. In most instances, Mr. Chairman—and I am on the Steering and Policy Committee, as a matter of fact, and have been on the Committee on Committees and the Steering and Policy Committee since I have been in Congress and since they were created—it is accommodating the leadership. If the minority says they can not take somebody off the committee if we want to shrink the size of a committee, my leadership accommodates the minority. So it is increasing by two members of the majority so we can preserve the rights of the minority's one. These things all of a sudden become so multiplied that you have committees that cannot function because you cannot get quorums.

Chairman HAMILTON. Mr. Chairman, we want to stay in touch with you as we move fairly soon now to begin to develop some recommendations. We thank you for your testimony this morning. You have been very helpful.

Mr. ROSTENKOWSKI. Mr. Chairman, I know your task is going to be very great. I just hope that what you will ultimately resolve will benefit the American people and that we will start functioning here in Washington. I think right now the Congress of the United States is walking around with a black eye.

Mr. EMERSON. Mr. Chairman, before you dismiss the distinguished Chairman, may I apologize that I was not here when you gave your statement but I have read it and I think you have made some very candid and trenchant observations that will be of great value to this committee. I particularly appreciate what you had to say about oversight. I have agreed with you before you ever said it that we do not spend enough time on oversight.

This leads to a point. A new Administration just having come to power, we have been racing here the past 3 months it seems to implement a program that the incoming Administration, given the pressures of last fall, the campaign, the election, the transition, has not really—and I mean this in no partisan sense—has not really had an opportunity seriously to contemplate. It appears that different ideas that were talked about during the campaign have come together in the form of proposals to the Congress and we pass the budget and we pass the broad parameter stuff without knowing what the detail is. I do not think this is the way the people want us to operate.

I think we all know it is not the way to operate. We should take time and do things more thoroughly and with greater oversight. Why do we do it the way we do it? Is it the media focus? Does Mr. Clinton have to have his program passed in the first 100 days or he is a failure? Couldn't he work deliberately, this Executive Branch with the Legislative Branch and we get into some things and hash them through better than we do, better than we do within the structure in which we operate, and come up with more reason than thoughtful product.

Mr. ROSTENKOWSKI. Bill, I think you are preaching to the choir as far as Rostenkowski is concerned. Since I have taken over the chairmanship of the Committee of Ways and Means, I have never put out a schedule. I have been told what the schedule is and it has been suggested certainly by the other Administration that you have got until such and such a date. My committee at least has never fallen short of its obligation to try to function within the framework of either the democratic Leadership in the House of Representatives or the Administration, Republican or Democrat. But I think the minute that you start suggesting that I am going to do this my May 15 or Valentine's Day, the day that you get to that you are a failure. The press will do that to you all the time. They are the first ones to say "Oh my gosh, you are not going to meet your target. You are not going to meet your date." I do things in the committee with my members and I think they all agree with me that we do things prudently and in the time in which it is allocated to get things done so that we do come out with a product that I think we can take to the Floor and get passed.

You know you had Roosevelt with the first 100 days, you had Lyndon Johnson. I guess it is the glow of having been elected and working with the wave of sentiment of the American people to get programs done. I think that is something that every Administration has come with. Reagan in his first 3 months. George Bush and his first 6-8 weeks. It is just 100 days. It is some magic number. And we as a result, we come in here in November and December and organize the Congress and we sit up here waiting for programs to be laid out before us when we are organized so far in advance. I think we are part of that fault too.

Chairman HAMILTON. I think we are too. I think maybe it is not just maybe the Congress that needs reform but perhaps the overall political process needs some major reform. But in this frenetic activity in which we all engage, it seems to me that we are more often dealing with the perceptions of problems than we are with reality. We fixed the perceptions and then it does not work out quite the way people thought it might work out because we have not dealt with reality and then they are unhappy. I think we have got to find some way to get fundamentally down to reality and stop dealing so much with the perceptions of things.

Mr. ROSTENKOWSKI. Well if there is a problem as far as I view in the legislative process it is that most of your commentators want to comment on the medicine as opposed to what the medicine will ultimately bow the cure, and they want to talk about all the pain and suffering that takes place before the cure is enjoyed. That is where we get a little weak in our stomach and run for cover. Thank you very much.

Chairman HAMILTON. Thank you very much, Mr. Chairman.

Chairman HAMILTON. The Chair will ask Representative Jan Meyers to come forward if she would. Mrs. Meyers is the ranking minority member of the House Small Business Committee. She serves on the House Foreign Affairs Committee. Jan, we are delight to have you here this morning. Appreciate your willingness to join us for testimony and you may proceed with your comments as you see fit.

**STATEMENT OF HON. JAN MEYERS, A U.S. REPRESENTATIVE  
FROM THE STATE OF KANSAS**

Ms. MEYERS. Thank you, Mr. Chairman and members of the committee. I would like to say that we do have copies and they are here now for the members of the committee.

Chairman HAMILTON. Your statement of course will be entered into the record in full.

Ms. MEYERS. I will run through this maybe not in its entirety but you can follow along a little bit and the points that I hope to make, Mr. Chairman, are that business makes so much possible in this country and it is tremendously important that we have a committee of this Congress that focuses on business, most particularly small business. I will say some of the ways in which the Small Business Committee has operated for business that may not be as visible because a lot of times it is not legislation, it is working with regulatory agencies and in some cases it is stopping legislation. So let me just quickly run through this.

Thank you for the opportunity. My name is Jan Meyers. I am pleased to serve as the ranking minority member of the House Small Business Committee. It is more than appropriate that we in Congress take a very long look at ourselves at this point in our Nation's history. Our Government, including congressional committees, has become too big, too bureaucratic. The result is a legislative process that undermines the good intentions of legislative proposals. I believe that the most important role of Government today is preserving the ability of businesses to thrive and prosper.

Now, while some may feel that this view is very extreme, let me explain. Think how reliant we are in this Country on business. Not only does business provide job services and products but to a large extent they carry out the bulk of our social programs. They must ensure equal opportunity in their hiring and promotion. They must contribute and collect various taxes for things like Social Security and Medicare. We want them to offer health insurance coverage to their workers and families. We must provide time off. They must provide time off with benefits and job protection so people can meet their family obligations. All of these wonderful programs and most of them I supported and voted for. A place the responsibility for implementation and often for footing the bill squarely on the shoulders of those who voluntarily decide to open a business.

Now as part of your overall mandate to develop recommendations for reorganizing Congress I urge you to step back and take a look at what our policies have wrought on business. Then look at all of your options for changing the Committee structure with the vital need to promote and protect business especially small business in mind. Let me emphasize that I am in strong support of congressional reform. I propose two major changes in the organization of our committees. First, I believe committees could be further downsized. Five subcommittees, in some cases four should suffice for most committees. The Small Business Committee should be downsized by a similar amount of course.

Secondly, I believe the Small Business Committee should be retained with its legislative and investigative jurisdiction substantially and appropriately broadened. In recent years the Small Business

Committee has reduced its funding to a very reasonable level and maintained a two to one Democratic-Republican staff ratio. One of the things I have tried to accomplish since becoming ranking Republican member is further reducing the number of staff persons and funds spent for minority operations of the committee. My commitment to running a lean and mean committee is exemplified by the fact that I have reduced the number of staff positions from 13 to eight. I think it is still listed in most lists as 13 but voluntarily I have reduced it to eight and I have cut salaries from the previous Congress saving approximately \$300 thousand.

Now Mr. Chairman, reform however it is structured in this Committee really begins with us and reform has already begun in the Small Business Committee. Reform that eliminates the only Committee in Congress which provides a form and a focus for the problems of small business, our Nation's job supplier is not a positive step however. Our Nation's 20 million small businesses employ 50 percent of the private work force, contribute 44 percent of the sales, responsible for 47 percent of GNP. They create 75 percent of the 43 million jobs we will need over the next 25 years and are responsible for 67 percent of our Countries initial job opportunities. Small businesses produce twice as many innovations as large firms. Women own slightly more than 30 percent of all U.S. businesses. Minority owned small businesses generate \$60 billion in gross receipts and provide 836,000 thousand jobs. Vital, growing small businesses then mean jobs, innovation and opportunities and as such small enterprises must be advanced and defended on every front for our economy to prosper and expand.

Now unfortunately the small business community much like the Congressional Small Business Committees has a lot of cheerleaders but very few die hard supporters when push comes to shove. In today's campaign climate small business is certainly not a major player when it must compete with big business and labor. Are you aware that although small business encompasses the entire spectrum of commerce and industry in the Country the legislative jurisdiction of our Committee is limited basically to one law and that is the Small Business Act. I would like to briefly explain the important work carried out on a daily basis by our Committee often against great odds as we work outside of our Committee's legislative jurisdiction and in our oversight capacity to change public policy for the better. More details on our activity is contained in the longer written statement. I would also like to make some general comments about the Small Business Committee and about the Library of Congress document of the Joint Committee provided to every member of Congress.

I am not going to go into detail about the various SBA programs at this point. But I would like to highlight our recent activities regarding the Seven A Loan Guarantee Program as an example of our ongoing efforts. We are working with the Clinton Administration in an attempt to provide 6.6 billion in guaranteed loan authority. As you know it takes about 50 million in appropriations for every one billion in Government guarantees. Thus the 6.6 billion will cost the Government 330 million. According to the SBA the 330 million in expenditures should provide loans to 26,000 small business and create or preserve 639,000 jobs. I want you to know

that comes to \$516 per job and a lot of you have heard about various packages that have been introduced in this Congress that would produce jobs at \$15,000 per job. This is \$516 per job.

One wonders where this Nation would have been in recent years without this lending program. Banking laws and regulations have really constrained our Nation's banks in recent years and we have attempted to provide safety and soundness. Perhaps we have gone too far. But even in the best of times you are not going to find many banks extending great credit to small business and we at the Small Business Committee have been pointing this out for years.

Our Committee over the years has been the driving force behind major laws such as the Paper Work Reduction Act and this Act requires Federal Agencies to eliminate unnecessary paper work requirement and requires the agencies to consider the impact of any new requirement. We have also worked for the Regulatory Flexibility Act which requires all Federal Agencies to consider the impact of proposed regulations on small business and we have worked towards the Equal Access to Justice Act which allows individuals such as small businesses who have successfully defended themselves in a lawsuit brought against them by the Federal Government to recoup their attorney's fees and other expenses. In addition we have pressed other Committees to amend laws from the Export-Import Bank Reauthorization which now requires a ten percent set aside for small business and to the False Claims Act which is the Whistleblower Statute. Much of our Committee's effort mirrors the words of the Small Business Act to aid, counsel, assist and protect small business concerns.

Let me give you briefly two examples of how our Committee works to perform our mission and this is aside from legislation. Anyone in business can tell you that our Nation's tax system is one of the most complex and burdensome known to mankind. Despite this small business has a very difficult time getting its voice heard before Congress. In an effort to get something done our Committee approached the Internal Revenue Service and asked them to revamp the payroll tax deposit system. After a year of effort the IRS issued a rule. Now surprisingly just about everybody involved in the process approved the proposal except for some members of the Small Business Committee and we said "It is still not enough." The IRS's original revision would have done little to reduce the \$1 billion per year in penalties that small business was paying because of the twisted rules. Therefore, we at the Small Business Committee pressed the IRS for further change. A public hearing was held at the Treasury Department. The IRS took our concerns to heart, rewrote the rule to create a truly simple and workable payroll tax deposit system while all of this effort needless to say, received little if any press or notoriety. Millions of businesses were helped. Tens of millions of employees were helped and this just went into effect last January. So as you do your town meetings if some of your small business people come up and thank you for this, that is what they are talking about.

Years ago our committee began the Small Business Innovation and Research Program in an effort to direct 1.25 percent of the Federal Government's extramural research and development budget for exclusive competition among small businesses. This also



left a 98.75 percent set aside for the Nation's universities and Federal laboratories to the tune of \$15 billion annually. Last year when it came time to reauthorize the law other Committees said we could reauthorize but not increase this amount and this was despite the fact that after 10 years numerous studies had shown that was performing well. No one was doing any studies about the 98.75 percent of the research set aside for universities and Federal labs but subsequent problems revealed in that program indicate further oversight was desirable. At any rate, due to the efforts of the Small Business Committee we now have up to 2.5 percent of our taxpayers research dollar going for real usable product. Without our Committee's effort the figure would be going down not up despite the record and merits of the case. These have been only two of the many, many examples of what the Small Business Committee spends its time doing.

A couple of other important activities spring to mind and I am sure all of you will remember these when considering small business action. Our repeal of Section 89 and the Auto Log debacle. Both were legislative proposals with good intent but disastrous consequences for small business. I must say and perhaps immodestly that without the dogged determination of our Committee to fix these problems they might still be in place with all their horrible side effects today. The leadership, particularly for repealing Section 89 which had a good goal and was not at all a bad goal to pursue but the way we did it in Congress resulted in 44 pages, single spaced of regulation. It meant that one of my bankers at home that employs maybe 20 people, medium sized bank, had to put on an extra person just to deal with Section 89. It was the leadership of the Small Business Committee I think, that finally got that repealed.

I hope that I have shown that much of the Small Business Committee's work is not centered around passing volumes of laws. Much of our work is done outside of our Committee working with Regulatory agencies to improve these guidelines and to implement rules. However to perform even better our Committee should have an expanded jurisdiction. Urban and rural economic development and human resources issues would be one good place to start. Members need only recall the flurry of activity surrounding the Americans with Disabilities Act. That is a concept I supported and voted for as did most of the members of the House. Our Committee had no say in that activity. As a result a law was passed with vague legislative language and implementing regulations so voluminous that a flood of incredible litigation is already underway. That is not what we had intended in Congress. I would hope you are hearing from your small business constituents on this subject as I am hearing from mine.

Turning to the study prepared by CRS I reiterate that I support the initiative to reform Congress but our question has to be what is the intent of the reform? We need to make Congress a vehicle for improving our Nation and that means improving opportunity and the economy and that is impossible without small business. The people in our districts are looking to us to fix the way we do business. I agree we have a unique opportunity to accomplish that goal but our idea of reform really has to be more than making some ex-

pedient cuts in a few small Committee's and then going back to our districts to tout ourselves as reformers. The overwhelming cry I hear from my constituents is "Give us less Government." A reform proposal that does nothing to trim the large powerful Committees and the spending driven ways of recent decades is really no reform at all.

You ask us for suggestions so let me offer a few. Is it possible to merge the Committee on Ways and Means with the Joint Economic Committee and the Joint Committee on Taxation? These Committee's are all important. They may be somewhat duplicative and they are meant to accomplish the same end. Is it possible to merge the Committee on House Administration with the Joint Committee on Printing and the Joint Committee on the Library eliminating these last two as separate Committees. Three, add Travel and Tourism and Urban and Rural Economic Policy Development to the Small Business Committee's legislative jurisdiction. Rename it the Committee on Small Business and Economic Development. This will tell the country that we recognize that the best economic program is not just housing projects and highways but real small business growth as well.

Mr. Chairman, I admire the work the CRS staff did informing the scholarly option paper. They have done an excellent, incredible job under the circumstances. I do believe however, that the formal request letter for the paper should be made public so all members can ascertain exactly what proposals are on the table. For example, I was told that at Tuesday's hearing the CRS witnesses under questioning said that they had developed some models which were not included in the paper we received. I would be interested in reviewing those proposals. Now I can understand why small business is not included in all of the models prepared by CRS certainly such as Proposals A and B which are budget process driven reform models. I can also understand why we are not included in those two, and I can not remember their letter numbers now, that reduced our present 22 Committees to eight committees and 12 committees. That changed the total structure of Government and of the Committee system and obviously if you take 22 Committees and reduce them to eight Small Business is probably not going to be one of them. I should point out that Small Business is not eliminated in all of the CRS models. I think that we are left in three of them and in one of them we are called Entrepreneurial America. It is the same jurisdiction but it is a different name.

So that accounts for eight out of the 14 models however, certain plans in which Small Business is given short shrift just do not reflect the real world. In the real world our Government makes business and the free enterprise system possible and business makes taxes possible. It is such a relationship between the free enterprise system and small business and we ought to have a Committee that provides a focus and a forum.

Mr. Chairman, I would like to conclude by saying that reform of an institution such as Congress that is fraught with tradition and strong opinions is not an easy task. I offer my admiration and my sympathies to those who have been charged with this task. Melding wide ranging points of view into a plan for real reform no doubt requires some degree of discomfort. As the popular advertisement

states, no pain, no gain. However, I must strongly reiterate my point that eliminating a Committee like Small Business in lieu of making real substantive changes in Committees in which most of the money and staff is concentrated is simply tinkering around the edges. Rolling up your sleeves and delving into these issues is the only way to develop a meaningful reform proposal.

The Small Business Committee has not indulged in pork barrel spending or worked to draw huge pack donations to members coffers. We have not reached for unearned power or engaged in battles over turf. We have however gone about our business as best we could doing all we could to protect and promote our Nation's most valuable resource, small business. What the Committee realizes and what all of Congress should realize is that our Nation's small business owners in dedicating all their energies and talents to the creation of jobs innovation and wealth do not have the time and the resources to be constantly vigilant to the spread of the Government into the workings of their business. You know them as well as I do. They are the hard working constituents who can not afford full time Washington lobbyists and lawyers. In fact, sometimes even their associations do not have full time lobbyists and lawyers. Rather they make appointments to meet us back home in our districts or maybe they make that once a year trip to Washington with others from their industry where they get one of those briefings on issues and make visits in your House or Senate offices. And then it is back home again to tend to business hoping that their message got through and that members will heed their opinions and advice in the coming year.

With this picture in mind, let me say to you if ever there was a constituency that needed a voice in Congress it is this Nation's 20 million small enterprises who day in and day out do the work of keeping our economy free and effective. The work of the Small Business Committee is to make sure their voice is heard when Government is too busy to listen and entrepreneur's are too busy to remind them. Thank you for the opportunity to present my views before this distinguished panel. I welcome any questions or comments that you might have.

[The prepared statement of Ms. Meyers is printed in the Appendix.]

Chairman HAMILTON. Well Jan, thank you very much. That was a very strong and powerful statement in support of the small business community and a strong defense of the House Committee on Small Business. We appreciate that very, very much. Congressman Dreier asked me to say to you that he wanted to be here for your testimony but the Rules Committee had an emergency meeting called at this very hour. So he was not able to join us. I certainly commend you for the work that you have done on that committee and for the effectiveness and the accomplishments of the committee which you have set out so very, very well.

Senator Lugar for questions.

Senator LUGAR. Thank you very much, Mr. Chairman. Ms. Meyers I agree with you that the advocacy for small business is of the essence and that frequently it clearly is not there in either the House or Congress. I commend you and your committee for the specifics that you have mentioned today. I want to ask as a practical

matter because there are at least two issues coming along and probably many others in plans the Administration now has broached with the Congress even if the details are not certain. Specifically in the health care reforms that may be forth coming from the Task Force. The thought is there that each business in American whether small or large might be mandated to provide a Health Care Plan and that is of considerable interest to many small businesses who claim that if so mandated they will go out of business.

A second thought which is coming through in Tax Legislation although it is submerged in the general issue of taxes on the wealthy and not a great deal of comment has come in that area. But in fact include most small businesses that are now Subchapter S Corporations. In other words, corporations taxed as partnerships in which essentially all the profits in the business go into the individual returns of the stockholders. They pay taxes on that and in most cases leave the money in the business. That brings about jobs and the growth. The point that has not been made adequately is that taxation on the Subchapter S Corporations even while the Administration and others even might be trying to find money from the wealthy is in fact going to decrease the potential for growth in this Country substantially. I would cite Allen County in my State of Indiana. The County in which Fort Wayne is located, the grass roots. There are 7200 businesses there of all sizes. Thirty-nine percent are taxed as Subchapter S Corporations. This is not a small problem.

Now my question is as I see the current analysis and we just heard from Senator Rostenkowski of House Ways and Means earlier this morning. Probably the Subchapter S question is going to come as a part of the mandate for reconciliation to his Committee and the Finance Committee in the Senate. Probably in the case of the Senate at least, the mandated Health Care issue will also go to Finance. Maybe to Human Resources but it will probably wind up in Finance. How does the Small Business Subcommittee in the House or in the Senate impact upon these issues which are so critical they may in fact cause the termination of thousands of businesses all over the Country while someone is seeking justice in Health Care or in more progressive income tax system?

Ms. MEYERS. Well, those are both excellent questions. Let me start with the last one first. I think we desperately need a lot of education about that tax picture. In raising that individual rate from 31 to 36 I think a great many people think that this is just going to effect high income individuals whereas actually all individual proprietorships, partnerships, Subchapter S Corporations, all those who are not incorporated pay taxes as individuals. So by the time you build your business costs into that individual income tax you are over the threshold. It will increase your tax rate from 31 to 36 and someone has said that a very high percentage of those that will be affected by this increase are not wealthy individuals but are indeed small businesses. It is a figure Mr. Chairman that I can not remember but it is something like two thirds of those affected by the increase from 31 to 36 are small businesses.

I think we need to make sure that business understands that so that they can comment on it appropriately as these measures go through. To some of them it may mean whether they are able to keep their doors open or not. As I said Mr. Chairman at the begin-

ning of my statement, we simply have to create the kind of a climate in this Country that encourages small business. I am hoping that we have some hearings in the Small Business Committee on the impact on that one aspect on small business.

The other question that you ask about mandated benefits under the Health Care Plan. I think the vast majority of small businesses really want to offer health care to their employees. It makes them more competitive and they just want to be able to do this. A lot of them we have found by surveys do not do it maybe not because of current costs but because of fear of future costs. They have heard the horror stories about businesses who adopted a health care plan for their employees and then their costs were doubled a year or two later and they just could not afford that. So I think what we have to do is make sure that we get some stability into pricing and then I think many more small businesses would offer without a mandate. I want to encourage a 25 percent deduction. I would like to see it enlarged to a 100 percent deduction. I understand what Mr. Rostenkowski said about how that is really very costly to provide the full 100 percent deduction. On the other hand if we could get more small businesses to offer health insurance it would certainly help decrease our Medicaid bill in the various States. So there is some offset. It is interesting to note that of the 36 million Americans who have no health insurance whatsoever, that is men, women, children and everybody that 26 million are in a family where someone is working. So that if we could really broaden the base of the small businesses that could offer health insurance I think we could go a long way towards resolving some of our problems.

Chairman HAMILTON. Thank you very much.

Mr. EMERSON.

Mr. EMERSON. Thank you, Mr. Chairman. Ms. Meyers, you have made a very full and expository statement about the Committee on Small Business and I thank you for it. I think that your statement will be very, very helpful to this Committee as we move forward. You are well aware I am sure that there has been some recommendations made by some scholars who testified here that Small Business be merged with the broader Committee but other witnesses who testified, most notably Mr. Combest here this morning said that he did not have any problem with a merger provided that the small jurisdiction remained in focus. Would that be your general attitude also or do you feel that it is imperative to have a separate Committee on Small Business?

Ms. MEYERS. I think it is imperative that we have a separate Committee on Small Business. I noticed in the CRS on studies that under Banking for instance with which it is merged in two or three of the studies, it listed the responsibilities of the Banking and Housing and Urban Development Committee and there were some 35 or 40 responsibilities there. Now to relegate Small Business to one of 35 or 40 responsibilities of a major Committee to me is unthinkable and not in the real world. I think that business is what makes so much of what we here in Washington do possible. When we want to offer family and medical leave so people can stay home with their families and that is a very positive thing to do of course, then it is small business that has to figure out. Now here I am with

60 employees. How do I offer my employees 20 weeks off a year and still provide for full service? How do I do the job training for the people that are going to take their place? How am I going to continue to pay the benefits for these employees who are taking 20 weeks off when I am just hanging on by my fingernails anyway? We give this responsibility to them. We just say "You do it." And, we have done this so often to them. Think about the last few years and I am not against these programs. Most of them I voted for. I did not vote for Family and Medical Leave but the rest I voted for. But think about it. Civil rights, ADA, Clean Air, all of the mandates that we put on business. Now some of those mandates if you are a firm with 1,000 or 2,000 employees with your own attorney's and your own CPA's maybe it is not so hard. But if you have 60 employees and you have to figure out how to change your business to accommodate all of these programs that are mandated, that is a tremendous responsibility that we give them.

Mr. EMERSON. Thank you.

Chairman HAMILTON. Thank you very much. We have appreciated your testimony and it was nice to have you with us this afternoon.

Ms. MEYERS. Thank you very much. I do not envy you your job.

Chairman HAMILTON. Well, you have been helpful to us. We appreciate it.

Chairman HAMILTON. Chairman Miller is the next witness. We extend our welcome and appreciate your taking the time to appear before us today and look forward to your testimony. You may proceed, sir.

#### STATEMENT OF HON. GEORGE MILLER, A U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. MILLER. Thank you to you and the committee. I hope I appreciate the task that you have undertaken. It was the motto of the Starship Enterprise to go where no man has ever gone before. This committee is going where many have gone before and have not fared well. But I admire your taking up the challenge and I think it is very clear, if you look at the membership of this committee, your reputations and your dedicated service to this institution ought to serve all of us well.

I think this committee is recognizing the obvious that we all know, and that is any analysis of this institution, the Legislative Branch of the Federal Government, demands we reform this system. We cling to tradition and to precedent and to arbitrary decisions made in the past that have no relevance today to decide upon our committee organization and jurisdiction. Yet, we see that the issues in the world that this institution continues to struggle with have become far more complex and many of the players have changed. Mr. Chairman, you are the new Chair of the Foreign Affairs Committee and you inherited a much different world than your predecessor did. I think you probably find in the administration, and Mr. Lugar, in the administration of foreign affairs today that the Secretary of Treasury and the Secretary of Defense are as more a part of your team than they ever have been in the past, and I am not sure who is more powerful in today's world.

But we don't address the policy in that comprehensive fashion. I am the new Chairman of the Natural Resources Committee. The whole historical way we have done business on that committee, the manner in which we have divided jurisdiction in this Congress defies what the scientists and others are telling us we must now do in order to provide for the proper stewardship of the natural resources of this country. And as we see now, we have relied on the traditional splitting of trees away from the lands and the oceans away from the rivers and that no longer functions today. Yet, we classify some trees for the purposes of committee jurisdiction as a matter of a crop and we classify others as a matter of preservation scenic beauty. I don't know why, but we do.

If we are going to address these problems with the idea of arriving at serious and hopefully somewhat long-standing solutions, this committee system must be reorganized. I cannot tell you anything that you have not already hear. The considerations about the size, the number, the subcommittees, the jurisdictions, the realignments that are necessary, I suspect all of it is true. Your job, unfortunately, will be to sort it out and to place some priorities on the various recommendations.

I think clearly we have too many committees. I think clearly we need the consolidation of committees. I think clearly we need a further limitation on subcommittee assignments. I think clearly the notion of temporary assignments so dissipates the energy and the ability of members to focus on subjects that we're not well served either as an institution or as a Nation. I think that while I say that, I don't know that I concur at the moment with the idea of a very few super committees because I think there is a creative tension that is necessary in the legislative deliberations within the House and the Senate. So I don't know that you want to put everybody of one like on one committee. But clearly along the lines that you listened to, I think it was yesterday, from Professor Ornstein and others, there is a consolidation that is necessary. There are jurisdictional determinations that simply cannot justify the expenditure of the taxpayer's money or of the allocation of staff when we are engaged in the fiscal concerns that we are in this Nation.

I would also ask you to keep in mind that as you look at the consolidation and as you look at restricting membership on both committees and on subcommittees, that I think that demands an opening up of the floor process—and I speak now to the House—that when I first came here, you knew that if you had a vital interest and concern, or your constituents did, in foreign affairs or in energy policy or in natural resources, you would have a pretty good chance of getting an amendment on the floor to address and articulate that and get an up or down vote. Today that ability of Members of Congress is dramatically dissipated by the restrictions in the rules. I also suspect that this is what constantly stirs the furnace of discontent among the minority in the House. They represent as many people as we do, they are as concerned about this Nation as we are, and we certainly have no lock on all of the wisdom or all of the ideas on how to solve these problems. Yet, the ability to go and get an up or down vote of your peers on those ideas and issues and solutions has so diminished over the last four or 5 years that I don't think you can either put an end to discon-

tent or rationally talk about restricting member's abilities because now you join a subcommittee, you ask for a temporary assignment so you can have a place holder so you can be a player in an issue that people in your district are concerned about but, in the real priorities, you have to go off and do something else on a major committee or minor committee selection. We have to get away from that.

The floor ought to be a place of open decisions and debates. That is not to suggest no closed rules. Again—it really troubles me to keep saying when I came here—but when I came here a closed rule was more or less reserved for the Ways and Means Committee for major tax bills. But we hammered our agricultural policy over a number of days, we hammered out defense policy over a number of days. We operated under the five minute rule and you could have debate, you could challenge and cross-examine those who had different positions than your own. All of that has gone by the wayside. All of that has gone by the wayside. And it will not be a substitute for that real debate with real votes with real accountability to start arranging Wednesday night debating societies. I don't think that is acceptable to the minority and I don't think it should be acceptable to this institution. We ought to have access to that floor, either as a minority in my own party or as a minority in the Congress, to articulate these views and to have the vote.

The Senate has even a much worse process, as we witnessed in the last couple of days. You have the ability by a super majority to simply prohibit a vote from taking place. What we castigated them for doing in terms of the filibuster we do under the rules essentially but not with the super majority. But we close off the debate in that fashion.

So if you are going to reduce the number of committees and restrict the ability of members to participate in various arenas, you must then open up the end of the process for members whose constituents have that legitimate concern, want them to speak out, want them to try to alter national policy. This institution has been through a series of very tough debates. I came and we debated the end of the Vietnam war and people tried over and over again and they weren't successful until my class came here and provided the votes to end that war. But people had a right to go to the floor and get a debate and get a vote on whether that should be done. Democrats started to flee when amendments were added "no aid to Cuba", no money shall be used—you remember the language of the appropriations process. Now you must get a vote to rise and you must jump numerous hurdles to get your concerns articulate. That cannot be the people's house.

So while I think it is terribly important to consolidate, to restructure, and to realign the committees—and you must do it. I'm not trading one for the other; I am asking that you open up the rules process, that you open up the ability. And let us not pretend that it is a matter of time in expediting these matters. There are two things we know about this institution. In a crisis, we can usually respond rather quickly; and with tough leadership, either institutionally or at the Executive level, we can respond quickly. This year's budget bill, the stimulus package moved through this institution, not to a conclusion that I liked, but it moved through this



institution in a rather expedited fashion. We did it with the energy bill. All of these crazy jurisdictions that we're complaining about, when the Speaker said that the energy bill would be on the floor by a certain date, Mr. Dingell, Mr. de la Garza, myself, Chairman Jones at that time, and others, we reported that bill on time with the rules, with participation, with amendments, and the Senate did likewise, and Senator Johnson and others pulled that conference together and the bill went to the President's desk.

So this cannot be a substitute for leadership. Leadership is something that is still required in this institution. Some would argue, I guess you have heard the arguments, that maybe we have diffused that leadership too far.

That is really the gist of my comments. I must tell you I really lament the absence of meaningful and serious and real debate. By that I mean debate that leads to a vote up or down on an issue or a controversy. We cannot shy away from that. That doesn't mean every amendment should be made in order, but clearly we cannot do what we are doing now. And the allocation of time—10 minutes a side, no chance for rebuttal, no chance for cross-examination, no chance to examine the veracity of the statement made because nobody can afford to yield because they only have 30 seconds or a minute. What happens? Members are not participating in that debate; if they are, they are reading pre-written one, 2, and 3 minutes speeches that really aren't there to enlighten and to pull apart the complexities of the problems addressed by the legislation on the floor.

So I think this is a two-part solution here. I am getting redundant, aren't I.

[Laughter.]

[The prepared statement of Mr. Miller is printed in the Appendix.]

Chairman HAMILTON. Thank you.

We will begin questioning with Senator Lugar and then Mr. Emerson and then I will have a few questions.

Senator Lugar.

Senator LUGAR. Thank you very much, Mr. Miller, for a terrific presentation of the desirability for openness, amendment. That is an intriguing possibility. I suppose members of the House on this committee will have to wrestle with that in particular. Just in a topical framework, and I do not want to debate the merits of the stimulus package, but I suppose that in our own body we have our checks and balances in which some of us who question what a dire emergency supplemental actually is or what sort of budget constraints we already impose noted that all of those were cast aside rather rapidly in the process of discussing the stimulus. As a matter of fact, I have only been here for 16 years but I have never seen a filibuster succeed if clearly there was a public will out there to pass legislation.

The reason the stimulus failed was that all of our offices were receiving an overwhelming amount of mail and calls opposed to it. I just make that point as a part of our democratic process. One thing the Founding Fathers suggested was, in the cooling of the tea in the saucer and what have you, that if there is time for the public to reflect, the public is heard. In this case, the public was

heard at least by those of us who were conducting the filibuster and that strengthened I suspect our resolve substantially, notwithstanding the fact that the public as a whole would like to give the President a chance and would like to see his Administration succeed, and I think that is apparent and was reflected.

Let me just comment that I am intrigued how as a practical matter, given the 435 membership in the House, unlimited debated or something akin to what you are suggesting you saw when you came, could take place. The counter argument is that the body is unwieldy with 435 persons all wishing to offer amendments on every subject and the leadership would say, in fact, there is no way that you can make it from A to B under those circumstances. What sorts of guidelines would you suggest to our committee if we were to have a try at attempting to open up the House debates to the amendment process you've suggested?

Mr. MILLER. First, I would say that is currently the rule of the House. That rule is overridden. It is not unlimited debate; it is your right to have 5 minutes to articulate your view. You must then get unanimous consent to extend that period of time, recognizing that we have 435. I suspect our debate is far more limited even under that rule than debate in the Senate in many instances. You do not have a right to have every amendment offered. I am not suggesting that at the moment.

There is an internal governing situation. I have participated in many debates, Congressman Hamilton has, where simply the institution has decided they have heard enough and they vote to cut off debate at that point. It might be after an hour, 2 hours, 3 hours, what have you, you simply move that all debate shall end at a given time and in some instances the House must vote to end debate. But the opportunity to be heard was rather extensive before that time. That is the prerogative of the floor manager, the chair. That has worked well and there is no evidence under the tightly structured rule system that it took any less time to consider the defense bill under the crazy quilt rules of the 1980s than we had under the 1970s. So there are internal mechanisms. I can tell you, try getting up and repeating what the person at the mike said at 10 at night in the House of Representatives. You will get a motion to limit debate and the House will vote. I used to vote with the minority not to limit debate because I felt it was wrong. But those mechanisms have never been a problem. And the five minute rule is the ordinary rule. It is overridden because of our haste to meet Thursday afternoon flights, or we don't want to face an unpleasant amendment, or we don't want to hear from the republicans, or we don't want to hear from the left wing of the democratic party or the right wing. That is not what this institution should be about.

That is far different than what took place in the Senate. In the Senate you in fact denied a vote on the stimulus package. You made up your mind that the country was against it so you used a super majority to deny a vote of the majority as to whether or not that stimulus package should pass. That is a far different item. You, in fact, stood in front of the ability to have a vote. That is what our Rules Committee does by time. But even in the House, if you deny me a vote, a majority of my colleagues can extend me

that right, not two-thirds, not 60, not a super majority. You denied the right of the Senate to vote on a bill that you said the country didn't like. But a majority of members of the Senate did not get a chance to reflect their views of their constituents. We all represent—well you guys don't—but we all represent the same number of people. So that's a different process.

Senator LUGAR. Mr. Chairman, let me just extend the debate for a moment by indicating that—

Mr. MILLER. This is how it works, see, you extend the debate.

Senator LUGAR. That's right. In fact, the filibuster could have continued on longer and, in fact, there might have been a resolution. It was the will of the majority party to pull the bill down as opposed to just have additional time. That's the way it works. I have been involved in filibusters that went on for 3 weeks at times.

Mr. MILLER. It was a will of the majority in the Senate, 51 members of the Senate, to vote for the stimulus package.

Senator LUGAR. Well, only temporarily.

Mr. MILLER. I admire your creativity and I admire your success but I am not suggesting that it is right.

Senator LUGAR. That is the Constitution. Essentially, this is what—

Mr. MILLER. It is the rules of the Senate, it is not the Constitution.

Senator LUGAR. Well, in any event. My other line of questioning was with regard to jurisdiction. You made a good point at the beginning in terms of your own chairmanship of the field of study that you have or that our chairman, Chairman Hamilton, has with regard to foreign affairs in the House and how the Secretary of the Treasury defends, others. This led me to wonder if we were to make a change in jurisdiction, Congressman Rostenkowski advised us earlier this morning, this is more than we should tackle. To get into that would be to doom perhaps the entire enterprise. But if we were to be so bold as to do that, would we go for objectives of our Government. For instance, one of our objectives is defense, maybe another is protection of the national environment, agricultural production. If you do it by geography, that fails. We can't deal with Japan as a category without saying why are we dealing with Japan. Is it a trade issue or a domestic problem. And by category, there are problems. As you suggested, a tree is divided into the agricultural uses as opposed to those who don't want to cut it down or touch it at all and have a different view of nature and all. How would you suggest that you proceed so that you begin to get the sense of wholeness that you were implying?

Mr. MILLER. I don't want to step on his testimony, but I don't know if you heard from Chairman Glickman of the Intelligence Committee or not.

Chairman HAMILTON. We did. We heard from him earlier today.

Mr. MILLER. We talked yesterday and he talked in terms of making it functional. I played with this some weeks ago and I came up with sort of the super committee theory but I decided I was wrong. What I was trying to do is consider how do we look at the United States or how do we look at the world. Correct me if I am wrong, but you basically have subcommittees on Africa, subcommittees on Asia, near Asia, far Asia, however you do it; Latin

America. You divide the world up geographically I think more or less. But how do we deal with the world? We deal with the world in terms of military defense and I guess monetary or economic issues. We don't really deal with them, as you said, geographically. Chile, you may not quite get there but if you look at what is going on in terms of Japanese investment and access to markets and NAFTA and all this, you may not want to reserve its place to only those people who are thinking about South America. You may want to think that it belongs to people who are thinking about the economic interaction between Japan, Mexico, the United States, and Chile. We are caught in these old geographical binds. The cartographers can't keep up with it. Why do we think we can by dealing with boundaries?

Telecommunications, natural resources—we now think that to save the Everglades National Park we have got to essentially move the boundaries. We won't move the boundaries but we'll move the management 150, 200 miles north all the way to the end of the Keys because that is what the real system is. We thought we could just preserve the park. Yellowstone we think runs from now the Canadian border. We won't move the park boundaries but we have got to consider the management. I don't know where the boundary of Western and Eastern Europe is and I don't know where the boundary of the Middle East and the Far East is because it is superseded by computer transactions in banking and in telecommunications. But we're sitting here saying, "Wait a minute Spain, get back inside of your boundaries". It won't work that no matter how good we think we are. I cannot keep the spotted owl from moving across the State line between Oregon and California. And I cannot keep the Columbia River from running from Idaho to the Pacific Ocean, and if I screw it up in Idaho, it won't matter what happens to it when it gets to Washington.

Senator LUGAR. Agreed. But how really can——

Mr. MILLER. I think when we look at it now, we know we look at resources more comprehensively. So as I said, I think that we need—I don't want to tell you your business—but in foreign policy, obviously economics and defense are much bigger players. Should they be in fact together? Should there be an international committee. Relations is now the wrong word because that was Government-to-Government, boundary-to-boundary. I don't know the mechanism. For us, we still talk natural resources. Maybe there should be an ecosystem committee. I don't know. But clearly the way we have split up the jurisdictions between BLM and Forestry Service, the way we have split up lands in Alaska are treated differently than lands in the lower 48. It is not working and what you end up with is turf battles, ego massaging, and not a lot of legislative solutions to very, very important problems.

Senator LUGAR. Thank you very much.

Mr. MILLER. I don't know if I helped.

Chairman HAMILTON. Mr. Emerson?

Mr. EMERSON. Thank you, Mr. Chairman.

George, you were making a very interesting point in responding to Senator Lugar's next to last question in your expressions about the filibuster. It occurred to me that what they did in the Senate by employing the filibuster is a version of what we in the minority

experience in the House darn near every day of the week. Sure, there was a denial of an ultimate vote there in the Senate but we practically never get a vote, as you well know and you have been an ally on occasions in the past, on issues that are of importance to us. We don't get it out there for debate. I happen to agree with you strongly in your lamentation on the absence of debate in the House and the opportunity to get different issues out there for a vote so we can really test where it is that we want to go.

In one of their earlier statements, some scholars we had from some think tanks, I think it was Ornstein and Mann suggested that a way to break the impasse in the House over the closed rule issue would be to simply give the minority, depending upon the magnitude of the bill, three amendments or four amendments or five amendments and say, OK, you structure your amendments. We are going to have a half hour on either side to debate them but you will be able to put your proposition. I understand the majority wants to move legislation and get the job done and the minority can obviously be very obstructionist if the rules were to permit that and we have got to have some orderly flow. So I understand why there is the conflict. But what do you think about that Ornstein idea of letting the minority have, depending upon the magnitude of the bill, a certain number of amendments and let them structure them?

Mr. MILLER. I think two things, I guess like all politicians, never think one thing. It is somewhat similar to a proposal I know that is going back and forth among the leaderships about rules and special orders and it is all part of that about assigning to the minority leader or the ranking member of the committee the right. I have to say that I am intrigued by it because I think the ranking member, as you know, has to distill and sift out the debate within his own committee just as the chairman of that committee must do. You can be a governor on that process and the minority leader, just as the majority leader, can be a governor on that process.

I guess as the majority we like to think that we have the obligation to make the place run. I don't know that I am willing to assign that on an entitlement basis that you get any amendment that you think up, also because I respect your creativity in terms of a political sense, but it certainly ought to be a presumption that the minority has a right to say, OK, we had 50 amendments but these 3 or 4 are very important to our members. And if the minority leader represents that to the Speaker, that's got to be given some weight. You do represent a considerable number of Americans.

And so I don't think I would give that to you as your right as I have seen it written in the negotiations, but clearly there has got to start to be some presumptions about the participation of the minority.

Mr. EMERSON. That's very thoughtful commentary and I accept that. I think that is very positive. You raise the issue of Special Orders, I think we ought to just leave Special Order alone. I know they are cumbersome to people who don't like them, but I believe we have got to have an opportunity for some uninhibited discussion to lay things on the record, to develop a rationale for why one does what they do. Some Special Orders are more interesting than

others, some more compelling than others, but I think that moving further to limit or restrict debate is a mistake. I am glad to see that you are for full and open debate within reason.

Mr. MILLER. I do not represent a political philosophy that would lead me to believe that I am going to win every vote I want or every debate I have, but I have a right to have the debate. And 70 percent of the people who voted in the last election voted for me and they have a right maybe to have me have a vote on those matters. I think I represent them and I suspect every member of your party believes they have that same right. It is not unrestricted but what is going on today is a travesty in terms of the history and debate and the free speech of this institution. It is done not for any high principles; it is done for convenience, it is done for scheduling, it is done for a lot of things. We have got the trains running on time but very often they are empty. So that just cannot continue.

Mr. EMERSON. Well you have made a very stimulating presentation here and one that I think will have good effect with the committee. Thank you.

Mr. MILLER. Thank you very much.

Chairman HAMILTON. George, we kind of anticipated having three committee chairmen testify this morning that we would hear three straight proposals not to disrupt the committee system in any way. But the interesting thing is that two of the three committee chairmen have requested that we act boldly in committee jurisdiction, you and Congressman Glickman.

We have got 22 committee I think in the House. What do you think, is 10 the right number or 15 or have you given any thought to that at all?

Mr. MILLER. I don't know that because I think that you have really got to start from the other end of it; and that is, what do we want to accomplish and how is it, to use Dan Glickman's word, functional. This place is never going to be efficient and it shouldn't be, I believe in that, but it should be functional in a way in which we address the problems and the complexities of our society.

Chairman HAMILTON. But you would end up with a lot fewer committees?

Mr. MILLER. I would end up with fewer. Somebody said Ornstein and those people suggested 16 as opposed to 22 or something. I don't take credit for the select committees, they are gone, let's start with where we are today. Clearly fewer.

Chairman HAMILTON. Larger in number?

Mr. MILLER. In terms of membership?

Chairman HAMILTON. Membership.

Mr. MILLER. I don't know because—

Chairman HAMILTON. How many do you have on your committee?

Mr. MILLER. I think its 45, 42.

Chairman HAMILTON. What is your sense of that? Is that—

Mr. MILLER. If they were all dedicated to that committee and they weren't temporaries, I guess we could function. My theory is if they are not interested in natural resources, they are not interested in foreign affairs. We all know agendas and interests change. New members come to Congress and they want to run to the Watergate Committee. Then they found out Watergate was over and

so they run here and they want to go to the committee that is going to save and S&Ls or not save the S&Ls.

Chairman HAMILTON. Is 42 too many?

Mr. MILLER. Again, if this is what they were doing, if this is what they were involved in and I could get quorums and I could develop the intellectual ideas, no.

Chairman HAMILTON. What is your general feeling about size of staffs? I am talking about committee staffs now. Do you think we could cut back committee staffs substantially or is it about right?

Mr. MILLER. Every time you are asked to answer this question you know you're outnumbered in the room.

[Laughter.]

Chairman HAMILTON. I just want to get your sense of it.

Mr. MILLER. Yes, I do. I clearly think if the jurisdictional lines were functional, we know that we have a certain amount of defensive capability in each committee which is to make sure that nobody comes on to your turf and that certainly would be somewhat less necessary. Yes, there is no question, the answer is yes.

Chairman HAMILTON. Let me ask you another question. What comments do you have for us with regard to your relationship with the Senate committees, conference committees, Senate rules. What is your experience there?

Mr. MILLER. As you know, I have led a fight and the rules have been changed along with Chairman Dingell and Chairman Brown. I think clearly the Senate chooses not to authorize any longer, not to reauthorize programs because they don't choose to address the policy issues—grazing fees, timber policy, very emotional in the west. They would rather just deal with an appropriations and take what they like, leave what they don't, and the House has no corresponding ability to do that in the appropriations process.

I think the Senate is engaged in a luxury that we cannot let the House be victimized by in terms of the necessary changes in governmental policy because of their rules. I mean, there you have many people who serve both on the authorizing committee and the appropriations committee and it is much easier to walk into an appropriations conference committee and slip something into the bill. We read about it in Reader's Digest and then we're embarrassed and then we try to overturn it. It is unacceptable. I think clearly the questions of authorized programs—and you certainly feel this within the Foreign Affairs Committee. The committee has not authorized Bureau of Land Management over the last 10 years and that is why we are stuck with this gorilla warfare on fees and those kinds of practices. But the Senate chooses not to because they will reauthorize it in appropriations some midnight before we leave town and they won't have to address the policies. So there is a real serious problem and I think it was recognized in the rules changes this year. It is recognized by Chairman Brown, Chairman Dingell, Chairman Dellums that this has become a serious problem among the authorizing committees within the House.

Chairman HAMILTON. OK. We won't keep you any longer. I hope we will be able to keep in touch with you as we proceed along.

Mr. MILLER. Thank you. And without keeping you any longer, a comment on the question of joint referrals. I do not think that one committee should be able to hold a bill from going to the floor if

they are not prepared to vote against it. If I pass it out of my committee, it should be a candidate to go to the floor and let Agriculture Committee vote not to have it go to the floor.

Chairman HAMILTON. I saw that. You recommend a kind of a time limit being put on.

Mr. MILLER. Yes, I think there should be.

Chairman HAMILTON. I noticed that in your testimony. I made a note of it as a matter of fact. I think that has a lot of merit to it.

Mr. MILLER. Thank you.

Chairman HAMILTON. Thank you.

The Joint Committee stands adjourned.

[Whereupon, at 1:05 p.m., the committee was adjourned, to reconvene at the call of the Chair.]



## COMMITTEE STRUCTURE

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TUESDAY, APRIL 27, 1993

UNITED STATES CONGRESS,  
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS,  
*Washington, DC.*

The committee met, pursuant to call, at 3:15 p.m., in Room HC-5, The Capitol, Senator David L. Boren (co-chairman of the committee) presiding.

Chairman BOREN. I apologize to the Committee Members. Senator Pell was called to the White House and will not testify today. Senator Chafee, our first scheduled witness, is with a group of Senators at the funeral of Mrs. Howard Baker in Tennessee and they were due to be back by now in time for him to testify, but the bus, I am told, is still not back.

We have a vote in the Senate supposedly at 3:30 and they might slip that slightly if they are still waiting on the group. The next witness that we know is here and ready to testify is Senator Leahy and he is due to be here at 4:15. So I suggest that what we ought to do is just recess until 4:15 and then come back at 4:15 and commence then.

And if Senator Chafee arrived, and we finish the other witnesses early enough, we might put him after the other witnesses. Otherwise we will schedule him for another day. But I apologize for the inconvenience.

Mr. DREIER. Mr. Chairman, I would just like to state for the record that my colleagues, Mr. Walker and Mr. Emerson, were here to start at 2:45 and they have had to take off and Ms. Dunn was scheduled to leave. I have a 3:30 meeting and I was asked by those that did leave that the record state that they were here.

Chairman BOREN. We will reflect that in the record. Again, my apologies that this has happened. I know they had planned to be back. Attending memorial services like that in another State, schedules sometimes get put back, so we kept thinking that they would be here, so I apologize.

We are circulating, are we not, possible dates for our retreat? I think the retreat is going to be very important for us because I think all of us have a sense of a lot of good ideas that have come to us, more all the time, and preparing to take action and we really need to meet together in an atmosphere in which we can have the time to reflect and to really not only reflect both about the substance, which is most important of what we want to do, and then reflect about the strategy and the best mechanism for achieving it.

Mr. DREIER. There have been some scheduling problems on that, Mr. Chairman, and I would hope that we could get a date sometime

during the month of June so that we could. . . . We are scheduled to have the hearing process completed in June, so I would hope that we could meet—possibly we are thinking about a Sunday or Monday between the 27 and 28 of June because a number of Members have difficulty on Friday and Saturday, that weekend.

Chairman BOREN. Right. That might work well. If anyone has not turned in scheduling information to us, please do so we can look at it, but I think we have had good testimony and I think there is a strong expectation that we are going to take significant action and it is just going to take a tremendous amount of thinking and reflection on the part of each one of us as we try to chart our course, and I think we really need to do that where we can think it through very carefully.

We will reconvene at 4:15. Again, my apologies to all of you.  
[Recess.]

Chairman BOREN. I think we will go ahead and begin and other Members of the committee are due to be with us. Today we continue our hearings looking at the committee structure in the Congress. After our opening hearing a week ago, we have begun hearing from Chairmen and Ranking Members of the current committees.

Over 40 such leaders have expressed interest in our proceedings, and for the interest of my colleagues and the public, we are beginning today later than our normal scheduled time due to the funeral proceedings for Mrs. Howard Baker, the wife of our former Majority Leader and Minority Leader in the Senate.

I know I can say for all of my fellow Senators that our thoughts and prayers are with our former colleague and leader and with the Baker family. I would also point out for my colleagues that Senator Nunn was scheduled to testify today. He had to cancel. We will reschedule his appearance. He has requested that we reschedule him.

Also Senator Pell was called to a meeting at the White House this afternoon so he will not be able to testify this afternoon as well. He has submitted his testimony for the record. Senator Chafee was also delayed in Tennessee in regard to the funeral services for Mrs. Baker, so he also will be rescheduled. Several Members of the committee have indicated they had to go to other appointments, but we do expect them to be returning with us.

We welcome as our witness at this time the Chairman of the Senate Agriculture Committee, Senator Patrick Leahy. He has been a Senator since 1974, serving the State of Vermont. He has been Chairman of the Agriculture Committee since 1987 and his other committee assignments include the Appropriations and Judiciary Committees. He has also served as the Vice Chairman of the Intelligence Committee as well, and it has been my privilege to serve with him both on the Intelligence Committee and now as a Member of the Agriculture Committee where he provides excellent leadership for the membership of that committee and excellent leadership on the issues which come before that committee.

So it is a special privilege for me to be able to welcome my Chairman, the Chairman of the Agriculture Committee, before our reform committee and, Senator Leahy, we would welcome any comments that you have at this time.

STATEMENT OF HON. PATRICK LEAHY, A U.S. SENATOR FROM  
THE STATE OF VERMONT

Senator LEAHY. Thank you, Mr. Chairman, and I do want to compliment you and Congressman Dreier for wanting to even have these hearings and to raise an issue that is extremely important. I might say, if I note on a personal basis, of course you and I met when you first came here to the Senate and I have been privileged to serve on two different committees with you, certainly on the Intelligence Committee where we worked very, very close together for so many years, and on the Agriculture Committee where we served throughout all the time you have been here.

And I might say without repeating some of the frustration you have expressed, I have heard some of your frustration about everything from overlapping jurisdiction to difficulties in making the Congress run the way it should, and you bring that special knowledge as a former governor to it too, knowledge of the difference between the executive branch and the legislative branch, but I think all of us feel, and I know Congressman Dreier does too, that the legislative branch could work more efficiently.

We talked about the gridlock in Congress but that is an ideological battle that I suppose none of us can handle, but I am more worried about the legislative process being slowed down by differing committee jurisdiction. I think of the number of bills that require sequential and joint referrals in the House as one example, and what it does when we try to bring these to conference committee.

Senator Boren, you recall in the 1990 farm bill, we went to conference in that. The House had 104 conferees from eight different committees. The Senate had five conferees all from the Senate Agriculture Committee. It is because jurisdiction did not parallel because rules were different. We had the five on one side, the 104 on the other, and frankly I heard from a lot of Members of the House who wish they had had five on their side because things would have moved quicker.

It also made it—aside from the overlapping jurisdictional problems in these House/Senate conferences, there are overlapping jurisdictional problems among Senate committees. The Committee on Agriculture, Nutrition, and Forestry, which I chair, has overlapping jurisdiction with other Senate committees in three principal areas: Forestry, food safety, financial instruments.

The Committee on Agriculture, Nutrition, and Forestry and the Committee on Energy and Natural Resources have jurisdiction over forestry matters. And the overlapping jurisdiction appears to rise from the fact that the Forest Service was part of the Department of Interior but then it was transferred to the Department of Agriculture in 1905 and so from 1905 on, apparently we have had this split jurisdiction in the committees.

If it wasn't for the nostalgia of the thing, I might suggest that it doesn't make much sense three-quarters of a century later. Agriculture has authority over forestry and forest reserves, wilderness areas other than those created for the public domain. The Committee on Energy and Natural Resources has jurisdiction over public lands and forests. In other words, they have federally owned forests.

Now, some would argue that jurisdictional duplication is eliminated, put jurisdiction in the Energy Committee. We see a lot of press coverage coming to federally owned forest issues in the west, your part of the country, but in fact only 21 percent of all forest land in the United States is in public ownership, both State and Federal, 21 percent. The bulk of nonpublic land is located in the east. To include all forestry jurisdiction in the Energy Committee, I think it puts a bias in forestry matters that we don't want as precious timber activities are moving more and more east. The referral wilderness bills has been worked out by the parliamentarian, so the proposed wilderness areas and lands that have always been part of the public domain go to Energy. Lands which are acquired by the Federal Government are put in the Agriculture Committee.

You compare activity, the Energy Committee has more legislative matters than Agriculture. If you want to equalize work load, then that would argue for putting forestry jurisdiction in the Agriculture Committee.

The second area of overlapping jurisdiction, food safety. Three committees, Agriculture, Labor and Human Resources, and Commerce. Commerce relates only to the inspection of fish, but then that has put jurisdiction, has made it impossible to bring about a comprehensive fish inspection system even though the Majority Leader of the Senate is directly interested in passing it. Then you have—with primary food, you have got Agriculture and Labor.

Agriculture inspection of livestock, meat and agricultural products, jurisdiction over human nutrition, home economics, food from fresh waters, school nutrition programs, and also we usually get legislation on pesticides. The Labor Committee, however, has jurisdiction over food safety derived from public health.

Now, where do the two go? And you can see the strains that come up. We are going to have Senate decisions related to the Delaney Clause which forbids even trace amounts of cancer-causing chemicals, including pesticide and processed food. Because of the nature of it, it will go both to Labor and to Agriculture. The same witnesses will appear before both, the same debate will be held in both. Possibly different results will come out, but I can guarantee you it will stall up the whole process.

If we want to consolidate jurisdiction, equalize work load, maybe food safety jurisdiction could be consolidated in the Agriculture Committee, or maybe a newly named Committee on Food, Agriculture and Forestry. The Labor Committee received referral of 374 bills in the last Congress. We received referrals of 199. There may be some equalizing work there.

And then financial instruments. Since at least the beginning of the century, agriculture has considered bills related to the commodities futures market. Now, more recently active regulated futures markets have emerged for a wide array of products including not only agriculture but energy, energy products, metals, commodities, securities, industries, pollution rights, lumber, foreign currency, a variety of financial instruments and interests.

I mention one, pollution rights. Can you imagine, anybody figure out how in heaven's name you are going to put those in one? We didn't even know what those were 2 or 3 years ago.

We have a lot of accomplishment in a very difficult and complex area here. We have done it, everything from the London option trading scams of the mid 1970's, Silver Corner of 1979, 1980, FBI sting of 1989.

But we have had conflicts between the Banking Committee and the Agriculture Committee, and I would advise in this area, while we worked out these matters in a cooperative manner, I would be concerned about any proposals to fragment jurisdictional responsibility among individual sitting committees which oversee specific commodities, because if you were to change oversight over futures by commodities subject jurisdiction, at least four sets of committees would get part of this market: Agriculture for farm goods, Banking for securities, Energy for crude oil, energy products, Environment for pollution rights.

You would have no coherent policy making. The decision has to be made where to go. I think because of the record of accomplishment in Agriculture in the tradition, that would be the place to put it. But whatever is done with it, put it in one place.

And then, and I am skipping over some of this because I know it will be in the record, Mr. Chairman, but because we are coming up to a major issue in reconciliation, I wanted to note that the Senate rules—the Senate rules related to reconciliations are operating in a way that is undermining the ability of the authorizing committees and the Senate to properly consider authorizing legislation.

In this year's budget resolution, there are several instances in which the budget resolution directs the House authorizing committees to make changes in authorization law in addition to restructuring—to instructing those committees to change direct spending and revenue laws. But the corresponding Senate authorizing committees did not receive such instructions to change authorization law.

And on the equal reconciliation instructions, it placed the Agriculture Committee and the Senate in a very weak position in relation to the House in the conference when the budget resolution occurs. The House version contained the legislative language on a number of matters, which the Senate's version will not and cannot include.

And so we will deal in conference with the House having a fully developed position. It is not that we don't have a fully developed position. We come in with no position and no way of determining the conferees under no instructions, not having the benefit of any votes in the Senate. And I have asked why the House authorizing committees receive reconciliation instructions to change authorization law when the Senate's committees do not.

The budgeting committee informed me that under Section 313 of the Congressional Budget Impoundment Control, the so-called Byrd rule, the same legislation could not be reconciled to the authorizing committees in the Senate because it would be considered extraneous.

Let me give you an example where this happens, what happens with this. The President has made the proposal to reduce spending for rural electric co-ops. The authorizing legislation goes with the rate of REA loans at 5 percent. This is considered a discretionary item. The difference between the Federal financing bank and the 5

percent statutory rate, so it is scored against the Committee on Appropriations, but if you are going to fully change the program recommended by the President, it would require change in the authorizing legislation.

If the authorizing committee attempts to make this change, this legislation will be considered extraneous and subject to a 60-vote point of order. If, on the other hand, the change in the interest rate is made by the Appropriations Committee, it would be actually in violation of Rule 16 which prohibits authorizing legislation on an appropriations bill.

It is a classic parliamentary Catch-22. Now, I would like to see a procedure developed which permits the Senate authorizing committees to include authorizing legislation in a reconciliation bill which would apply only if the budget resolution is directed to the House authorizing committees to make changes in authorizing laws. And then lastly, Mr. Chairman, I suppose in some ways there is nothing more exciting, for some anyway, to have on their letterheads all the committees they are on, all the ones that they either chair or are Ranking Members of, but I have reached the point, I have been here I feel long enough, that I am no longer thrilled at the introductions of the Rotary Club where somebody reads off all the committees and subcommittees I belong on.

In fact, I find my mind usually drifting so far away that I have to come back with a jolt to remember what in heaven's name they were speaking about in the first place.

Chairman BOREN. If you are like most Members, you may be surprised when they read off the committees of which you are a Member, which perhaps you have never had a chance to attend.

Senator LEAHY. I was once at one and they read off one subcommittee and Marcel was sitting—my wife was sitting next to me. She said, what is that? I said, beats the hell out of me.

But the point is, we are on too many. We don't want to give up that one little piece because that might be important back home or it is kind of a chess game, if I stay on here, maybe someday I will be chair, Ranking Member of this and I can go to that and so on, or I have got staff on this or I have got on that, or somewhere it is an interest or it might be politically unpopular if I give up this one and so on.

The problem is, we cannot begin to do justice to it, and we proliferate too many committees and subcommittees so that everybody can have a little piece here and there. I would recommend for the Senate no Senator be allowed to serve on more than three committees. I don't care whether A committees, B committees, select committees, special committees or whatever, with one possible exception. If they want to serve on three B committees, fine, serve on three B committees. You want to serve on A's. You want to serve on three A's, you serve on no B's. You want to serve on two B's, one A, two A's, one B, whatever you want, but no more than three. The one possible exception would be something like this. Like this committee where Members are drafted to serve on something that is going to be of a specific and short duration. Where we know it is—we have got a special investigation, we have got a special—I have sort of done a couple for impeachment committees. I mean, that is a different thing.

We know it is for that and a lot of times you take people kicking and screaming to serve on there anyway, and they are going to be the last people to say extend it beyond the time when it goes, but do that, and let's be honest with ourselves. There isn't a single Member of the Senate, myself included, who has not served on more committees and subcommittees than they can really give the attention to they deserve.

If we all cut back, we would also find a lot of these duplicative subcommittees, and even duplicative committees would disappear as we withdrew and we would have a better and more efficient and more effective Senate. Our lives would be better. The country would be better served, and I think the image, speaking just for the Senate now, I think the image of the Senate would be better.

Thank you, Mr. Chairman.

Chairman BOREN. Thank you very much, Chairman Leahy.

[The prepared statement of Senator Leahy is printed in the Appendix.]

Chairman BOREN. Many of the comments that you made really strike a resonant chord with me. I am sure that some of the people watching us at home today on C-SPAN as you went into an explanation of authorizing and nonauthorizing aspects of the reconciliation process and the reconciliation instructions probably were seeking to call in a translator to get this translated back into English, but this kind of maze of procedure which makes it all—in which we tie ourselves into knots, the overlapping jurisdiction, the conference committees, and I remember telling someone after we had that conference committee that you mentioned in Agriculture with over 100 Members from the House side and conferenced with us for I think maybe nine different committees and subcommittees, I felt we needed to have rent the Hall of Mirrors at Versailles to have our conference meeting.

It was absolutely impossible to try to get business done with that many people. So many of the comments you made make imminently good sense. I want to turn first to Vice Chairman Dreier to ask if he has any questions. He makes an enormous contribution to this committee. As you know, we are a committee composed of both houses and of both parties and that kind of partnership and teamwork has really prevailed on the committee and the Vice Chairman has a lot to do with forming that attitude and I want to turn to him for his questions first.

Mr. DREIER. Thank you very much, Mr. Chairman, and let me thank you, Senator Leahy, for your testimony and to say at the outset that Senator Boren and I have a pattern of not allowing those who introduce us at the Rotary meetings to include those long lists of committees because it detracts from the amount of time that we are able to make our presentations there.

You are right on target in stating that there is this concern about overlapping jurisdiction and frankly virtually every person who has testified before us on this committee process, whether they chair a committee with major jurisdiction or a smaller committee, recognize that we have to bring about some kind of reduction, and one of the things that has been talked about, you have alluded to it, is this idea of joint committees, and we—there has been legislation introduced in the House and because of your specific responsi-

bility on the Intelligence Committee, I wonder what your thoughts are on the prospect of a joint House/Senate Intelligence Committee.

Senator LEAHY. I remember we went back and forth on that when I was there and I know the Chairman considered that, and I am not trying to duck your question. I mean, that would be—at one time I was thinking we really ought to, and it is sort of like I believe they had the Joint Atomic Energy Committee here that my predecessor in the Senate, Senator Aiken served on.

And then I would go back to say, no, I don't want to do that because I was afraid it might become too cozy and without the checks and balances of the two. When they did away with Joint Atomic Energy Committee, I think it was because there was a feeling that it stepped too much into the sense of bicameral.

Mr. DREIER. We do know there is a very important constitutional question that does need to be addressed there, but one of the concerns that has been raised—

Senator LEAHY. I think the final way I came out of it by the time I finished my term was they should be kept separate.

Mr. DREIER. The Ranking Republican on the House Intelligence Committee, Larry Combest, testified before us last week and I had a conversation with him before this and he confirmed it in his testimony, he said that he was strongly opposed to the idea of having a joint House/Senate Intelligence Committee because the present structure of the two houses would prevent Members from coming together.

You can see right here, this is a 28 Member committee and it is challenging to have all the Members of Congress together. His point was that if we do have a major restructuring of the committee system and we do dramatically reduce the number of committees and subcommittees on which Members can serve, then he would be inclined to support the idea because he felt that there would then be a greater opportunity for Members of that Joint Intelligence Committee to get together.

Senator LEAHY. One thing I have thought though about the Intelligence Committee, and Senator Pryor—as Senator Boren has heard me say this before, at least consideration be given that the Chairman and Vice Chairman of those two committees be excused from all other legislative duties or committee assignments for at least a year, maybe 2 years during that time, without losing their seniority rights, be able to step back into wherever they were, and given a chance to do the kind of oversight necessary.

The reason I say this is because there is so much of—oversight by the very nature of it is done behind closed doors. You don't have the advantage of being off somewhere else and have two or three people and turn on C-SPAN or whatever else and look at another hearing and say, whoa, I didn't know about that.

In this case you only know about it if you were there and we could easily have others cover for us in other committees. That is one you can't. I mean, that is one thing that I think at least consideration should be given, or take a percentage of the committee in both parties and excuse them for a year or so and have them work just on that.



Figure out some way, nobody is going to be penalized for missing committee meetings or anything else, and work just there. Otherwise, it is an overwhelmingly difficult thing to do because there is—it is probably the committee—I think Senator Boren would agree with me on this, it is probably the committee where it is least possible to delegate anything you have to do, and yet it is also the committee where people—the rest of the body kind of looks to you to say, hey, is there something going on here we should know about.

Mr. DREIER. There was a proposal that came before us last week from Congressman Glickman indicating that he would like to see the House Armed Services Committee and the Foreign Affairs Committee merged and possibly establish the Intelligence Committee as a subcommittee of that new joint—or that new committee that would emerge from the Armed Services and Foreign Affairs Committees.

Senator LEAHY. I came here when the battle first started for an intelligence committee. At that time, at that point all intelligence matters were being handled basically in the Armed Services Committee and then usually just by the Chairman and Ranking Members, and it was considered that the oversight was not adequate because of that.

We break down oversight even now in different areas from between Appropriations and Armed Services and the Intelligence Committee. I like the idea of a separate intelligence committee, but I would like to have it something where Members could—not only could devote more time to it, but could be expected to.

Senator Boren, I think, probably devoted more time as Chairman than anybody I have seen since I have been here, and we all benefit by that. But I—he could speak for himself, but I rather suspect there were an awful lot of things that got neglected during that time.

Mr. DREIER. If I could just go to the Agriculture Committee for a moment. You have a reputation for having one of the smallest committee staffs of any committee here in the Congress and I wondered if you could provide the prescription for us and apply it to some of the other committee chairmen.

Senator LEAHY. We have the smallest staff and smallest budget of any A committee in the Senate and have—even though I think the last farm bill was the longest and—in fact, was the longest piece of legislation ever passed in the Senate's history, certainly one of the most complex.

It has gone through the Commodities Futures Trading Commission, the issues and the scandals of fraud in the futures markets and so forth. The staff works for the committee. I mean, it is a—we don't have a whole lot of staff where they are really off assigned to do other things for Members politically or back home or anything else.

They really work for the committee. I have also been blessed by the fact that virtually all the Members in both parties who have served on there served with a sense of really working. I mean, you don't go on the Agriculture Committee for glory. You go there because you have got particular interests that you are concerned about and you are willing to work on it. That has happened.

But I must also say, the men and women who work on that staff are the hardest working of any staff of any committee I have been on.

Mr. DREIER. Next to the Joint Committee on the Organization of Congress I should say.

Senator LEAHY. We have been doing it for years. You know, we talked about that committee conference. Senator Boren will remember that he and I were at that committee conference. We started at 8 o'clock one morning. I think we were up to about 4:30 the next. We left. Staff was still there.

But I sometimes joke that Members are merely constitutional impediments to the staffs. It is not really a joke. It is true, but I know who runs things. I know who runs things. I don't believe in just—you know, I have never been one who has voted for the—dislikes the staff, do all these other things, somehow we are going to balance the budget.

The fact is we do have oversight responsibilities and it is legitimate to say that both parties shall have staff to carry out not only their responsibilities, but in this case where you have got a Democratic President, the Republican party certainly has a responsibility and it has a right to have the staff to develop alternatives in legislation or policy, just as Democrats did with a Republican president. But that again, we should look at.

I think the problem is not so much staff. The problem is too many committees and too much overlapping jurisdiction.

Mr. DREIER. Do you think we could develop a parallelism between the Senate and the House Agriculture Committees and possibly expand those? I mean, there again, we are sweeping proposals that have come before us recently to see some kind of merging of some of those committees in the House specifically.

Senator LEAHY. I wish we would. It made no sense to me—I use the farm bill as the worst of all examples, but here is what we—our five Members of the Agriculture Committee went over there, saw Members from Banking, Interior, Ways and Means, Foreign Relations, Foreign Affairs, Commerce, Agriculture, Merchant Marine, a couple others. That didn't make much sense to me.

I mean, the Senate should not determine what the committee structure should be in the House or vice versa but it seems to me that this committee, which you two chair, could help bring us together so we show more sense of where we are going. It is really only going to help in scheduling as legislation is going on, and my small staff during these things when we have had—when we had the farm bill, because they had to respond to so many others, we had to stop all oversight just to do that.

I mean, we couldn't do the normal oversight, yet we want to move forward on Department of Agriculture reorganization. We were unable to do that.

Mr. DREIER. Thank you very much, Senator. Your testimony has been very helpful and I appreciate it.

Senator LEAHY. Thank you, and I compliment both of you for doing this. You get—you get your reward in heaven, I suppose, but you get no glory back home and you get no—people beating down the doors to say how much they want to be here with you, that is

an example right now, but if I could just close with this: I have been here 19 years. I was 34 years old when I came to the Senate representing a small, and I think very nice State, the State of Vermont.

I had been a prosecutor before that. Great thrill coming to the Senate. I think if anybody doesn't have some kind of a thrill of being involved with a government at the levels we are, then they ought to get out of here immediately.

The Senate certainly was a smaller and I think in many ways a better place at that time. There was more chance for Senators to talk with each other, to form coalitions. Republicans and Democrats could serve as moderates, liberals. There was more chance to study and work on legislation yourself.

There was less partisanship. There was less of an effort to drive every single agenda that could ever occur to anybody from the right, the left, to every single issue group, right, left, middle and all. And we were a better place for it, and I think we have got to get back to that because we should get back to where Members of Congress themselves have control over what the agenda is and what the issues are and not every single issue group.

And I don't care—again, liberal, conservative, moderate, whatever they are, and we are not going to do it without the kind of reorganization you gentlemen have talked about and without the willingness of a lot of us to give up what we see as perceived power, which really isn't. It is actually what we see as power in holding onto all these committees and all these assignments is not power. It is a diminution of power.

Chairman BOREN. I think you are so right about that. Let me say that you made many good suggestions today. I would say the Vice Chairman, I was listening with interest, your discussion on the Intelligence Committee. I agree with you. I think it should remain a separate committee because of the sensitive nature of it.

I also strongly agree with you about the committee assignments, that that should be considered in place of some other committee assignments during the time you are serving there. I stepped down, for example, from the Small Business Committee during that time and have continued to step down because of taking on this responsibility, but it would have helped me greatly had there been a rule that said I could step down from that committee or other committees during that time, especially while I chaired the Intelligence Committee and retain my seniority because I think I will go back to the Small Business Committee but as I understand it, not necessarily with the guarantee of seniority.

I think that with so many Members wanting to serve on an Intelligence Committee, the majority of the Members of the Senate apply for membership every time there is a vacancy, that, again, it would really winnow out those that have the greatest interest and willingness to serve if you said, you have to stand aside from other responsibilities. You won't be penalized for it. Your place will be held for you, but during that time, I think that is an excellent suggestion, and what you have said about a diminution of power, I am really glad to hear you say that.

I have said that many times. I think the idea was that we would have more power with 290 committees and subcommittees than we

had with the 38 or 39 that we had back in 1947. It has not worked out that way. In fact, we have less power on the big, important issues of the day because we have so fragmented our time, so fragmented our jurisdiction, we have had so much overlap that we have been not able to act and therefore we sit immobilized, usually leaving it up to the executive branch to paper over the problems of the day because we are not able to get our jurisdictional disputes ironed out among ourselves so that we can act in a forthright way.

So I think you are very right. We are having more and more to say about less and less, and the major issues, in terms of Congress playing a role and the major policy making, we are playing a diminished role. So with all this bureaucracy we built up, or rather committee structure we built up at least with so many committees and subcommittees, we have actually diminished our real power to make policy and oversee the important things. And I wonder about this.

You have talked about committees and I agree with you, I think three standing committees is a very reasonable number for an individual Member to serve on. What about subcommittees? I have seen this in the Agriculture Committee and we have all—what has happened in the—all the other committees, the same thing. I had the temerity to abolish subcommittees in the Intelligence Committee. We didn't have any and we managed to live without them and in fact what it enabled us to do then is have better attendance when the full committee met and we only had so much time for each of us to spend anyway.

So this enabled us to spend our time on the really important things, the things that were important enough to rise to the full committee level jurisdiction. I know in some committees, Appropriations, for example, you would have to have subcommittees in the Appropriations Committee. There are probably a certain number of areas in the Agriculture Committee, for example, where you would need some subcommittees, but perhaps fewer subcommittees with broader areas to cover, and I think what happens now, all the Members of committees know in essence that the Chairman can create as many subcommittees as he or she wants, virtually, so everyone presses. We are all guilty of it.

We come to you as Chairman of the Agriculture Committee, I want my subcommittee. We are all guilty of it. I am guilty of it, he calls up the Chairman, says, Mr. Chairman, which subcommittee will I get this year, as if I am automatically entitled to one. And if someone said, with 299 committees and subcommittees, anybody that you meet in the hallway, if you say, Mr. Chairman, or Mr. Ranking Member, or Ms. Ranking Member, or Miss Chairman, or Madam Chairman, you are probably right because there is almost no one around here that is not chairman or Ranking Member of some committee or subcommittee.

Mr. DREIER. We Republicans do that, Mr. Chairman, when we can't remember the name of a Democrat.

Senator LEAHY. In the House, Mr. Vice Chairman, I do that with my Democratic colleagues with names I don't remember immediately.

Chairman BOREN. It is like calling anyone in a uniform general or admiral if you don't remember their rank. I wonder if you would

also favor reducing the number of subcommittees. One of the things we have talked about, and again not for this committee to be so intrusive, but let's say the Agriculture Committee, to say to you as chairman, say except for appropriations, there might have to be an extra subcommittee or two in something like Finance, but in most committees, just say, all right, every committee may have, say, a maximum number of three subcommittees and the Chair will—in concert with the Members of that committee, designate—define the jurisdiction of those subcommittees and so on, and in a way that would also protect the Chairman.

He wouldn't—it would be obvious to all of his Members then he couldn't give a subcommittee to everyone. But it is sort of hard to say no under the current system if you are sitting there as Chairman, everybody wants one, how do you pick and choose? But perhaps—would you welcome a rule like this that says you can only have three or whatever?

Senator LEAHY. Yes. I would welcome a rule to have less. I cut out one subcommittee in Agriculture this year. I tell you, we joke about the flight we have to Vermont. It is a nonstop flight, but it is a little propeller driven plane, we call it the "Bomb It Comet" to give it the benefit of the doubt, and I usually, when going home, hate getting on that plane. The week I come out there, I am so happy on that plane. I was so happy to be on there because I knew it was so small, there was nobody on it except people going to Vermont, and I wouldn't find the five Senators that say, what do you mean you cut back one subcommittee.

I mean, everybody who didn't get one wanted one. I don't take a subcommittee, as you know, on the Senate Agriculture Committee. I would love to cut it back even more and rearrange the nature of jurisdiction. Some of it, of course, is there by inertia, not by any real sense of why it should be. We have too many. We have too many subcommittees.

Appropriations, because of the very nature of it, you have to. I don't know how it works on the Budget Committee. That may be one specifically, but we could certainly cut down the number in Judiciary, we can cut down on the number in the Foreign Relations Committee. Just about every committee could cut back, and we are going to have to.

Chairman BOREN. Right. Well, I think so. The last question I would ask is this. Should we take the points that you made about Agriculture Committee, and you talked about the overlapping jurisdiction with—on the forestry issue, on financial issues, for example, the Banking Committee and several areas of jurisdiction that are overlapping between Agriculture and others.

Would it be wise for us to try, wherever we can, to rationalize jurisdiction in the House and Senate so that an agency or an important policy function of government resides principally within the jurisdiction or solely within the jurisdiction of one committee?

We have had—we had testimony from the National Academy on Public Administration, for example, and they indicated in some cases, and I can't remember these numbers, but let's say that FEMA, for example, Federal Emergency Management Administration, reports to say 20 different committees.

There was an assessment made of how many different committees and subcommittees have jurisdiction over the question of what we do with nuclear waste. It was something like 30 or 40. Now, some have argued that if you just have one agency have to report to one committee in each house or one policy area to be covered by one or two committees in each house, as opposed to 10 or 20 or 30, that there will develop too cozy a relationship between that particular committee, let's say Agriculture Department and the Agriculture Committee, and so they say that some of this fragmentation of jurisdiction is a good thing.

I would argue that quite the contrary. What happens is, if you give the oversight responsibility to 20 committees to look over one agency, no one ends up doing it well because they don't really feel that sense of responsibility, this is ours, we have got to look over it.

I certainly, in listening to the hearings in the Agriculture Committee, which is a place where very often we have seen people from the Agriculture Department really be put on the hot seat and grilled, far from too cozy a relationship developing.

I think we have done our job well with oversight and the more we had rational committee jurisdiction, the better we could do it. The same was true of Intelligence with the CIA, for example. I wonder which way you lean in terms of feeling about that and do you think that the kinds of examples you have raised with the Agriculture Committee in terms of putting jurisdiction in one place or another in these committees that share jurisdiction, is that a general principle you think we should try to follow in trying to cut down the number of committees that agencies have to report to?

Senator LEAHY. I would like to see the number of committees that agencies report to cut down. What has happened also in the executive branch is they have such overlapping jurisdiction that if you are trying to follow—you follow agency supervision and set up our committees accordingly, or if you follow jurisdiction supervision, you have—and I have had—I held a joint meeting of the Foreign Operations Subcommittee and the Agriculture Committee once to deal with the foreign aid issue that overlapped between State Department and the Agriculture Department.

So that is a more difficult thing to do, but I remember saying to one who got appointed to a high Cabinet level position in this administration, they came in to see me and I tossed them a copy of the Congressional Directory up here with the names and pictures of every single Member of Congress and I said, here, get to know these people because that is the list of the people who are vital to your department, all 535 Members, because—and I told them frankly they are going to find one of the most frustrated things is every single time they go to look for their assistant secretary, deputy secretary, under secretaries—

Chairman BOREN. They are going to be testifying.

Senator LEAHY. They are going to say, wait a minute, he was up there testifying 2 days ago. Frankly what is going to happen Mr. Secretary designate, your chief of staff is going to say, yes, they are going to be up there tomorrow, and the meeting next week, and then, and then, and then. And that is crazy.

Chairman BOREN. And the quality of the interchanges will not be as good as if that person would be testifying once instead of five

times, but really be fully prepared and coordinated in the testimony to that one committee.

Senator LEAHY. Or really work at bringing more joint meetings of our committees. If we can't do it in that, we should be more willing to do—otherwise what you have got, you have got the Cabinet or subcabinet member reading the same, slightly changed paper, and then you have got a Member who is supposed to be in five different meetings reading whatever questions are handed to him or her as they walk in. Sure, that is oversight. Baloney, it is oversight.

Chairman BOREN. Thank very, very much. You have given us a lot of good ideas to think about and we really appreciate them.

Senator LEAHY. I applaud you for taking on what is a difficult, probably thankless but I hope good job.

Chairman BOREN. Senator Dole and others have said if we do our job right, we may be sitting alone in the Senate and House dining room, so we hope you will come over and sit down with us.

Senator LEAHY. I will bring you some Ben and Jerry's ice cream.

Chairman BOREN. Our next panel, I don't believe both have yet arrived, but Senator Murkowski is here and I am going to let Senator Murkowski proceed.

Our final panel this afternoon consists of the leadership of the Veterans Affairs Committees, Senators Jay Rockefeller and Frank Murkowski.

Senator Rockefeller has been a Senator since 1984 serving the State of West Virginia, in addition to being Chairman of the Veterans' Affairs Committee, on the Commerce Committee and also on the Finance Committee, where I might say that I serve with Senator Rockefeller. He has been especially influential in the health policy debate. He has long been recognized as a real expert in the area of health policy and also in services for children and youth.

Senator Murkowski is the Ranking Member of the Veterans' Affairs Committee, Ranking Republican Member of that committee, has been a Member of the Senate since 1980, serving Alaska. He also serves on the Energy and Natural Resources Committee, Foreign Relations Committee, and the Select Committee on Indian Affairs.

And let me say that he, of course, is best known to me as the former Vice Chairman of the Senate Intelligence Committee where we had the privilege, not only of serving in membership on that committee together, but we had the privilege of serving as the coordinators for that committee together, Senator Murkowski serving as the Vice Chair and with me being privileged to serve as Chairman and we literally served as partners.

Vice Chairman Dreier has heard me talk about that relationship here many times and it is something I might say, Senator Murkowski, that we are trying to duplicate here in terms of the attitude, the Members of the committee being able to work together without regard to whether they are House or Senate, without regard to whether they happen to be Democrats or Republicans, to work together in the national interest, and unfortunately we seem to have more and more experiences where this is not happening.

That is a level of cooperation that we simply do not see enough in either the House or the Senate, and I simply want to take this occasion in welcoming you before this committee to thank you

again because that was certainly the way in which you conducted yourself and I would say to my colleagues on the committee and to the staff and others that are listening, that never once in the 2 years that we shared the leadership of the Senate Intelligence Committee together, never once did we have a single discussion about party politics or trying to decide an issue on a party basis, and that would not have been possible had Senator Murkowski not been the kind of statesman—like person that he is and I appreciate that very much and, Senator Murkowski, we welcome you before our committee.

We would be glad to hear any comments. I think probably Senator Rockefeller is on the way, I understand, but I am sure he wouldn't mind if you would go ahead and proceed to give your comments until he gets here

#### STATEMENT OF HON. FRANK MURKOWSKI, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator MURKOWSKI. I appreciate that. Thank you, Mr. Chairman, Mr. Vice chairman, for the invitation to appear. I do apologize on behalf of Senator Rockefeller. I think at the current time he is on the Floor. There is a rather interesting issue that has come up as a sideline to the question of the Environmental Protection Agency Cabinet status elevation and that is an amendment that has been presented with regard to health care reform on the EPA bill, so I think Senator Rockefeller is—may be there a little longer than you might anticipate.

Chairman BOREN. That might be sort of an indication again to those listening to us that we have an odd way of operating in the Senate. It may seem kind of normal to us that a health care amendment is on the EPA bill but maybe that is because we have gotten sort of used to that sort of thing happening.

Undoubtedly that will be another subject that will be discussed as we move along.

Senator MURKOWSKI. It is probably appropriate to highlight the inconsistencies in view of the fact the purpose of this important hearing is to discuss the merits of committee reforms, and I am not suggesting that what is currently happening might not be one.

But nevertheless, to move along, let me comment briefly on your introductory statement with regard to having had the pleasure of serving as Vice Chairman of the Senate Select Committee on Intelligence with you and having had the experience of being both the Chairman and Ranking Member of the Veterans Affairs Committee.

I would like to discuss the specific matters in the context of reform of the committee system in my own special experience. First of all, I think as a goal of congressional reform, it is to share the greater bipartisanship whenever possible. And I think as you pointed out, Senator, the reference to the Intelligence Committee to serve as a model is probably as good a one as we have on our side of the aisle as any, and I will defer to the House side. But I think the committee was structured both in terms of membership and in terms of staffing to encourage the Majority to confer with the Minority in a positive manner. And I think you and I both had



that in mind as we addressed and communicated with our staffs, and it was done historically by previous members of the committee as well.

I think the important thing to point out, if I can go into the mechanics a bit, is that the committee has a Chairman and Vice Chairman. The Vice Chairman has been expected to act in the absence of the Chairman and under your Chairmanship, Senator Boren, it was our practice that decisions in writing, such as responding to reprogramming requests from agencies needed the signatures of both the Chairman and Vice Chairman. So by the very process we sat up we were encouraged to work together.

Another key structural feature of the Intelligence Committee is there was only a one-vote margin. I do not recall, as you pointed out, where we had a single instance of party line vote in the 2 years that I served with you on the committee. That is not to suggest we didn't disagree from time to time, but, clearly, we had an objective, the commitment to work together. And we did our laundry collectively, and when it was done we addressed the manner in which to resolve the matter. I think the staffs particularly deserve a great deal of credit for carrying out the wishes.

Finally, the Majority and Minority share two important staff components, and I think that is an important consideration, the budget and audit staffs.

These staffs, particularly the budget staff, are expected to serve the needs of all members of the committee regardless of party, and I think that is very important.

I am often reminded of my own—and I would recognize Senator Rockefeller, I trust you got the health care reform bill through and that we can move on.

Chairman BOREN. We have noted before you arrived, Senator Rockefeller, and you were introduced before you arrived, we note you had your expertise in the area of health care, and we have regarded it as normal in the Senate in the midst of a debate on the EPA cabinet status bill we would get into a health care debate. I don't know if agriculture will be next or foreign policy will be next on the EPA bill, but maybe it tells us a little bit about how we need to rethink the way we do business in the Senate, but we are glad you have joined us and we have asked Senator Murkowski to proceed in your absence.

Why don't you proceed, Senator.

Senator MURKOWSKI. Let me go back to my reference to the budget and audit staffs, and particularly the budget staff, which was expected to serve the needs of all members of the committee regardless of the party affiliation.

My own banking career, and I can imagine a situation where two different sides would have different banking examiners coming in to review a budget item, you have to agree that one group is going to come down with their recommendations and evaluations and that is it. You can disagree with them, but to have two separate people involved or staffs involved in a budgetary or audit function, I just think creates unnecessary duplication and really detracts from the professionalism associated with those particular functions.

In some, I believe that bipartisanship should be stressed; in other committees, the Foreign Affairs, National Defense and I think the

Intelligence Committee can certainly serve as a model, as evidenced under your leadership.

Now, in the context of the Veterans' Affairs Committee, this committee is not structured like the Intelligence Committee, but there exists a spirit of bipartisanship, and I had the pleasure of working with Senator Rockefeller on the committee and found that our staffs worked well together, and I think that the subject matters of veterans' benefits is traditionally not tied to ideology.

I will admit, having been Chairman and Ranking when the Republicans were in power, that oftentimes we found ourselves having to defend the President's budget, and defending it against some fairly heavy flack from some of the veterans' advocates who suggested if we didn't get more, more, more we were not meeting the needs of America's veterans.

Now this is going to be an obligation to my friend on my right and sometimes there is a little heavy lifting there, but the reality is, as far as the Veterans Committee is concerned, the veterans did not serve their country as Republicans or Democrats, their service and the sacrifice that we must pay should be on a nonpartisan basis.

My second point is whether we should in the matter of reform address and maintain the continuity of a Senate and House Veterans' Affairs Committee, and the suggestion has been made that they should be melded into perhaps the Armed Services Committee.

It seems to me that without getting into the area of turf, we are looking at a pretty major responsibility in the area of veterans' oversights. We have a \$35 billion budget for health care and VA benefits is the largest health care provider of the world. It oversees a department of over 250,000 people, and the benefits system has been very substantial and there has been an awful lot of innovation in the medical health care system.

I have reviewed the testimony of Senator Rockefeller and he, I believe, is going to elaborate more fully on the need to maintain the Veterans Committee, but I am firmly and fully in support of his basic views on the arguments.

I will simply add that we are at a critical time in fashioning a national health care plan. Our committee is spending a great deal of time and effort in deciding how the health care of our veterans will fit into the national plan, and this would be, I think, a particularly inappropriate time to do away with the oversight responsibilities of the Veterans' Affairs Committee.

On the other hand, I would say, in all fairness, that our national health care plan, as we address it under the President's dictate, has to include consideration of the veterans' affairs hospital and health care system, the Department of Defense hospital health care structure, and the Indian Affairs, because we would have theoretically, by design, a system where members, those that are entitled to care in these three areas that I have described, would be able to opt into anything.

And what effect would it have on this health care system that we have got structured and how do we react from those potentially having an alternative to opt out of the VA and go get private health care, and do we want to expand our governmental health

care system? There is a very sensitive area on behalf of the veterans who have supported and built this health care system for veterans. They don't want to see the quality of that care reduced or eliminated.

So I simply point it out as we address the whole process of a national health care program to recognize that there are three important components that are going to be a little ticklish. They are going to be a little difficult, but they have to be addressed in the process. They don't necessarily have to be finalized in the initial program that is adopted but down the line they do because some provisions have to be made.

Thirdly, I would like to discuss the oversight provision relating to my experience on the Intelligence Committee. It is safe to say the vast majority of our work was basically oversight rather than legislating, yet oversight for many committees is I don't think stressed strongly enough and committees are not necessarily structured to accomplish the meaningful oversight. The Intelligence Committee, under you, Senator Boren, and Senator Cohen, who is with us, I think normalized one method of oversight by establishing that audit staff that was shared and continues to be shared by both Minority and Majority and managed by the two staff directors. It worked very efficiently.

The director of the CIA accepted the importance of that staff and gave access to whatever programs were under review. The results of the audits were deferred and referred to the director of the CIA under letter signed by both the Chairman and Vice Chairman and I think, thus, stressed the significance and the importance of the staffs' oversight work.

And recommendations of the staff audit were taken seriously and they were implemented and I cannot discuss in open sessions the matters that were reviewed by our audit staff, but I can say here they represent important systems in the national security interests of our country that typically cost large, large sums of money with long-term implications.

So I would stress the importance of an audit staff for oversight because Congress must pay attention and very serious attention to controlling costs, and that is something that simply is not within the allotted capability of our own members to do that and we have to depend on the people to point out and not be afraid of the political ramifications of things that clearly can be eliminated or reduced.

I am not disregarding the importance of the Inspector General in the agencies to suggest that that is not useful, by any means, but they simply serve a different purpose and have different reasons to examine programs than do congressional committees.

Our responsibility, I think, is to make sure agency programs meet the expectations of what we establish and that our spending decisions make sense in the overall context of agency missions.

As far as Senator Rockefeller and I, we have given thoughts to establishing an audit staff for the VA and we may make such a proposal to the Rules Committee next year. Our staffs are working on the merits of that. In the meantime, I would urge your committee to consider the importance of audit staffers as you examine the congressional committee system.

Finally, a matter I would like to discuss relates to the jurisdiction of the Senate Select Committee on Intelligence. Unlike the House Committee, the Senate committee's jurisdiction does not include a tactical military intelligence. I cannot discuss the funding for military intelligence in open sessions, but suffice to say it is a large component of the overall intelligence budget.

The Senate Armed Services Committee has jurisdiction over this account and thus becomes—and this can and has caused difficulties in terms of oversight budgeting. For example, it is exceedingly awkward for the Senate Intelligence Committee negotiators to deal with their House counterparts in a conference when we, on the Senate side, are not empowered to discuss tactical military intelligence in the context of the overall authorization for the intelligence community. I think this is a problem that Senator Cohen and Senator Boren are well aware of.

We discussed it directly with the Armed Services Committee last year when we advocated a change in jurisdiction as part of an intelligence reorganization bill. Unfortunately, the proposal did not prevail at that time.

I would urge the committee, again, take a careful look in making sure the jurisdictions of the Senate committees align with those of the House committees or as the case may be, the House committees with the Senate.

Senator COHEN. How would you feel about merging the Intelligence Committee with the Armed Services Committee?

Senator MURKOWSKI. I think with the experience we have had in the last couple of years, I can think of two specific instances where I would feel very uncomfortable about that. And I would be happy to discuss it with you, but the issues themselves are classified and I think suffice to say the Armed Services Committee, while it has an overall focus and sensitivity towards intelligence, also has a broader application of oversight than just intelligence. And while there is some justification for the overlap, I am not sure that it is in the interest of having the reasonable separation of the priorities of pure intelligence vis-a-vis the obligations associated with the various military arms and their own need for their own intelligence. I think a centralized select committee has worked pretty well and if it is not broke, don't fix it.

Senator COHEN. I will defer, Mr. Chairman. I want to discuss this a little further.

Chairman BOREN. I want to let Senator Rockefeller go ahead and make his comments.

Senator Murkowski, any additional comments before we turn to Senator Rockefeller and then we will address some questions back to both of you.

[The prepared statement of Senator Murkowski is printed in the Appendix.]

Senator MURKOWSKI. No, Mr. Chairman. Thank you.

Chairman BOREN. Senator Rockefeller, we appreciate your joining us, and I have indicated to the various committees on which you serve and your responsibilities in the Senate before you arrived, and we appreciate your coming and especially taking time to be with us in the midst of the debate which is going on on the

Senate Floor and to which I am sure you will have to return on health policy.

We very much value your thoughts not only as Chairman of the Veterans Affairs Committee and as issue related to its work, but also any other broader comments you might want to make as well about our task for congressional reorganization and reform in this committee. We welcome you.

**STATEMENT OF HON. JOHN D. ROCKEFELLER IV, A U.S. SENATOR  
FROM THE STATE OF WEST VIRGINIA**

Senator ROCKEFELLER. Thank you, Mr. Chairman, Senator Cohen, I apologize for being late, but the Chairman correctly characterized the nature of my lateness. It was not exactly what I had planned on.

The Chairman has my full statement. I am going to make some comments from an abbreviated version, and I want to make them carefully so that I will burden the Chairman with not just orated words but some text here.

Our committee, as you know very well, it was established back in 1971, and that was by a recommendation by a predecessor joint committee on the organization of the Congress, and I want to really emphasize that point because the main reason for the committee being established at that time was the recognition that the very complex and the costly range of veterans' benefits and services, which were much more simple at that time, even than they are now, the vast majority of which were under the purview of a single executive branch, should be dealt with by a single committee in the Senate and by a parallel single committee. In other words, a parallel structure, House and Senate.

That is what we have. That is what the joint committee at that time suggested. And I would suggest to the Chairman and Senator Cohen that if that is true, it was true then, and it is much more true today.

I think the fact that two Veterans Affairs Committees have direct parallel and congruent jurisdiction is fundamental and important, and I urge you to give that factor significant weight. It is important I think to discuss the overall mission of the VA and the Veterans Affairs Committees for it is that mission and the need to fulfill it that is, in my view, the single greatest argument for maintaining these parallel structures.

In this case, I am fighting for the Senate Veterans Affairs Committee. I obviously had the choice of not fighting for the Senate Veterans Affairs Committee and then there is always, not just in talking to the two of you who I know very well but to those who might be listening in, the question, well, there you go again, they all want to keep their committees.

There would be no condition under which I would look at the situation of veterans' affairs these days, the downsizing of the military, with the consequences of the aging of the veterans' population, the whole question of PTSD, sexual abuse, all of it, much of which is not handled when folks are in the military, particularly when it comes to sexual abuse. Because if it is a case of a woman, she is much less likely to speak, to say that to her superior, who is

likely to be a man. This all comes pouring out after the downsizing, after the discharge, after the retirement, when they become veterans, and then it lands full force on us.

This is an extraordinary thing, Mr. Chairman. Actually, this whole question of angst and PTSD and the complexities that get built up in people as they serve their country proudly in the military but then come out of it. There is a lot of unburdening. And the Veterans Administration and our two committees in the House and the Senate catch virtually all of that.

Stated simply, the mission of our Veterans Affairs Committees, both of them, and of the Department of Veterans Affairs, is to ensure that the Nation fulfill its commitment to the veterans. This can be said and be taken trivially or it can be said and taken for exactly the way Senator Frank Murkowski and I would take it; that this is a special obligation; that people have fought, people have died, people have been—many people's lives have been turned upside-down, people have come out of it entirely OK, but all conditions of having served our country. It has always been set aside for a place of special honor in our country, and somehow the concept of eliminating that, even if there were justification on the basis of the efficiencies, which there are not, I think would be a really serious mistake and one that would be difficult to explain I think to 27 million veterans across this country.

To fulfill this obligation, Mr. Chairman, we as a Nation have established a very wide range of veterans' benefits and created the Department of Veterans Affairs to administer these benefits and it is the Veterans Affairs Committees that oversees the VA to ensure the job is being done in ways that is satisfactory to Members of Congress.

The task of overseeing the VA is enormous. I think my colleague, Senator Murkowski, would agree with me, it is going to get more enormous because we will do a better job at it than has been done before.

In my prepared statement I describe some of the many things the VA does today to demonstrate the basis for my view that there is a need for significant focused activity in the areas of veterans' affairs both in the legislative branch and the executive branch.

One of the areas, and my colleague Senator Murkowski discussed this, relate to the present activity on health care reform, the task force being led by the First Lady. I simply cannot emphasize enough to the Chairman and Senator Cohen the incredible complexity, the enormity of what is going on.

We passed social security in this country. We passed medicare and medicaid in this country. They do not touch in their complexity what we are considering here in our overall reform of our national health care system. It is not just dispensing of aspirin tablets, it is tort reform. It is the entire range. In fact, changing the way we deliver health care in this country. Sacrifice on the part of all so that all of us can have a secure and better health care system to look forward to.

And right in the middle of this is the veterans population. The largest single health care system in the country is the Veterans Administration system; 171 hospitals, 350 outpatient clinics, an enormous range, an enormous range of health care services. And

now, just at the time that we are discussing reforming the national system, how is that going to interplay with the veterans' health care system?

The President has pledged to keep the VA system separate but it is not as easy as that because there is no way you keep these two things separate entirely. As you open up the possibilities under health care reform, will in fact veterans choose increasingly to use the VA system because of its advanced long-term care capacity and that extraordinary research; prosthetics, PTSD, spinal cord injuries, all kinds of things of that sort? Or quite the opposite, will in fact because the health care plan may so empower and so embolden the possibilities of health care in non-VA hospitals, that veterans will go flooding off in the other direction or some combination of the two?

It is a matter of the most intense sensitivity. I would say to the Chairman that Canada, when they did health care reform, which they did over a period of 25 years—it was not a national system but a provincial system. We think of it is as a national system, but it isn't; Britain is. They eventually abolished their health care system. And our veterans are terrified of that. They are terrified of that happening. And with good reason.

They are terrified because it is only in our VA hospitals, for example, that you find the kind of research that has to deal with growing old, prosthesis, the whole question of PTSD, certain kinds of mental health, a whole range of areas that the VA hospital is superb at.

The biggest problem we have in this country, as far as I am concerned in the future of health care, is long-term care. We are totally unprepared for it. We are probably only partially but significantly addressing it in this year's health care reform. And this is what the VA system deals with, an enormous body of people going through long-term care, many of them poor, many of them never to come out again.

So the whole VA health care system in its immensity is so deeply involved in so many of our Nation's approaches to health care that the concept of walking away from it in terms of oversight on the part of the Congress is just absolutely unthinkable, unthinkable to me.

Many questions, such as to whom will VA furnish health care under the national health care reform? How will the cost of VA-furnished health care be covered? What services will the VA offer? I mean, these are easy to talk about, incredibly complicated when it comes to deciding exactly how they are to be sorted out.

We finished this morning, my colleague, Senator Murkowski, and I our third hearing on precisely this subject. We will have another on long-term care coming up almost immediately. It is an immense subject.

Mr. Chairman, I don't want to over play that because I can't. I don't want to pretend to be playing a card on this because it is too gigantic a concept to be anything but telling you the truth about. Of course, there is going to be, from time to time, differences between the House and Senate committee, but, frankly, there are not that many.

Senator Murkowski and I are committed to bipartisanship. I heard him say that. I know it to be true. There is a new working relationship with the House, which is, I think, absolutely excellent.

I think that before there was a Veterans Affairs Committee we were divided between Finance, it is in my testimony, Labor and Human Resources. Let me tell you we had an experience with the Finance Committee, and as the Chairman and I both serve on the Finance Committee, Senator Murkowski will remember this very well, when we finally in the last 10 minutes of the last Congress passed a bill which mandated a 24 percent discount on the part of pharmaceuticals to the VA as well as some other health systems, and Finance had to do a part of this because it involved some medicaid and Finance had to do a part of it, we could not even get their attention, Mr. Chairman. We could not get their staff's attention, we could not get their time. They would not give us the time of day.

Now, that is a metaphor in my mind, not to be hyperbolic, but I just went through that experience, Senator Murkowski and Senator Simpson just went through that experience, and it was a disastrous experience and it was only in the last 10 minutes of the session of the 102nd Congress that we passed that important legislation because of that.

So I think we understand what we are doing in our committee. Ours is a small committee. I heard Senator Murkowski referring to that. We have only 22 people. The House is twice the size. It has 44. Twenty-two staff positions that is. Staff positions. It is very small. It has not grown over the years. I don't think it has grown on a net basis since 1975, if I am correct, I am not mistaken.

I will stop there, Mr. Chairman. But there is such a range of problems and right now when the biggest thing in the history of our legislative process called national health care reform is at stake, and for many other reasons, I think we should leave the committee system the way it is.

[The prepared statement of Senator Rockefeller is printed in the Appendix.]

Chairman BOREN. Well, thank you very much, Senator Rockefeller. You have made some very good points and I have been aware broadly of the work of that committee, obviously, because we have many veterans living in our State, a very high proportion of our population in fact because we have a number of bases and many come back to retire, so I am well aware of the scope of the programs.

But I think you have really effectively demonstrated the complexity of the work, the growing complexity of it and the growing importance of it and the relationship to health care and many, many other issues that will be very helpful to us as we try to sort out this whole problem of committee jurisdiction.

I want to turn, first, to Senator Cohen, who is here because he has to depart in just a minute, and I want to let him go ahead and have a chance to ask questions of both of you first. Senator Cohen.

Senator COHEN. First, I want to disabuse the audience there was ever a nonpartisanship between the two of us. We were very partisan in our deliberations on the Intelligence Committee. I was just teasing.



Chairman BOREN. I was about to rap the gavel on the Senator.

Senator COHEN. Mr. Chairman, and let me thank our two colleagues for their testimony. We really have to resolve a couple of fundamental issues. Number one, whether we go to ground zero, as we say, or whether we tinker around the edges. There has been different presentations on the part of different experts. If you are talking about reform, you better have fundamental reform and don't just kind of move a box here or dance around someone's jurisdictional toes there. Strike while the public iron of discontent is hot, so to speak. To put it as they are doing over at the military, let's have a bottoms-up review rather than top down review; various ways of phrasing it, but whether or not we should contain major steps now or just minor perhaps refinements of something that is working relatively well.

I am not sure we are there yet to resolve that kind of debate but that is something we have to contend with. My own feeling, this will precede a question to you, but I have always viewed government as being something like a giant amoeba, it sort of swells itself to bursting proportions and then subdivides into a dozen or hundreds of little amoebas that over time, then swell themselves to bursting proportions, and then subdivide in turn.

So as we look around here, we have 14 charts here of all the committees, the combinations of committees that we can have, and there seems to be a consistent theme running through the testimony. We have too many committees. I was going to ask you, Senator Rockefeller, and Senator Murkowski, how many committees do you serve on?

Senator ROCKEFELLER. I serve on two A committees and one B committee.

Senator COHEN. Senator Murkowski?

Senator MURKOWSKI. I serve on two A committees and in effect three select committees.

Senator COHEN. OK. So we have five for you; right?

Senator MURKOWSKI. Used to be six.

Senator COHEN. Used to be six. And I suspect both of you would agree with me, much of our time is spent careening from committee meeting to committee meeting being terrorized by the three-by-five card we all carry that tells us where we must be in the next 15-minute segment of time rather than devoting ourselves with in-depth analysis to the kind of complex issues that you, Senator Rockefeller, have been devoting yourself to and you, Senator Murkowski.

Senator ROCKEFELLER. I would agree with that, and I am saying something which is flagrantly self-serving. Senator Mitchell—in fact, I have never seen the Majority Leader so angry in my entire life, nor have I heard of him being so angry in his entire life, and Senator Cohen knows him as well as I do and knows he is of judicious temperament—he asked Democrats, which I happen to be, just for point of clarification—because we are basically on three; I used to be on Finance, Energy and Commerce and Veterans—and he asked us to get off one. All of us. Instructed us to get off.

It so happens I took him at his word and I got off Energy. It so happens I was the only person on the Democratic side who followed his instructions, so I know what the Senator is talking about.

Senator COHEN. Well, I think both of you would agree you have to limit the number of committees that we have in the Senate or we ought to. There are too many committees; would you agree with that?

Senator Murkowski, you are nodding.

Senator MURKOWSKI. Well, yes, up to a point. Let me give you an example of what I am talking about, having experience, if you will, on the Veterans Committee as well as the Intelligence Committee, the broad oversight of the Armed Services Committee, which, when you think of whether you want to eliminate committees or pinpoint responsibility as opposed to having cross responsibilities, I think the Armed Services Committee is an extraordinary example because of the flexibility that committee has in areas of intelligence, in areas of veterans' affairs.

Today, we find them holding hearings on gays in the military. Now, that is legitimate from a tactical point of view, a state of readiness point of view and, as a consequence, the Veterans Affairs Committee has an obligation on the effect that gays in the military may or may not have on the VA health care system, on the VA benefits.

I mean, your imagination can run away with you when you consider two of the same sex, one is a dependent. If they are outside the military, nobody knows. But the impact is substantial.

If you look at the impact of the Intelligence Committee and the Armed Services Committee, you basically—when I say you, I should defer that, strike that—the Armed Services Committee enjoyed a portion of the unexpended budget of the Intelligence Committee. In fact, to some extent it was budgeted. If we wanted to make a savings in the Intelligence Committee, we could not return that basically to the Treasury, it went back to the Armed Services Committee.

So in that regard, I would say there was a bit of an inconsistency, and I think if you are going to talk about doing away with committees, you need to basically go back to the beginning and restructure the whole process as opposed to picking out a few committees.

Senator COHEN. I will make this point I think you were making earlier. From a purely conceptual point of view, it would make sense to merge Intelligence with Armed Services. After all, the Armed Services Committee is the committee that has the oversight of the Intelligence budget. You must come to the Armed Services Committee in which you get approval of that particular budget. So you could, in fact, create a subcommittee of the Armed Services Committee devoted to intelligence. That would be conceptually possible. Here is one of the probables I see in doing that:

Number one, the Intelligence Committee, under Senator Boren and others before him, has not acted in a partisan fashion; a dedicated effort at no partisanship ever being shown because of the importance of the nonpolitical intelligence being gathered.

Number two, and a very important point, is it is not parochial in nature, and that cannot be said for our military policies in which we defend those defense installations or those weapon systems that are built in our respective jurisdictions. And that is something we have deliberately kept out of the intelligence field.

I recall, and Senator Boren joined me in this, that there was one Member at one time who persuaded the initial purchase of a system that was completely unnecessary for our intelligence community. It was unwanted by the intelligence community. He happened to occupy a powerful position on an Appropriations Committee in the House and we finally were able to strike that from the entire bill under a threat of going public with that.

But we kept that parochial limb out as well as the partisanship out. That is tougher to do when you are having a committee like the Armed Services Committee which has that kind of broad jurisdiction for weapons and defense installations and Guards and Reserves. It is much more difficult to do, so I think there are legitimate reasons not to do that.

I could make a case I suppose for merging the Armed Services Committee with Foreign Policy. You cannot have an effective foreign policy without having an effective military policy and the converse is also true, you cannot have an effective military power without having a sound foreign policy to back it up. So you could make a case for that.

We have not decided yet as to exactly how we are going to do this, ground up, starting from the basic structural examination and build up. I might say that one of the things that we have to contend with, assuming we do all the restructuring, Mr. Chairman, I am not saying we are going to do that, but assuming that we do, one thing we might give consideration to is for the Senate and hopefully the House to adopt a rule enforced by the Leadership of each House and Senate, and that is that as we, if we shrink down the number of committees and as we start to specialize more and more with you and veterans and, Senator Rockefeller, in veterans' affairs and health care issues, as we become more narrow minded or focused specialists, that we resist the temptation which currently exists to become experts on every single piece of legislation which comes down the Floor or on the Floor.

One of the problems that we have is that we are all experts in everything or purport to be so that when the Armed Services Committee brings a bill to the Floor before it even hits the Floor, we have 155 amendments pending by non-Members. And that is a problem that we have yet to contend with in any of these discussions, Mr. Chairman. It is something that we ourselves have to start imposing discipline.

Senator ROCKEFELLER. Senator Cohen, do you remember that fascinating and incredible speech that Senator Danforth gave—that was, I think, 2 years ago—that the Senate is always trying to do foreign policy? Remember? That was an absolutely marvelous speech.

Senator COHEN. Senator Danforth has stressed that theme over and over again. I think he used it in more poetic terms at one time in a private meeting where he talked of us trying to be pointillists; artists. Instead of drawing broad sweeping legislative objectives for ourselves, we are sitting there putting each particular dot on that painting; filling in all these details that consume us.

But it seems to me in the good old days, which may have not been the good old days, Mr. Chairman, you had some fairly powerful Chairmen who took a bill to the Floor, they debated that bill

within the committee, it went to the Floor and it passed within a reasonable time.

Today that does not take place because we have, among other things, we have a proliferation of our own staffs: very young, bright, aggressive people who want to do well for the country and for us. And so we are loaded up with amendments every time on bills that we have no particular expertise on.

So we can have all the fundamental change that we want in this committee, all the recommendations we might make to our colleagues, but it seems to me unless we impose a system of discipline upon ourselves, simply collapsing these boxes so that if you were to take Aging, which I don't advocate, and put it under Education and Labor as a big subcommittee under that or collapse Intelligence under Armed Services, which I don't advocate, or Veterans under some other jurisdiction, that will all be for not if we are simply squeezing down the committees and imposing a longer list of subcommittees on which we serve and then still go to the House Floor and the Senate Floor and offer amendments on the Ag bill, or on the veterans' bill, or whatever the bill might be.

We have to stop doing that. We have to stop—we have to start deferring to the people who are making themselves expert in that field and that can only be done not through the Senate rule, it will never pass, I am sure, but through the discipline of the Leadership and it is something I hope we can recommend to both Senator Mitchell and Senator Dole.

Senator MURKOWSKI. If I can make a brief comment in comparison. The way the structure traditionally prevails on most committees, you have the chief of the committee staff for both the Republicans and the Democrats, which creates a political reality unlike anything that is designed to have any degree of efficiency.

If you take a small city government, you will have liberals, conservatives as council members or assembly members, but they come to a consensus and hire, for simplicity sake, a city manager. And that person is a professional. He responds to both liberals, whatever the makeup of the city council or assembly is, and if he is any good he lasts 3 or 4 years, makes enough decisions and is fired and somebody else comes in. If he is no good, he stays for a while. It is a workable situation because it is structured to work.

If you hired two city managers, one for the liberals and one for the conservatives, you would have what we have. You know, that, to me, is boiling it down to a workable structure that simply has to come to this body.

Look at the way we run the Capitol. I mean, we have an Architect and he is appointed for somewhere between life and the hereafter. He is untouchable. The whole process of trying to focus through, we have not got enough time or attention to make the changes. Instead of having professional management come in, run this place, it just kind of like topsy—you don't know what the budget does, you are not really sure how this got built, why, who paid for it, whether it was needed, but it is here, so we are here.

Senator COHEN. Mr. Chairman, if I can make one final point on this issue. You and I served for 8 years together on the Intelligence Committee and we were able to, I think speaking of myself, it took about 70 percent of my time and I am sure it took that much of

your time and Senator Murkowski as well when he was Vice Chairman. We developed a considerable expertise in the field of intelligence. That was rarely challenged on the Senate Floor because our deliberations were all secret and none of the other Members could profess to have that kind of access to information. So it went relatively smoothly. If the Armed Services Committee approved our budget, we went to the Floor, there were no amendments of any significance, and it went through. That is not possible under any other committee. It cannot be done.

So it seems to me that we are deluding ourselves if we are going through a fundamental restructuring of the committees to try to create a situation in which we can become more expert, that you and I and all of us can devote the majority of our time to one or two really major subjects, be it health, veterans' health, or child abuse, whatever it might be, or Senator Murkowski, you on Veterans or Banking, with Senator Boren on Agriculture and maybe Finance or other committees, a couple of committees. We become the experts.

If we develop that expertise and exclude delving into all the other areas, it seems to me it would be totally inconsistent and undercutting to then go to the Floor and have a sheaf of amendments on every bill that comes up on areas we don't have the expertise. And that will accomplish virtually nothing in the way of reform if we don't change that habit of ours of becoming or trying to purport to be experts in every facet of our lives.

We do it because we are responding to constituencies at home. Everyone has an amendment for us to offer, from every group we are all meeting with day after day coming through, we would like to have you offer this amendment on this particular bill.

But one way to deal with that is to, say, we have a Leadership that says these committees will bring the bill to the Floor and there will be reasonable time for debate. Obviously, you cannot cut out amendments offered by Members, but there should be some discipline imposed on us saying you are going too far afield, Senator Cohen or Senator Boren, or any other Member, this is something we want to move relatively quickly, we want to limit the number of amendments, and you ought to respect the jurisdiction of those Members who are devoting all this time, all of this time and energy. You should be willing to defer at least a little to their expertise.

But I must tell you it is an element of enormous frustration to me to spend all the time I do on the Armed Services Committee and come to the Floor and find over 100 amendments before the bill even hits the floor and then know we have to spend days debating that by people who have not sat on the committee, who have not listened to hours and hours of testimony and yet be forced to defend those positions, oppose those and go on into the night. Something has to be done to restrict that. It cannot be done by rule but it should be done by some notion of institutional respect for this place.

That is all I have, Mr. Chairman. I was not asking so many questions. I think Senator Rockefeller made it clear he does not favor a kind of radical surgical restructuring of the committee system as such. Some people would advocate that. There are a couple of pro-

posals of merging Appropriations and authorizing committees, and we have to take into account whether that is desirable or doable.

Senator ROCKEFELLER. I need to reply to the Senator on that before he leaves, and that is I am not prepared to agree with what the Senator last said, because I have not taken it upon myself to do what both of you are doing and what your joint committee is doing and that is looking at the entire picture.

I have my elements of frustration. When I Chaired for 4 years the National Commission on Children and we wanted to do something for kids with food stamps, you had to go to Agriculture, for something else you had to be—we went absolutely crazy. And, in fact, because there were only two of us who are on the commission from the Congress, the great majority said let us not even try to do this and we don't know what we are going to do, both the executive branch and the congressional branch of government.

But the frustration and the anger at the overlap and the fact you could not get this done because you were at the wrong executive office or at the wrong Senator or House committee was palpable on these very committed citizens, but then having said that, I have not committed myself to the overall large picture thinking what both you two gentlemen have done and are doing.

So to say I am wanting to tinker at the edges, I can't say that at this point. I clearly have defended the need for a Veterans Affairs Committee, but I have not—

Senator COHEN. I misconstrued your statement about not changing the committee. You were referring specifically to the Veterans Committee?

Senator ROCKEFELLER. That is correct.

Chairman BOREN. Thank you very much. Let me ask both of you, one of the issues that has been raised again and again before our committee is the number of committees people serve on and I, and, Senator Rockefeller, you mentioned earlier you took up the Majority Leader. I was the other person that did, in fact, get off the Small Business Committee at that time because I was taking on Intelligence and now this committee.

And I remember exactly the frustration you describe because, frankly, we were having difficulty getting committee assignments for new Members because so many present Members were serving on so many committees. They had gotten there in their so-called temporary waivers and they didn't want to give them up. And, as a matter of fact, we had put into the record of this committee in earlier sessions the fact that the average Senator now serves on 12 committees and subcommittees. If you add in subcommittees as well as standing committees, the average serves on 12. That continues to increase.

We have one Senator who serves on 23 committees and subcommittees, for example. I think I am down to only nine, and if I count subcommittees, eight or nine, and that puts me in the bottom 10 or 12 in the Senate. And from hearing you talk, it sounds like you might be down in about that same level.

How would you feel about it and part of what we have heard discussed is the fact our time is so fractured that you run from one place to another, I think subcommittees especially tend to justify their existence and we have seen people running for leadership po-

sitions and otherwise give people a subcommittee and a few staff and those subcommittees then prove the need to have them by having some hearings and some legislation introduced and before you know it your time is really fragmented either having to go yourself or assign staff to attend those subcommittee hearings that are really not that crucial in the overall course of things.

Some people have suggested if we begin sort of a large overhaul of the committee structure then we begin by really placing into the rules a limitation on the number of committees, both standing committees and subcommittees that Members can serve on. I think subcommittees may be just as an important part of that limitation, maybe even a more important part, than standing committees.

If we have a reasonable number of standing committees and parallel jurisdiction between the House and the Senate, I don't think we solve that problem if we reduce the number of standing committees and create another hundred subcommittees. I am not sure we are better off than we were before, we have just called the groups by new names.

How would you feel about a rule and perhaps make it a rule that could be waived only by vote of the Senate so the heat is not put on the two leaders and they get put in an impossible situation that would say that no Member could serve on, let's say, more than three standing committees and maybe five subcommittees in total or something like eight committees in total?

Senator ROCKEFELLER. I would favor it. I would favor it. I think, frankly, that is the way to go, and I think that is where the so-called, touch wood, problem comes. It is not so much the markups or the full committee hearings but the subcommittee hearings. I was doing some quick math here. I think I belong to seven subcommittees and three committees.

Chairman BOREN. Right.

Senator ROCKEFELLER. I think that would be the way to go. And then I think you need to be very sure also that in that you can really justify each subcommittee within, because I think there are sometimes ones that can be justified because they were started for some reason and something else was added on. I think if you went back and did that you could probably make some progress.

Chairman BOREN. I noticed with interest that the Veterans Affairs Committee does not have subcommittees.

Senator ROCKEFELLER. We are only a committee. We have never had subcommittees.

Chairman BOREN. You do not have subcommittees. We did not have subcommittees in the Intelligence Committee. They had existed previously, but when Senator Cohen and I took on the leadership, and Senator Murkowski continued the policy of no subcommittees, and I am convinced it helped us because the members of our committee had only a certain amount of time. The members of your Veterans Committee have only a certain amount of time.

If you have their time also taken away by having three or four subcommittees, each holding hearings, as opposed to, say, taking the 10 hours a week or whatever the amount of time that your Members might have to vote on issues devoted to veterans' issues, I bet you would end up with a lot of time being taking up on issues that are not as important as the ones if you allocated that full 10

hours to the full committee instead of it keeping three or four and the rest going to subcommittees. You will focus on the more important issues. You set the agenda more appropriately.

And I have thought if we start with a strict rule of, let's say, three committees, maybe one A, one B, and one other, and not more than five subcommittees anyone could belong to—maybe it ought to be three committees and three subcommittees. Maybe one committee of each committee that you could belong to yourself—that we would then also depopulate almost automatically the unnecessary subcommittees.

And Senator Leahy preceded you here as a witness this afternoon and he said he would welcome—as a matter of fact, if we put down an edict, and of course a lot of—hopefully Veterans and Intelligence would not add back, they would stay where they are, but we wouldn't try to define them, we would leave it up to Agriculture to decide the jurisdiction over subcommittees but we would say no more than three. Now there are like eight or nine.

It is hard for a Chairman to say no. We have a number on the Finance Committee. It becomes difficult for a Chairman to say, I am not going to give you a subcommittee if, in fact, nearly every Member of the Majority party and every Member of the Minority party is either Chair or Ranking Member of a subcommittee, it is almost expected. The Chairman has a hard time saying no.

Senator ROCKEFELLER. The Chairman of this joint committee is entirely correct on this because what happens, and I have been in the Majority and Minority, but when you are in the Majority and particularly, for example, if you are junior, as I am, and most of the senior Members have subcommittees and/or they are on three rather than two, it is very hard for the Chairman to say no to a junior person, partly because he wants to be friendly and it seems to be no big deal at the time but it is.

And I know I interrupted the Chairman, but I think that should vary according to the committee.

Chairman BOREN. Obviously, Appropriations has to have subcommittees.

Senator ROCKEFELLER. Yes. And when you get to Commerce, for example, which does so many different kinds of things, now maybe you could have fewer committees in Commerce, I don't know, but there are some committees that undertake an enormous variety of responsibilities, so I think you would have to be sensitive to that.

Chairman BOREN. I suppose also if we had fewer subcommittees, unnecessary subcommittees, we would probably be able to achieve some additional, additional staff reductions as well because some of the committees or subcommittees are staffed by additional people that might not necessarily have to be drawn into a core staff.

Senator Murkowski, would you agree to an approach that would put some discipline behind allowing or limiting the number of committees, the subcommittees that Members could serve on and would you agree maybe limitations of subcommittees is also very much as important an issue that we should address as well as just looking at the number of full committees?

Senator MURKOWSKI. Yes, I would, Mr. Chairman, and I would assume that you could proceed to achieve it without undue influence from tradition or seniority prevailing on the merits.



Chairman BOREN. Right.

Senator MURKOWSKI. Because that is one of the problems you always run into in a body like this where the decisions are going to be made by everyone and everybody has one vote, but the influence of some of those that are heavily tenured can sometimes be pretty persuasive, so I would hope that this committee, whatever its ultimate findings are, is able to insulate itself if its recommendations are put into actualities.

Senator ROCKEFELLER. Mr. Chairman, I really feel strongly about what you said about the two committees, plus one B committee, and B committee is a bad word for it, but I really agree with that. And I think developing expertise is, as Senator Cohen indicated, something which takes a lot of time. If you spend 70 percent of your time in Intelligence when you are Chairing it or Vice Chairing it, Majority or Minority, it takes that time.

Finance, you and I are both on subcommittees. I work on Health Care, I mean Health Care takes 70 percent of my time and it ought to. It ought to. And I should not have to be touching wooden places except where I really need to be doing it. So I really advocate the idea of Senators becoming more experts in areas and then obviously would have to follow the due deference on the Floor which is the harder part.

Chairman BOREN. It used to happen more I think, and I think we have gotten away from it and we have somehow felt we build our influence by sort of being in everything and being on a subcommittee that deals with every subject and so on and swinging at every ball.

Senator ROCKEFELLER. Part of the art of being busy.

Chairman BOREN. Yes, the art of being busy, but also being bogged down and fragmented to the degree you cannot yourself focus and you cannot ever get a coherent group of Senators. If we had, say membership on three committees only altogether by Members, and one subcommittee, each person could belong to one committee of each standing committee they belonged to. Not more than one.

The other thing we would do is greatly enhance our ability to schedule. You could try to categorize these committees. You could say, all right, only—if you wanted to call them A, B, C, and D without regard to which was more important or not—you could say only this group of committees can meet on Mondays or Tuesdays and their subcommittees can only meet on Mondays or Tuesdays, and this committee on Tuesdays and this committee on Wednesday and this committee on Thursday, and the subcommittees thereof on those days. Then you would not get yourself in the same position that we are now in often of having to run from one committee to another meeting at the same day and so on.

I think it would greatly help with scheduling and also perhaps help with parallel jurisdictions between the House and Senate as well.

I won't keep you but just one more minute——

Senator ROCKEFELLER. Could I?

Chairman BOREN. Yes

Senator ROCKEFELLER. One point. Because I don't want to leave on the record that I assent to your idea that if you can belong to two or three—total of three committees and no more than one subcommittee of each, I don't necessarily assent to that. That depends on the nature of the committee and I think in some cases it would be—for example, in Finance, where you have Trade, where you have—I mean, just by virtue of health alone, if I don't—I have to belong to two subcommittees. I think it has to be done sensitively.

Chairman BOREN. What it would do is if we had a limitation, whether it is,—say, six; three committees and three subcommittees, you would be forced as a Senator to decide. Maybe you want to take two of your three subcommittees in Finance and maybe you don't want to serve on any subcommittee of full committee X or Y.. Obviously you don't have subcommittees on Veterans at all so that wouldn't require taking one of your subcommittee slots.

But if we had a reasonable number, seems to me some have said eight. It is interesting, the Stevenson committees, former Senator Stevenson testified before us, when they finished their work, Senator Stevenson, Brock and others, that agreement in the Senate at that time to a limitation of eight, not more than eight committees and subcommittees in total could a member serve on.

Obviously, we have gone back up to 12 and that has eroded. Maybe eight is the number. Maybe six or 17 is the number. If we look at the pattern of erosion, maybe we better start at six and hopefully never get back beyond eight, but some mechanism of enforcement to make the whole Senate vote if they are going to allow Senator Boren or Rockefeller or Murkowski to have 12 committee assignments again as opposed to eight or whatever the number is.

It seems to me it would help a great deal. It would also begin to take care of the problem of too many subcommittees. Pretty soon if you had to put that limitation on yourself under the rules, it would be hard to populate some of the unnecessary subcommittees that are not of enough interest.

Senator ROCKEFELLER. It is also a fact that some of the subcommittees never meet as subcommittees. They only meet in the form of full committees.

Chairman BOREN. That is true, although some of them are still staffed nonetheless.

Senator ROCKEFELLER. Still staffed nonetheless.

Chairman BOREN. That could be a saving. Senator Murkowski, let me just mention, your comment, and this is more of a statement than a question, your comments about our experience in the Intelligence Committee really triggered some thoughts in my mind, and I am delighted to hear that the same efforts at bipartisanship go on and by nature the subject matter in the Veterans Committee lends itself to that more than some other committees and that was true of Intelligence as well, but within these areas, partisanship could easily be injected if the leadership of committees allow it to be.

I think we should look carefully at committees like these and see if there are some areas where we can draw lessons. Senator Murkowski mentioned the fact that in the Intelligence Committee we have an audit unit which can go and audit the most secret accounts of any government program anywhere in the world, more or less without notice. It can swoop down and look at some—audit the

books of some CIA front group somewhere in some other country, for example, find out what is going on. The budget staff the same way, the budget staff of the committee, of that committee. Never been partisan, and the way we did that, we simply agreed that the two staff directors, the only two partisan people we really have are the Majority and Minority staff directors. Even our general counsel was a person who served both sides of the aisle. That might be unique, and it may be that in every committee you cannot have such a high proportion of the staff basically nonpartisan, but it does seem to me that if we can try to draw as many lessons as we can that might be relevant to other committees, certainly I think in most committees you are going to have to have Majority and Minority staff, most committees, legislative committees, and the appropriations committees. But maybe there are some elements of the work of the staffs that could be nonpartisan, with agreement by the same Majority, Minority staff directors as to the personnel of those units. That is what happened in the Intelligence Committee.

I think that anything we can do, anything we can do to encourage bipartisanship, the same—you mention on reprogramming, because we had a Chair and a Vice Chair system, maybe that is something we should consider, having a Chair and a Vice Chair system. It doesn't really dilute the power of the Chair, but what it does, it obligates the Chair to consult in a more formal way with the Vice Chair, with the Ranking Member in essence, and so that there were many things that we did jointly sign off on as a matter of form, which, if we had not been inclined, which we were going to consult anyway, but we would have been, in essence, pushed to consult.

I think it might be very worthwhile for us to look at this, not presuming what the lessons we would draw from it might be, but if we could look at the committees which seem to have the greatest success at being bipartisan and see if there are any lessons, or even any structural lessons we can learn from the ways in which we operate, I think we could make a real contribution to the body at this point, because I think that one of the things that most concerns the American people, in addition to our seeming to tie ourselves up in bureaucratic knots and in complex ways that they can't even fix responsibility as to who is in charge of which policy area and why something has happened or not happened in Congress, the partisanship, increasing partisanship, I think, greatly disturbs the American people and they really don't—I think, in essence, and I think we saw this in the last election. It was part of the appeal of Ross Perot.

People were playing on both your Houses, Democrats and Republicans alike. You are behaving too much like children. You are not solving problems, and if we can find any ways—and I know that reorganization is not a panacea for this. A lot of it has to do with attitudes and other things that we could do, but if we can draw from the lessons, as you indicate, that we have seen in structuring some of the elements of the Intelligence Committee staff, for example, and perhaps we could draw some from the Veterans Committee staff, as well, given your success at being nonpartisan as well as most committees, might be helpful for us to do that, and I

would hope our staff would look closely at these committees that seem to be most nonpartisan to see if we can identify some common elements other than just the nature of the subject matter with which they are dealing that might help us to sort of pass that spirit on to our committees.

Last question for Senator Rockefeller, you are a great expert in the health field. Some have suggested to us that, in fact, we should have a health committee, that when you look at the Finance Committee, Labor, Armed Services, Energy, we go on and on and on in terms of health committee jurisdiction—or the jurisdiction over health issues being fragmented, that we should have a health committee. How do you respond to that, or do you think that the current committee jurisdiction, which I suppose has principally been within the Finance and Ways and Means Committees in terms of overall policy, or do you think that is working fairly well?

Senator ROCKEFELLER. No, I think it should remain as it is. I don't think there should be committee on health. The situation now is that we have two committees, long-term care and medicare and medicaid and the uninsured on Finance. That used to be one committee when Senator Mitchell headed it.

Chairman BOREN. Right.

Senator ROCKEFELLER. And then Labor and Human Resources, and there is always the question, when there was the drafting of legislation with respect to health care, how that—how you shade the drafting, so how the jurisdiction would be assigned. But I don't think it is a serious problem, and I think it would be a mistake to create a separate committee on health. I think it can be handled within our current system.

Chairman BOREN. Thank you very much. Thank you both very much. Let me say that your comments, of course, will all be in our record and when this committee sits down to deliberate, the information which you have given us, especially from the point of view of your own perspective about the Veterans Committee, the work which it does, will be very, very helpful to us in our deliberations in our decision-making process, and you stated the case very strongly and I think very articulately for the work of this committee, and the need for this committee, so we will—I assure you, will give this very strong consideration when we try to come to conclusions, and we welcome your thoughts.

Let me say not only on Veterans' Committee matters, and you both commented more broadly as well, but as time goes along, we will complete our hearings some time in early June. We will begin a lot of deliberations among ourselves, and as you can see from the range of plans which have various goals of either parallel House or Senate, reducing the number of committees or setting a target number of committees or trying to parallel committees with executive branch organization, we have all sorts of different models that we could follow, and I assume we probably will not end up with following anything that resembles any one of these plans, but trying to draw the best out of each one of them and the best concepts and trying to make the Congress more effective and less fragmented.

We would value your thoughts as we go along and if it is just a matter of jotting down a note to us, to any of us on the committee,

to any—to me or to Cochairman Hamilton, Senator Domenici or Congressman Dreier or any of the other Members, we would really welcome your thoughts, not only on Veterans Committee matters, but on many others as we go along, because we hope that before the end of the summer we will have completed our deliberations and be prepared to make our recommendations so that this fall when Congress returns after the August recess, we will be able to be in a position of acting upon those recommendations.

So we would really value your continued counsel and thoughts as we go along.

Senator ROCKEFELLER. Mr. Chairman, I want to impose another thought. Just as you gave us that gracious exit something that does bother me, and it does not argue for the committee on health; that is not my point at all. We are about to undertake what I think is the largest legislative exercise in the history of the Congress, which is reforming our health care system. I won't try to make the case for that now, but we are. And I will say to you in all honesty that I am extremely troubled as a professional, public person that there are probably not more than 30 among the 535 Members of Congress who I would call deeply or substantially knowledgeable in health care policy.

Now, that, I think is something to worry about, and I don't know how that fits into your deliberations. In other words, there are certain key areas in this country, and intelligence, for example, you can't not be good at it. Well, in health care, for the purposes—even if it is just for the next year or whatever period of time, we are going to have to be good at health care, and there is not a deep body of sophisticated knowledge in that subject in this Congress and that is a matter of concern.

Chairman BOREN. You are absolutely right, and, you know, from time to time we have issues that become—that loom up in terms of not only their magnitude, but their time limits. For example, as you said, we are now confronted with the absolute necessity for major overhaul of our health care system. Five years from now we may be confronted with a major overhaul of something else, whether it is income security. We had a major legislation on social security a few years ago. I suspect we are going to confront that issue all over again one of these days, and entitlements, other entitlement programs as well as health care.

How do you stop the work of the Congress, which distracts the Congress into many things, many things that are relatively pale in importance compared to this long enough to focus the attention not just on the Members of the Finance Committee, let's say, or the 30 or 40 as you already pointed out who have already immersed themselves in the subject, but how do you get the other 450 or 475 Members of Congress to have a chance to stop what they are focused on otherwise long enough to become really well-informed because they are all going to vote on it and they are all going to determine the outcome of it and, again, I would submit that part of our problem is, and I think this has—perhaps some have suggested, by the way, more or less a leadership committee on scheduling which would be empowered to say to committees, stop your work for this next week. Let's all focus on health care or something else. Let's take the time and I think that would help a great deal plus, I think

again, reducing the number of committee assignments on unnecessary hearings on subjects that are not that important and so on, there has to be some mechanism for setting priorities so that we can focus our time.

I remember a year or two ago when we were trying to resolve a compromise on civil rights legislation, the President had vetoed a civil rights bill, I believe, twice. We were trying for the third time to resolve it, come forward with a bipartisan proposal and the two leaders appointed eight of us, four from each party—Senator Danforth was the lead Senator on the Republican side—to get together and work out a compromise on the civil rights bill. I can tell you that we struggled for 6 weeks to have meetings among the eight of us. We never got all eight—small a group as eight. We never got all eight in the same room for as long as 30 minutes. You might start out with two or three people there.

By the time it ended, a different two or three would be left and two or three different people who had been there in the middle, it was sort of a rolling meeting and people were dashing off to nine other committee meetings and other things they had to do that way. They were never able to focus adequately on doing that job and that is exactly what—that is a small matter. It was one piece of legislation that was a few pages long. It was important; not nearly as complex. It had four or five complex issues attached to it.

This has thousands of complex problems attached to it, and yet there is nothing within our system that allows the investment of time and focus for Members to look at it carefully. I think that is a very important point and one with which we will try to struggle as we go through our deliberations and, again, I invite you to—as you have thoughts about this, you certainly identified the problem, and if you have thoughts about what mechanism we might have for handling that, please let us know as we go along.

Senator MURKOWSKI. I just want to draw your attention to the obvious, having served on the Energy Committee and Environment and Public Works Committee and the Foreign Relations Committee, the Indian Affairs Committee, the Veterans Committee, the thing that stands out about the Intelligence Committee very simply is we have less exposure to special interest groups.

Chairman BOREN. True.

Senator MURKOWSKI. Than any other committee. And whether you look at energy and industry or environment and public works and environmental community or foreign relations or foreign aid or veterans advocates or Indian affairs advocates, that is what causes regional concerns and good luck to you, Mr. Chairman, because you got a big order and unless you stop the train and throw everybody off in a time sequence that suggests that, OK, this is going to happen, either after you and I leave or so many years down the pike, otherwise you will have people dragging their feet because of seniority or committee chairmanship or something that are going to object to it. So it is vastly needed. I would support the concept of going back and redesigning it. I just hope it can happen in our lifetime.

Chairman BOREN. Thank you both very very much for being with us and for taking the time. I assure you, my colleagues are interested. We had to juggle our schedules today because of funeral

services for Mrs. Baker and that caused other Members' schedules to get disrupted, but there is great interest in what you said and we will make sure that it gets shared with all members of the committee.

We will stand in recess.

[Whereupon, at 6:20 p.m., the committee was adjourned.]





## COMMITTEE STRUCTURE

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THURSDAY, APRIL 29, 1993

UNITED STATES CONGRESS,  
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS,  
*Washington, DC.*

The committee met, pursuant to notice, at 9:10 a.m. in room SC-5, The Capitol, Hon. Lee H. Hamilton (co-chairman of the committee) presiding.

Chairman HAMILTON. The hearing of the Joint Committee on the Organization of Congress will come to order.

### OPENING STATEMENT OF HON. LEE H. HAMILTON, A U.S. REPRESENTATIVE FROM THE STATE OF INDIANA

Chairman HAMILTON. The Joint Committee on the Organization of Congress is now midway through what will be 7 days of hearings about the congressional committee system, hearings in which we will receive testimony from over 40 chairmen and ranking minority members from both the House and the Senate. Ten House committee leaders will appear this morning. The first panel will include Representative Tony Hall, former chairman of the Select Committee on Hunger, along with Representative Bill Emerson, who in addition to being a member of this joint committee serves ably as the ranking minority member of the Hunger Committee. They will be followed by Representative Gerald Solomon, the ranking minority member of the Rules Committee and also a member of this joint committee. Then after that we will have a series of other chairmen and I will announce them at the appropriate time.

Gentlemen, we're delighted to have you here this morning. We appreciate very much your willingness to come before the joint committee to testify and we look forward to your statements. You may begin. Which ever one goes first, it doesn't make any difference to the Chair. Mr. Hall.

### STATEMENT OF HON. TONY P. HALL, A U.S. REPRESENTATIVE FROM THE STATE OF OHIO

Mr. HALL. Mr. Chairman and members of the joint committee, I appreciate having the opportunity to appear before you today. I am very pleased to be joined by my friend and colleague Mr. Emerson, who is not only a member of this committee but was a very, very important member of the Select Committee on Hunger.

Yesterday I was asked to speak on this issue of hunger at our Democratic Caucus. I thought I would only take 10 minutes but apparently what happened is I ended up speaking for 35 minutes. I

will spare you that problem and, in order to spare you that problem, I think it is better that I stick to the text because it is fairly short.

Until March 31 of this year, I had the honor of chairing the Select Committee on Hunger. And as you know, on that date the Select Committee was allowed to expire. I had wanted the Select Committee on Hunger to keep operating until the Joint Committee on the Organization of Congress had the chance to recommend comprehensive reforms which would include how best to handle the issues the Hunger Committee addressed. Although the Select Committee on Hunger no longer exists, I would urge this committee to find a way to fulfill its mission.

The Select Committee on Hunger was created in 1984 to provide a coordinated focus on a wide variety of both domestic and international hunger-related issues. Matters we considered crossed the jurisdictions of some ten standing committees. Individual standing committees did good work on different hunger issues, but until the Select Committee on Hunger was established, there was no single committee that looked at the whole picture. There was no focus, there was no laser beam on this whole issue. We have a major problem there between not only the rich and the poor, but the people are slipping between the cracks all over this world. There are 2 billion people now in the world that are malnourished and living below poverty, making less than \$300 a year. There are 35,000 people that are going to die today in the world, there is another 27 million people on food stamps, there is another 20 million people on top of that in our own country that are going to food banks and soup kitchens that are, for the most part, working poor; they don't qualify for public assistance. At the end of the month, two or three days, they run out of money. These people are the people I'm talking about, most of which are children.

With the death of the Hunger Committee, the standing committees with legislative authority will continue to deal with their separate pieces of the hunger pie. But the focus, the leadership, and the special institutional voice the Select Committee provided will be lost.

Take the issue of domestic hunger. Obviously, this is a problem we all want to solve. But if we sit down and develop a plan to end hunger, who will write it? Right now, I can't answer that question. The Agriculture Committee could report the Mickey Leland Childhood Hunger Act but that only affects the food stamp program. The Education and Labor Committee could expand the school lunch and school breakfast programs. The Ways and Means Committee could overhaul AFDC. But these programs are only two pieces of the puzzle. This type of fragmentation makes it nearly impossible to address the issue of domestic hunger in a comprehensive manner.

The Hunger Committee which I chaired and Bill Emerson was the ranking minority member, we didn't have all the answers—we are not arrogant enough to sit here and say that we had the answers—but we took a stab at it and we passed a lot of legislation that I felt was good and we represented a lot of interests. We looked at both the short-term and the long-term.

The Hunger Committee, in my opinion the best way to describe it, was a fire that was burning very brightly on this particular issue. If you don't focus on the issue, what you are going to see, in my opinion, is you are going to see this fire go out because you are going to separate the sticks and the logs that are in that fire, they are all going to be put into about ten committees, and those fires will burn out. There are hearings going on this week in the Agriculture Committee, and that is wonderful, that's exciting, but what is going to happen is where are they going to be 4 months from now. They are going to be talking about soybeans and peanuts, as they should because they have a lot of interests, but they won't be talking about this issue of hunger, I guarantee you. Where are they going to be a year from now?

Over and above the problem is the fact that hunger and similar human needs issues take a back seat to the flashier issues that the committees with jurisdiction also handle. Let's face it, hunger issues win neither acclaim nor votes. If given the choice between considering the needs of the poor or stimulus projects, naturally most would chose to focus on the latter in deference to the people who put us in office. Human needs issues demand nothing less than some sort of committee of their own so they need not compete with other issues and so members need not make difficult choices.

There are two options the joint committee realistically could consider regarding jurisdiction over hunger-related issues. First, you could rethink the current categories for the legislative or authorizing committee. For example, and this is a difficult one, you could create a new Committee on Human Needs which would generally address issues like hunger and nutrition and poverty and development. This committee would address certain matters that currently are handled by Agriculture, Banking, Education and Labor, Ways and Means, and Foreign Affairs. The Committee on Human Needs could have a domestic subcommittee and an international subcommittee. The Human Needs Committee would focus on the alleviation of hunger and poverty both in the United States and overseas. It would handle relief programs and assistance programs, but it would also seek to address the underlying causes of hunger and poverty. This means that its jurisdiction would have to encompass issues like welfare reform and international development.

The proposed Committee on Human Needs would resemble the old Select Committee on Hunger but it would have real legislative authority and a more expansive mandate. It would operate under a tight budget and a small staff. And it would only need the two subcommittees I mentioned. My experience with the Select Committee on Hunger has convinced me that you don't need to have a big bureaucracy and a large staff to get things done and move the issues. I believe the Select Committee model is something that can be applied to a permanent legislative committee. I think we could follow this example not only on human needs, but on other issues as well.

If it is not feasible to start with a clean sheet of paper and recast the current legislative committee structure, then I would argue that you should take another look at the idea of a select committee. Possibly such a committee could be a joint committee with House and Senate membership. Some have questioned whether it makes sense to have select committees since they do not have a

legislative authority. I have found that not having to report legislation and not having to deal with fixed legislative schedules gave the Select Committee on Hunger considerable flexibility. We could examine issues that fall between the cracks, we could supplement the work of the standing committees, we could look at cross-jurisdictional matters. We also had the time to perform the kind of oversight that often escaped the legislative committees. And most importantly, we provided a forum for ideas and issues that simply would have escaped congressional attention if we weren't around.

There is a myth that because we could not report bills we were not involved in legislation. However, we drafted a 177 page blueprint for fighting domestic and global hunger. It was called the "Freedom from Want Act". And we drafted innovative, asset-based, anti-poverty legislation. We introduced an emergency WIC bill that passed in 4 days, and on and on and on. We were not just some legislative think tank, we were an active part of the legislative process working closely with the standing committees and through floor amendments could pass our initiatives.

We established an award-winning record on the smallest budget of any committee in this Congress; we spent \$652,000 last year. The committee saved lives—these are not my words, these are the words of Jim Grant at UNICEF who said that this committee was directly responsible for saving millions of lives. That's a big statement. That is a pretty broad statement. It is hard to believe. Yet, we fell victim to the push for so-called reform and maneuvers relating to committee funding and there was never any real debate about the quality of our work.

I hope this joint committee now will hold this debate. I urge you to review our accomplishments and consider the contributions we were able to make as a select committee. The full range of our domestic and international hunger-related issues cannot be transferred in their entirety to any one standing committee. The best approach would be to revise current jurisdictions and establish a new Committee on Human Needs. The next best approach would be to create a permanent Select Committee on Human Needs without legislative jurisdiction but with a mandate to provide the focus and the leadership and the coordination on the issues that is missing from the legislative committee structure.

The response I received to my recently considered three week hunger fast shows that the American people will respond to the problem of hunger if we enlist their help and provide our leadership. We had a hearing about a year ago with a very famous Republican pollster who polled a tremendous cross-section of people across the land and he said that 93 percent of Americans said hunger is an important issue, a very important issue. Some 67 percent of those people said that they would pay \$100 in new taxes for hunger programs if they felt that every dime of their money would go for that purpose. The fast produced significant results across the country. People responded to it; 205 universities were organized and thousands of high school kids and churches and synagogues and temples started new programs like food banks and soup kitchens, people called in and said where can we donate our money, this is an important issue. It was a tremendous outpouring of strength and power. The World Bank saw the need for it as a result of the

fast and they said we want to do a world summit on hunger, the Administration through Mike Espy said we're going to do an American summit on hunger, and on and on and on.

Yesterday, I addressed the Democratic Caucus on this particular issue. Dick Gephardt, I don't think I'm talking out of turn, but he said he felt bad, he felt ashamed that he was part of the leadership that allowed this committee to go down. He said he was going to recommend some kind of interim task force or some kind of interim vehicle from now until the end of the year to deal with this issue and that he was going to recommend to this committee that you look at some kind of permanent structure to deal with this issue on human needs.

I have given you a couple of ideas. It is an open end kind of thing, however you want to do it is OK with me. If you want me to go out and raise the money for the committee, if you want me to raise half the money, I will do it. But give me and give us that care very much about this issue the legislative authority. It would be amazing to me that the country moves on this issue—in 45 States, thousands of people fasting and praying and working to start programs, donating money, as they have in the last 3 years or 3 weeks—the World Bank is moving, the Administration is moving, and this Congress does not move on this issue. This committee really is the committee that has to recommend this, in my opinion. I really ask you to do this. I thank you for the time.

[The prepared statement of Mr. Hall is printed in the Appendix.]

Chairman HAMILTON. Thank you very much, Representative Hall. I think every Member of the Congress and many, many thousands of Americans have been deeply impressed with your own commitment and remarkable example by your fast and your dedication to this. You have impressed the need for concerted action on hunger on all of us. You deserve our highest praise and commendation. We are very grateful to you for your testimony.

I know your colleague in all of these on the Select Committee has been Representative Emerson. He is a member of course of this joint committee. We are delighted to have him. Let's get your testimony on the record and then we will proceed to questions.

#### STATEMENT OF HON. BILL EMERSON, A U.S. REPRESENTATIVE FROM THE STATE OF MISSOURI

Mr. EMERSON. Thank you, Mr. Chairman, and my colleagues. I appreciate this opportunity to testify here this morning. I have spent the last 3 months on the other side of the dais, and I know that this Committee has heard me speak somewhat to these matters before. But I feel so strongly about this issue that I wanted to speak from this side of the table, and I appreciate the Committee's willingness to hear me one more time.

In deciding how to proceed with reform recommendations, this Committee will study past successes and failures. One past experience which I think the Committee would do well to study is the recent experience with House select committees. In some eyes, the elimination of the select committees may have been a success; others, including the two members seated before you now, would disagree. But whether one views the ultimate result as desirous or

not, one must concede that the process—the means through which the select committees were eliminated—was a failure. There was a total lack of comity for members who had invested extensive time and effort in the select committees and I feel that, by this lack of comity, the efforts of these members and the substance of their work has been significantly denigrated.

This is the time for reform in the Congress; the very existence of this joint committee here today is testament to that fact. The mood of the country is ripe for reform, and with 110 new members who came to Washington this year with a promise of reform, I am optimistic that this committee will recommend, and that this Congress can pass a major, bold package. At the same time, we should undertake reform in a very careful and deliberative manner. This committee was established to do exactly that.

The abolition of the select committees in the manner in which the whole thing came about was anything but careful and deliberative. It was a result of arrogance on one side of the aisle and an intemperate thirst for victory at all costs on the other side of the aisle. From the beginning, many members raised the point that committees which were created to last for 2 years should not continue to exist in perpetuity. This is true, but it must be kept in mind that these select committees were created for a reason and a purpose, they came into being upon the recognition that our existing committee structure was not equipped to deal with the issues of hunger or drug abuse or aging and of children.

Ideally, the select committees should exist until one of two things occur—either the problem no longer exists or we have made changes to our committee structure so that there is an adequate means to deal with the problem. In the case of the Hunger Committee, hunger didn't go away nor did the House make provision to deal adequately with the issue by assigning to standing committees the oversight responsibility and cross-jurisdictional features pursued by the Hunger Committee. Oh, I know in the reorganization of subcommittees at the beginning of this Congress they reduced the Agriculture Committee from nine subcommittees to five subcommittees and as an afterthought tucked a sixth one in there and called it the Hunger Subcommittee so that somebody could point to the fact that there was another subcommittee in the Congress that had "hunger" in the title. But the fact of the matter is that this is a brand new subcommittee and, indeed, interestingly enough, it has no nutritional jurisdiction, none whatever. They are holding a hearing this morning but they don't have any nutritional jurisdiction; another subcommittee of the Agriculture Committee without the title "hunger" has nutritional jurisdiction.

Given these facts and given the fact that this joint committee was created, the sane and logical course of action would have been to reauthorize the select committees for one year and then allow this joint committee to decide the fate of select committees and of the oversight jurisdiction that possessed. In what I can term nothing but misgauging, the House leadership rejected this offer of compromise and decided it would reauthorize the select committees for 2 full years notwithstanding the mandate of the joint committee. So when the full House declined to reauthorize the first select committee put before it, the leadership quickly reconsidered its previ-

ous rejection of the compromise position. I am still of the belief, even more so today than I was when it all happened, that this compromise position would have been the wisest course to follow.

The first vote on the Narcotics Committee left all four selects wounded and blood was in the water. The smell of victory for early reformers was too enticing to refuse, and the compromise, initially offered by Mr. Solomon and supported by the entire Republican leadership, was effectively abandoned by many in my own party. The issue never again came before the full House and select committees were just simply allowed to wither and die without the courtesy of discussion, no debate, no vote. In fact, we had formal notification of the demise of the Hunger Committee when Chairman Hall received a phone call from the Clerk of the House, not a committee chairman, not a member of the leadership, but from the Clerk of the House, having had many assurances to the contrary that it would happen in some other way.

Mr. Chairman, I look back on how the issue of select committees was handled and, frankly, I personally am very embarrassed by the entire situation. I think it reflects very poorly on both sides of the aisle and on the House as a whole. The joint committee should pay close attention; this is a classic example of how not to reform the committee system. Regardless of the merits of the issue, it is clear that the process failed. We in the Congress are charged with doing the people's business and we should make decisions about jurisdiction, about what issues are front burner and what issues are not with thoughtful reflection and due deliberation. Reforming the committee system is about enabling us to do our work more effectively, it is not about issuing press releases back home saying that we saved the Congress from itself. There are valuable lessons to be learned here about the importance of process, as I have just described.

In addition to the procedural matters that I have raised, I also want to comment briefly on the subject matter that comprised the Hunger Committee's jurisdiction. I mentioned earlier that hunger is still with us. So, too, should our efforts to combat hunger remain in the foreground. This is a fact that the joint committee should consider when it looks at jurisdictional issues.

Hunger issues cut across the jurisdiction of several committees, most frequently Foreign Affairs, as the Chairman well knows, and Agriculture Committee. If the existing committee structure is retained in large part, we would do well to consider the creation of an ad hoc committee such as those suggested by Messrs. Mann and Ornstein to deal with hunger issues. Would this send us right back to where we started with select committees? Perhaps. More efficient, in my belief, would be a system which recognized the importance of hunger as a part of its permanent structure. I support the incorporation of hunger issues into standing committees with legislative jurisdiction. It is there in some part but there is no one committee of the Congress that has its arm around the subject entirely and that was what gave rise in the first instance to the creation of the Select Committee on Hunger.

It may interest members to know that I opposed the creation of the Select Committee on Hunger at the time it was created. I did so because I argued at the time that the jurisdiction that was being

given to the select committee, although oversight in nature, should be placed with standing committees of the House and given the authority to get whatever standing committee's arms around the issue. That did not happen. The Select Committee on Hunger was created and I very soon learned—I have been on the committee the whole 9 years of its existence—but I very soon learned how piecemeal the jurisdiction was as it was placed in other committees. Yes, the Agriculture Committee has very extensive jurisdiction over certain identifiable nutrition issues but in no way does it have comprehensive jurisdiction on problems relating to the hunger issue at large. Hopefully, this joint committee will come up with solutions to remedy that problem.

Once again I want to say to my colleagues how deeply I appreciate this opportunity to testify before you today. I would be glad to try to answer any questions that you may have.

[The prepared statement of Mr. Emerson is printed in the Appendix.]

Chairman HAMILTON. Thank you very much, Mr. Emerson. We commend you, as we did your colleague, Representative Hall, for your exemplary work on this Select Committee on Hunger and for your testimony this morning.

I will turn now to Mr. Dreier. Before I do that, Dave, however, let me just point out to members that we have ten members to testify at the session this morning, a very full plate, so I would ask members to ask all the questions they want to ask but try to remember we have got a very heavy schedule in front of us.

Mr. DREIER.

Mr. DREIER. These warnings are always given just before I have an opportunity to ask questions.

[Laughter.]

Mr. DREIER. Let me thank both of you for, as Chairman Hamilton has said, not only your very important work but your testimony today. Obviously, this is a very pressing problem and we need to find a way to address it. You know, we really are moving ahead I believe. Tony, I heard you last Friday morning on National public Radio say that your goal here is not the reinstatement of the Select Committee on Hunger, but it is to try and find a way in which we can effectively address what is clearly a very pressing problem.

We have received 14 proposed plans for restructuring committee from the Congressional Research Service. And as we look at the litany of plans, Plan F, which would establish eight committees per chamber, actually includes among those a Human Resources Committee. I wondered if you have had a chance to look at that? If that would be something that could effectively address it. It would have a tremendous impact on a wide range of other existing committees today, but the jurisdictional questions which Bill very accurately raised and the problems with just establishing a subcommittee which really doesn't have jurisdiction over this issue of hunger is a problem. I wonder if you feel that establishing a Human Resources Committee that would be charged with dealing with this might be a way in which we could address it.

Mr. HALL. I know about it in general, Mr. Dreier, but I am not familiar with the details of it. I would be very interested in how it would work, how could you be on the committee. When you say



Human Needs, is this beyond poverty and hunger? What does that mean?

Mr. DREIER. You have actually called it human needs but the plan that has been submitted to us, Plan F calls it a Human Resources Committee. So I think there is obviously a lot of question as to exactly how far it would go. But it seems to me that it would be a natural that the question of hunger would be incorporated in a Human Resources Committee.

Mr. HALL. I am also concerned about—there is an unknown factor here in the Congress and you cannot legislate it, you cannot set up a committee and prohibit people from being on it. Like, for example, I am on the Rules Committee; I am not allowed to be on these committees because it is an exclusive committee. And there are people like Bill Emerson and Dave Obey and Dick Durbin and people like that who care about these kinds of issues. It's members that drive issues, it is not the committee structure itself. And the point is if you set up a committee and you don't allow the members to be on these committees to drive the issues, you have lost.

Mr. DREIER. That would get to an important point though, and that is the prospect of establishing ad hoc committees. We have heard discussion of that and Tom Mann and Norm Ornstein have raised the ad hoc issue, stating that they hope that the Speaker could utilize that more so in the future. I wonder if that might be a vehicle to address this.

Mr. HALL. What is an ad hoc committee to you?

Mr. DREIER. Well, an ad hoc committee is a special committee that is established at the call of the Speaker to address a certain need that is right there.

Mr. HALL. So, in other words, that is just another name for a select committee?

Mr. DREIER. Let me just put it this way, Tony. I sense the establishment of an ad hoc committee might have more of a temporary sense to it than the history that we have seen of select committees.

Mr. HALL. I would be very much in favor of that, David, if they set up an ad hoc committee and they said—well, for example, almost all of the hunger activists in the country and around the world, there are about 400 of them from World Vision to Bread for the World to Catholic Relief Services, et cetera, et cetera, we have set as our goal to end hunger in this country and in the world by the end of the decade. So if you set up an ad hoc committee and said the ad hoc committee ought to go until, let's say, the end of the decade and then it goes out of existence no matter what, I think it is a great idea.

Mr. DREIER. Thank you very much. I have several more questions that I wanted to pose to Bill Emerson, but since I sit next to him on this committee, he has answered most of them for me already. So I will yield back the time. Thank you, Mr. Chairman.

Chairman HAMILTON. Ms. Dunn.

Ms. DUNN. Thank you, Mr. Chairman. Welcome, gentlemen. I think what you have talked about this morning points out a lot of problems, but one problem it points out in my perspective as a freshman is how complicated our committee structure is right now and why, with all the committees we have in the Congress of the United States, don't we have a committee or two that really can

focus on the issues that you have said, and I agree, are so important. I think that what you are seeing us struggle with here on the joint committee is as we put together a new committee system, which we hope to do, to make things less complicated, more understandable, maybe a little bit more operational for people who are very busy, that we just can't have 43-plus committees based on issues that are important to all of us. I think people understand the idea of a select committee much better than a committee like Energy and Commerce, for example, which has multiple jurisdictions and really depends on the power of the chairman in many cases to pull in items of interest to all of us.

I guess my question would be if you had, Mr. Emerson, the year that you would liked to have had in the compromise during which the Select Committee on Hunger would continue to operate, would it be possible during that time to plan a way to fold in some of those items that we really have not focused on that are very important that are not done by other committees, the ten or so who have hunger within their jurisdictions? Would it be possible for you to give us some advice on how you would have meshed in those items into the committee system that we have now, or is it going to take a big change?

Mr. EMERSON. No, certainly. I don't know that it can be with the existing committee structure, but I believe that one of these plans, Plan F, for example, I think several of the plans have a lot to recommend them but Plan F appears to be the one that certainly would accommodate the incorporation of all issues related to hunger. Hunger is not just a problem of food, it is a matter of structure, of transportation, of a whole lot of different things. I think hunger has to be addressed ultimately in the context of very comprehensive welfare reform and the standing committees of the House as they currently exist all have a little piece of the action. But absent a standing committee or a proposed ad hoc committee, there is not some one entity to get its arms entirely around the problem.

I think it is important that we have this opportunity in addressing subjects such as welfare reform, and, frankly, that was one of the major undertakings of the Select Committee on Hunger. I would like to say for the record because I know the whole Government, the Executive Branch and the Legislative Branch, is preparing to look at the subject of welfare reform. They ought to look at the files and the hearings and the transcripts of hearings held by the Select Committee on Hunger over the course of the last 5 years. I dare say there is no finer body of evidence existing in this town today, a better road map that tells us where we ought to go in the area of welfare reform. We have heard about everything there is to be heard on the subject and we really don't need to reinvent the wheel.

But, yes, it comes back to the point that if there had been a place to put all this jurisdiction in the first place, the Hunger Committee wouldn't have been created. I argued at the time, as I said in my statement, let's get this sorted out now and give the appropriate jurisdiction to standing committees of the House. We all know that select committees are supposed to be temporary in nature. But that wasn't done. And in the 9 years of the existence of the Hunger

Committee, we really did get into some issues in a very comprehensive way. There it is, it sits there now, nothing to be done with it I suppose unless some other committee wants to pick it up.

There has always been a little tension, for example, between the Hunger Committee and the Agriculture Committee notwithstanding the fact that most members of the Hunger Committee are also on the Agriculture Committee. That tension existed more out of concern by members of the Agriculture Committee than it did by members of the Hunger Committee. As a matter of fact, as the Chairman will bear out, when we were holding hearings on issues that I felt bore on the jurisdiction of the Agriculture Committee, I always made a motion to forward the transcript of that hearing to the appropriate subcommittee of the Agriculture Committee so they would have benefit of what had indeed occurred at the Hunger Committee and wouldn't feel that we were trampling on their jurisdiction. We did that in a multitude of instances.

But I don't despair of the opportunity to sort this out, no. There are a lot of possibilities to sort it out. My really deep concern is, however, that there was a total, complete violation of comity and process in the manner in which select committees were dissembled. We slashed them off at the ankles; we didn't do this in a thoughtful and deliberative way at all as a legislative body should. I think we can perhaps overcome that but my point here is to say, boy, let's not proceed with the whole reform in the manner in which we proceeded with abolishing selects. I think it was an absolute total disaster.

Ms. DUNN. Tony?

Mr. HALL. One of the things that I think we are really guilty of in the legislative process in this Congress is we don't really decide what is priority; we say everything is priority and so we try to set up many, many committees to deal with all of the issues. Sometimes as an institution we are not very bold, we don't move the institution, we don't move the country. Because we say everything is important, we try to fund everything and we set something up to accommodate the politicians and the political problems and we consider the wolves and the snail darters as important as hunger. The fact is we say that defense is important, deficit reduction and jobs are important, health care is important, we might say those are the four or five top ones, but we never say hunger is important and everything else is in the same boat. So we have got 100 issues and we say they are all important except for the first four that I mentioned. As a result, nothing gets done. We never move the agenda.

The committee structure, why do those committees get all the money that they did? They should all be cut 5 or 10 percent, easy. It is ridiculous. Yet, the fact is that on this committee, if you try to accommodate everybody, you are going to have to really be strong and tough. But there is also the factor of flexibility. We are not only dealing with the committees and structures, we're dealing with the personalities and the character of the Members of the Congress. You can set up the greatest structure in the world in the Pentagon, restructure the whole Defense Department, but if you don't have a person at the top that is going to lead, forget it. So there has to be some consideration about the fact of who is going to drive these issues and what group in the Congress really has the

ability to really focus on transportation, to focus on taxes. So you have to set up a structure where these people will be appointed I think.

So you have a very difficult job. I am not sure that your committee structure, as I look at it, will do the job. You are going to have to be flexible enough to have select committees or some kind of ad hoc committee to address specific issues because they are important. You can really do this Congress an invaluable service by telling us in your mind — and this ought to be fairly easy—what is priority. What is important in this country? Let's solve some of these problems.

Ms. DUNN. Thank you, Mr. Chairman.

Mr. DREIER [assuming Chair]. Thank you very much, Ms. Dunn.

Mr. Solomon.

Mr. SOLOMON. Mr. Chairman, let me say to these two gentlemen that we have the greatest respect for them. Because of the press of time and because I have discussed this issue with both of you on many occasions, I am not going to ask any specific questions, except I just want to say to both of you we really appreciate the work that both of you have done. Tony, you mentioned that the issue is driven by the members of Congress and you are so right. You both know that I oppose the concept of long-standing select committees. I have been very, very active for 15 years in the fight against the war on illegal drug use. But I even opposed the continuation of the Select Committee on Narcotics and Drug Abuse. However, at the time when we were abolishing the select committees, I think that you and the other select committees were caught up in some kind of euphoria of timing. The Congress, having just gone through an election, a lot of new Members in the Congress that wanted to show that they were doing something to cut back on the size of Government, it had to do with the Perots and the Clintons and the Bush campaigns. That was somewhat unfortunate.

As you know, I did attempt to try to orchestrate a compromise that would have still lived up to my philosophy of phasing out the select committees but at least giving your committees the chance to produce something that would take over in your absence at the end of a 12 month period. I did so in great confidence that this joint committee by that time might have come up with a recommendation that the entire House of Representatives could have adopted that would have alleviated your problems at least kept that issue before the American people.

It is too bad that didn't happen. I don't know what can be done about it now. Nevertheless, I have deep respect for both of you and the work that you have done and will continue to talk to you about it as we develop the final draft of this recommendation of this committee. Thank you.

Mr. DREIER. Thank you very much, Mr. Solomon.

Mr. Swift.

Mr. SWIFT. No questions, Mr. Chairman.

Mr. DREIER. Gentlemen, thank you very much. Your testimony has been very helpful. And, Tony, I do hope that you will take an opportunity to look at this Plan F which is before us, as well as all of the other proposals. I know Bill, as a member of this committee, has had a chance to look it over. Maybe if we do lean in the direc-

tion of a plan like this, it is my hope that you will be able to have a great deal of input on the establishment and the role of the Human Resources Committee. Thank you both very much.

Mr. DREIER. Now, we are very privileged to have the opportunity to gain testimony from my leader on the Rules Committee, the gentleman from Glens Falls, New York, Mr. Solomon.

**OPENING STATEMENT OF HON. GERALD B. SOLOMON, A U.S. REPRESENTATIVE FROM THE STATE OF NEW YORK**

Mr. SOLOMON. Thank you very much, Mr. acting Chairman. I really am grateful for the opportunity to appear before you in my capacity as the senior ranking Republican on the House Rules Committee to give you my perspective of the committee system. As a member of this joint committee, I want to apologize, first of all, for not having been able to participate on a daily basis.

Mr. DREIER. Your absence has been noted.

[Laughter.]

Mr. SOLOMON. And the main reason of my absence is because of you, Mr. acting Chairman. On our Rules Committee, we only have four Republicans and when you were elevated to the position of ranking Republican on this to take Mr. Gradison's place, it left us very short on the Rules Committee on daily operations. So I have tried to cover for you and I hear you have tried to cover for me, and I appreciate that very much and I will try to repay you.

Mr. Chairman, on February 4 of this year, I presented a written statement for your record expressing some of the overall reform priorities I think this joint committee should address, and there are many of them. These were taken primarily from our House Republican rules reform package that was offered on the opening day of this Congress and subsequently introduced by our Republican Leader as H.R. 36.

Among other things, I called in that statement for setting a legislative agenda and timetable at the beginning of each year for the consideration of major pieces of legislation; moving to a five-day work week to ensure that we implement that agenda in a rational way, rather than trying to cram everything into the final weeks of a session; rationalizing committee jurisdictions, redistributing the workloads more equitably, abolishing joint bill referrals, a real serious problem, and reducing the number of member committee and subcommittee assignments, which is another very, very serious problem; abolishing proxy voting and one-third quorums for bill mark up, which I think does more to create bad legislation than any other rules that we have; establishing a more systematic approach to oversight by committees; and restoring the delineation between the authorizing and appropriations funds, and therein is a real problem that we ought to discuss when we get into actually drafting of our recommendations to the full Congress.

In summary of that earlier statement, it was my feeling then, and it is my feeling now, that the Congress can do a better job of legislating if we manage our workloads, individual responsibilities, and legislative timetables in a more rational and efficient manner. I say all of this in full recognition that democracy was never intended to be completely efficient. And when you have politics in-

volved, it cannot be completely efficient. But surely within the inherent inefficiencies of such a system, we can do a better job of setting priorities, of delegating responsibilities, and legislating in a conscientious and, I will say this with emphasis, a deliberative fashion because it has to do with most of my testimony here today.

Today, I want to turn in my testimony to what I perceive as the decline in deliberative democracy and what is needed to restore that critical element in a system such as ours. I offer these views not only as the ranking Republican on the Rules Committee, but as the chairman of our leadership's Task Force on Deliberative Democracy in the House which released its first report last week on the dangerous decline of deliberative democracy. And I will say that again, deliberative democracy.

At first blush, it might seem that deliberative democracy is in direct conflict with the goal of a more efficient legislative system. But I would strongly argue that they need not be and that indeed it is the existing inefficiencies in our system that have been most responsible for undermining deliberative democracy. The reason for this is quite obvious when you think about it. It is precisely because we do not establish clear priorities and timetables for committees and floor action at the beginning of a Congress that we find ourselves short-circuiting democrat processes in order to rush legislation through the subcommittee, through the committee, and onto the floor.

From my perspective on the Rules Committee, I see this nearly every week, as you do, Dave. The leadership will scout the committees to determine what bills may be ripe for action within the next week or two and then order those committees to be prepared to take their bills to the floor by a specified date. Committees must then accelerate their timetable for markup and reporting, meaning that the most crucial stage of a committee's process is often perfunctory and rushed. If the minority should demand its 3 days for filing views, it is often scorned as somehow slowing down the process and contributing to gridlock just because we want the 3 days. Because the minority most often exercises this right under a rule established by your predecessor joint committee in the 1970 Legislative Reorganization Act, it then becomes necessary for the committee to ask for a waiver of another three day requirement established in the same act, and that is the requirement that the report be available to members for at least 3 days before the bill is considered on the floor. That is terribly important.

It has not been unusual in this session for a report to be filed the day before or even on the same day of the Rules Committee meeting on the bill and for the bill to be brought to the floor the very next day before the printed report has ever been available to any Member of Congress. By my count, this has happened in seven of the first ten rules granted by the Rules Committee this session and that has affected 110 new members who have never seen that legislation before. And in another instance where a committee was put on an even shorter timeframe by the leadership, it decided to have the Rules Committee discharge it rather than go through the inconvenience of a markup, a report, and the opportunity for the filing of views. There weren't any views.

Further compounding this anti-deliberative trend, the Rules Committee has increasingly been issuing so-called restrictive rules which drastically limit the amendment process on the House floor. In ten out of the first ten rules issued in this Congress—that's 100 percent, ladies and gentlemen—only a limited number of amendments were allowed. In two of those instances, no amendments were permitted at all, and in two others only one amendment was allowed, period. And in almost all cases, the rules allowed for an up or down vote on an amendment after limited debate.

That means that unlike the normal five minute rule, which new members haven't even seen yet in this Congress, unlike the five minute rule in which amendments are subject to further amendment and debate to flesh out their weak points and to test them against possible alternatives, the debate is framed in a take it or leave it often partisan context. That's wrong. By framing the debate on bills in this manner, there has been a decided shift from attempting to improve legislation—and I'll say it again—through true deliberation to protecting those bills against serious challenge no matter how flawed that legislation might be.

While restrictive rules are often defended on grounds of legislative efficiency and rational time management, they are more a manifestation of inefficiencies and time management problems occurring elsewhere in the system that you have outlined here with all of these charts. They are often an attempt to compensate for or even cover up those other failings and, as a consequence, only contribute to bad policy and bad legislation. There often seems to be an attitude that it is better to have a bill on a particular subject than it is to have good legislation. The important thing seems to be the public perception that we are acting expeditiously on a matter than a perception that we are acting prudently. In trying to demonstrate that we are capable of ending gridlock, we are forfeiting the kind of deliberative democracy on which the survival of our system so depends.

Mr. Chairman, a very, very tough old partisan, the former Sam Rayburn put it so well back in 1942. He was a real partisan, tough Democrat but he was a good Speaker. He said "Not all the measures which emerge from the Congress are perfect, not by any means, not by a long shot, but they are very few which are not improved as a result of discussion, debate, and amendment." I think you remember that, Mr. Dreier. And Sam Rayburn went on to say "There are very few that do not gain"—and this is so terribly important because of what happened over in the Senate with the stimulus package just recently—"widespread support as a result of being subject to the scrutiny of the democratic process." Yet, Mr. Chairman, that scrutiny of the democratic process, which is what real deliberation is, is being sacrificed for the sake of political expediency.

Let me hasten to add that this is not a partisan critique. It has been attested to in the nonpartisan testimony of two people I have great respect for, scholars Tom Mann and Norm Ornstein, when they appeared before you and me back on February 16. To quote from their statement that I wrote down at the time, "We see nothing wrong with the use of restrictive rules for managing debate in a limited number of cases so long as they allow sufficient delibera-

tion on the major proposals and adequate participation by a broad range of members pursuing their representative interest on behalf of their constituents." And they went on to testify, "An open rule should not be perceived, as it increasingly is, as an aberration, a luxury that the House cannot afford." They went on to say, "The increasing practice of the Rules Committee majority of routinely announcing on the floor that a rule on a forthcoming bill might be restricted and providing a deadline for members to submit amendments represents"—and I will just emphasize this again—"represents a disturbing trend which should be rolled back." And yes, sir, it should. They concluded "That while the majority develop various rationalizations for its actions, these rationalizations constitute a disregard for minority rights, the rights of individual Members be they Republican or Democrat, and a dismissal of the constructive role which the minority or other dissenters can sometimes play in offering alternatives and pointing out flaws in a pending measure."

A final element in this decline of deliberative democracy, Mr. Chairman, is the frequency with which we waive a third three day requirement, and that is that conference reports be available for 3 days before they are finally voted on. That's the final vote before it goes to the President for his signature. It is not unusual for a Member to not even have a copy of a voluminous conference report and yet be forced to vote on it in the interest of recessing or adjourning by a time certain. This has come back to haunt us on I don't know how many occasions when embarrassing goodies or unexplained special interest language has been buried in some reports and we don't find out about it until 6 months or a year or even 2 years later.

In conclusion, Mr. Chairman, while I realize that this joint committee may be reluctant to weigh in on something that may seem to be a prerogative of the majority leadership, whoever is in power at the time, I, like Tom Mann and Norm Ornstein, nevertheless think this joint committee has a responsibility to consider the implications of such anti-deliberative practices on the overall legislative process and the resulting policies that they produce. If your ultimate recommendations ignore this decline in deliberative democracy and what it portends, then you and I and the rest of this committee will have failed to live up to the promise that your name implies, that of improving the organization of Congress so that it can fulfill its primary responsibility of legislating for all of the people.

It seems to me that one of the greatest services this joint committee can render is to reemphasize in its final report the wisdom of adhering to those rules and those reforms enacted by your predecessor reform committees that were designed to ensure more rational, more informed, and more deliberative debate and process. There is no need to reinvent the wheel or to adorn it with all sorts of fancy new hubcaps, we don't need to do that. We simply need to get back to the basis of the originally designed legislative wheel and its hub of deliberation that has served this Congress so well for two solid centuries.

At this point in the hearing record, Mr. Chairman, I ask unanimous consent to include the full report of our Republican leadership Task Force on Deliberative Democracy in the House. I thank



you gentlemen and ladies for your patience. And as a member of your august joint committee, I look forward to working with you to accomplish the goals that we've outlined here this morning. I would briefly answer any questions you have before we go back to the floor to fight the true line item veto fight.

[The report and prepared statement of Mr. Solomon are printed in the Appendix.]

Mr. DREIER. Thank you very much, Mr. Solomon. I wish it were being considered under a slightly different rule than the one it is being considered under, that's for sure.

Let me say, first, I thank you for your helpful testimony and congratulate you for the very fine and it appears to be successful work of the leadership Task Force on the Decline of Deliberative Democracy. You have provided a great leadership role there and staff members over the Easter work period did a great job in putting it together. I hope very much that we are going to have a greater number of open rules as we proceed.

At the opening meeting that we had of this joint committee, Speaker Foley said that as we look at the challenge of trying to reform Congress, he said members of the majority should put themselves in the shoes of members of the minority and members of the minority should view things as if they were members of the majority. If you were chairman of the Rules Committee, how many closed or restrictive rules would you have imposed on the 103d Congress?

Mr. SOLOMON. Mr. Dreier, I may shock you by not saying I would never support a modified or restricted rule. I think as Tom Mann and—

Mr. DREIER. It is not a shock at all because I have seen you do it before.

Mr. SOLOMON. As Tom Mann and Norm Ornstein have testified, there is nothing wrong with limited numbers of restrictive rules on huge, complicated pieces of legislation. Two examples come to mind; the defense authorization bill and the foreign aid bill, two omnibus, complex pieces of legislation. Just for example in the defense authorization bill, we may have 100 different amendments filed and it may take weeks in order to go through it. There is nothing wrong on a bipartisan basis with Republican and Democrat leadership agreement whereby we sit down and we negotiate a somewhat restricted rule to eliminate duplicative amendments, SDI being one example. For instance, I recall a couple of years ago we had five or six or maybe even seven amendments dealing with SDI, all basically about the same. So we negotiated, we sat down and we wrote a restrictive rule which was agreed to by both sides.

Mr. DREIER. I think you have really offered the key here, and that is if both the Republican and Democrat leadership comes to an agreement on a rule, whether it is a tax bill or, as you say, defense authorization or foreign aid bill, when virtually all the concerns have been addressed in committee and the options are included in that rule, then we have proceeded with it.

Mr. SOLOMON. And if you are dealing with a specific issue, as 99 percent of the all the legislation that comes before the Congress does, if you are dealing with a specific issue, just as Sam Rayburn has said and some of our learned scholars that have testified here before you, we should at all times have an open rule and let the

system work so that every single Member of Congress has a right to offer amendments if he sees fit so that he can become a part of that. Then you come out with a compromise that generally would be supported and would go to the President for his signature. That's what we're looking for.

Mr. DREIER. This pattern that we have seen of a violation of the Rules of the House raises a question that a number of people have asked before, and that is, should we consider when a Rule of the House is being waived through our Committee on Rules requiring a super majority to modify or overrule that?

Mr. SOLOMON. I strongly support that concept of super majority for the simple reason that we have rules and the majority party, whoever they may be, has the right to establish those rules at the beginning of a session. They do it in an open process, supposedly, the American people know what those rules are. And if we are going to change those rules, if we're going to waive the Budget Act, if we're going to waive germaneness, it should be done with a super majority because rules should be made to live by, not to be broken on a random basis. Unfortunately, over the years, that is what has happened.

I go back to talking about partisans, I go back to a very dear friend named Tip O'Neill, and there never was a more partisan, tough Democrat Speaker than Tip O'Neill but he was fair and he was a man of his word. Back in those days, which wasn't so long ago, we had for the most part open rule processes. As a matter of fact, during his tenure on 15 percent of all of the rules that came before the House of Representatives were restricted or modified or closed; 85 percent were open and we had less hard feelings, we had a lot more comity in those days than we have today. That is what we need to get back to in order to build up the respect of the House of Representatives in the eyes of the American people.

Mr. DREIER. I notice that 85 percent of the rules were open the year before you came to Congress and we have seen that decline in the past 14 years. Is there any correlation there?

[Laughter.]

Mr. SOLOMON. Mr. Chairman, I will have to research that.

[Laughter.]

Mr. DREIER. Let me just ask one other question here, Jerry. We in the Rules Committee in the House obviously have a much different responsibility than our counterpart in the Senate because we really are the traffic cop for major legislation that comes to the floor. But some have proposed that the House Rules Committee take on some of the administrative responsibility that our Senate counterparts deal with. What are your thoughts on that idea?

Mr. SOLOMON. Mr. Chairman, I have strong reservations about that. Our body is quadruple in size of the Senate and their situation I think is a lot different than ours. I don't know how the Rules Committee could handle all of the administrative duties that the Rules Committee does in the U.S. Senate. However, I do think that much of the oversight could be handled by our Rules Committee. I would like to see the Rules Committee expanded. The breakdown now is nine to four, nine Democrats to four Republicans, which is wrong; it should be six to four according to the distribution of Members. Nevertheless, I would like to see us perhaps have some

oversight into those issues since we are responsible for the Rules of the House. But I would hate to see us take on full administrative duties. I think you need a separate committee to deal with that.

Mr. DREIER. Thank you very much.

Ms. Dunn.

Ms. DUNN. Thank you, Mr. Chairman.

Mr. Solomon, I very much like your emphasis on the idea of the decline in the deliberative process. I am from Washington State where there is very little left of the deliberative process. I am a former party chairman in a State that has very little statute to support parties and so people don't register by party, they don't vote by party, they never have to read a platform, and we have let slide away the caucus system and so forth and there are no nominating conventions. So what you really do is you get more people involved in the voting end but you get fewer people involved in really considering the important points of what it takes to run a democracy and their points of view. I think it creates great weakness and we often have politics of personality.

I think that we must very carefully balance keeping a concentration on the deliberative process but also bringing those efficiencies and greater understanding of the process to folks who are trying to watch us work through this thing. So I find myself as a newcomer to Congress looking for a few pressure points that this committee could put together in a package that really would accomplish all those goals at the same time. You have mentioned some of those. You have mentioned restructuring our week here of work. In fact, I have talked with Mr. Swift and others about this, looking for a way to spread our work week out, instead of 3 days a week, make it 5 days a week whether that involves one week at home focusing on problems and 3 weeks here in the Capitol or alternating weekends or whatever. Another pressure point that occurs to me is that we have never had an open meeting lie here in Congress. In Washington State we do allow the press always in to cover every committee meeting.

But what I would like to ask you now, I think the proxy voting method could be one of those critical pressure points, and you mentioned this in your testimony. I would like to ask you to go into the ramifications of eliminating proxy votings either on markups or just right across the board. Tell us what effect that would have, how it could affect other parts of our process.

Mr. SOLOMON. You bring up an excellent point. Let me say that for those of you that come from the far west of the country, like Mr. Swift and Mr. Drier, all of you that are here, as a matter of fact, that—

Mr. DREIER. Mr. Emerson is from the mid-west.

Mr. SOLOMON. Oh, there's Emerson over there. I didn't see him. But I certainly feel for you because of the uncertainty of the work schedule, it must make your lives so difficult. It is tough enough for those that live on the east coast.

Let me talk about the proxy voting and one-third quorums. I think this is something we have to take into consideration with the various alternatives that we are going to be faced with. I mentioned that I have been very active in the war on drugs. In trying to get legislation through the Congress, pieces of legislation that I

have sponsored have gone before as many as 50 different subcommittees and that means you never really accomplish anything. I think the first step before we can eliminate proxy voting and one-third quorum calls is to really reevaluate all of our committees and subcommittees so that we have fewer of them so we would have more members serving on each individual committee as opposed to be stretched out the way they are now.

I think that can be done. And if you did that, you would have no difficulty in eliminating proxy voting entirely and one-third quorums. You would do it the way we do it in our Rules Committee. We don't have quorum calls and one-third quorums and, consequently, I think we are more democratic in that way. There are too many abuses that can appear from proxy voting and one-third quorum calls. So we have our work cut out for us in trying to condense the number of committees we have, the number of subcommittees, and this business of sequential referrals which tie up legislation and just tie the hands of this Congress.

Ms. DUNN. Let me ask one more question, Mr. Chairman.

Mr. DREIER. Please. Go right ahead.

Ms. DUNN. A brief question, Mr. Solomon. I think my constituents probably believe that I have the free and open opportunity to discuss any amendments that I might propose or others might propose to legislation on the floor. You have done a great job of explaining the rarity of the open rule in our Congress. Often, I am told that the reason we don't have the open rule is because it results in endless debate and I know the folks out there don't want to have a lot of political hot air. But could you tell us, please, in your experience, if we were to have open rule, how much of that debate are we going to get that really does not appear to be worthwhile?

Mr. SOLOMON. Actually, very little. As a matter of fact, we have researched it during the 102d Congress, in other words the 2 previous years, and only on one occasion, one occasion, was the open rule process violated and that was almost a conspiracy between the Democrat and Republican leadership. It had to do with the so-called Brooks Bill that was coming up in the last days of the session and Members evidently didn't want to deal with it and neither did the Republican or Democrat leadership, so they allowed over 100 amendments to be filed. It tied the bill up and it never came to the floor. But that was the only occasion during the entire 2 years of the 102d Congress.

I think most Members of Congress certainly are respectful to the process. If they feel strongly about a piece of legislation that they want to offer amendments on, they do that. But never, even this year, have we had more than I think 17 amendments offered to a piece of legislation. If it is important legislation, we should have the right to deliberate on that legislation on the floor of the House.

Ms. DUNN. Thank you.

Mr. DREIER. Thank you very much, Ms. Dunn.

Mr. Swift.

Mr. SWIFT. Thank you, Mr. Chairman. I think the House does have a problem with deteriorating comity. On the floor a couple of weeks ago, Gerry, you said something that I agreed with though perhaps for different reasons. You said you came here 15 years ago, I did too, we are of the same class, and there weren't as many re-

strictive rules at that time as there are now and that the process of more restrictive rules has grown over the 15 years that you and I have served here. What disturbs me is—well, let me tell the old story about the little boy who comes home and his clothes are all torn and he is all dirty and scuffed up and his mother says “You have been fighting again.” And he says, “Oh, mom. It is not my fault. It all started when Tommy hit me back.”

[Laughter.]

Mr. SWIFT. We could probably sit here and argue for the next month about who started what and so forth and never convince each other. I have a number of Republican friends in this institution with whom we are able to kick back when the press isn't watching and there is not peanut gallery and just kind of talk real level. I am convinced that most Republicans in the House really do feel that they are abused by the processes of the majority. I believe they feel that way. What I find I have a very difficult time getting Republicans to entertain are the frustrations of the majority.

Let's talk perceptions. I think I would accurately state a Republican perception that the problem is that an arrogant majority seems, for whatever reason, to want to crush the rights of the minority to be able to participate freely in the discussion, in the debate, in the formulation of legislation. I think it is probably a fairly accurate statement that the perception on our side of the aisle is that starting 15 years ago or thereabouts there became the use of increasingly partisan tactics on the part of the minority and specifically use, some might say abuse, of the rules to prevent timely processing of legislation. Now if I have anywhere near accurately and objectively stated the two perceptions and if we could throw out of both of our caucuses and conferences the posturers and the people of ill will, the differences in those perceptions are something that we really need to find some mechanism of addressing informally or otherwise because until each side can back away from this situation and begin to understand, whether we agree or not, but understand the frustrations of the other side, I don't know how we're going to climb down off of this rather tall step ladder we've been mounting for 15 years. And I also doubt that there is any structural thing that this committee is going to be able to do that is going to change the human problems that have kind of led us to this.

I have watched you for 15 years and you are partisan and I also sense that you are fair and I also sense that you are able to try and understand other points of view. I would appreciate it if you could comment a little bit on what I have said and see if we have any common ground in the perception of what the problem is.

Mr. SOLOMON. Al, I think you have accurately stated the perception from both sides of the aisle and you are absolutely correct. You are right that we can never legislate this out as far as you can't legislate comity; in other words, you have to have cooperation. I guess the toughest thing I had to learn when I came here with you 15 years ago was that in order to accomplish anything you have to compromise, and in doing that sometimes you feel like you are compromising your principles. Nevertheless, you have to do it to get anything done. That is why the day that we adjourned before Easter when some Republicans were attempting to use what

would be called dilatory tactics in order to get their frustrations out that I approached Dick Gephardt on the floor and suggested that we not call the next seven dilatory roll calls and perhaps over the Easter break that we could sit down and discuss how we could get some comity back into the House and break down this feeling that you have accurately described and does exist.

That, to some degree, has been done. Hopefully, from statements that the Speaker has made, that Mr. Gephardt has made, and that our leadership has made as well, I think perhaps we are going to reach some agreements on this business of the open rules and restrictive rules and get some comity back into the House because it is needed badly, it is needed so that we gain more respect back in this House by the people that see us.

Mr. SWIFT. I absolutely agree with you on the need for it and on the need to get it back. It will make this institution work better. But I think it starts out, and I would preach this little lesson to colleagues on both sides of the aisle, you have got to start by granting the other person the sincerity of their frustrations whether you agree or not and then you need to talk a little bit with some sense of if that is your frustration and this is my mine, what changes can we both make in order to be able to make the institution work better. I think you are right, I think there has been some rapprochement by the leadership on both sides and I hope it works because if it doesn't, we can sit here and reform Congress from now until Doomsday and we're going to continue to have the same spitting matches on the floor all the time that doesn't produce good legislation.

You were a good man to have that discussion with, Gerry. Thank you very much.

Mr. SOLOMON. Thank you, Al. You are one of the most respected members of this House. I have some pictures that were handed to me when I came in here of a similar committee that was appointed in 1979 that was headed by Jerry Patterson from California, as a matter of fact. I was much younger in those days, you and I looked a lot different, but as I look at these pictures I recall that we came up with a plan to reform the House, it didn't involve the Senate, and Lee, you recall that I think as well, and we brought that plan to the floor of the House—there were 47 members on this select committee—we brought it to the House and guess how many votes we got for reform? Forty-seven.

[Laughter.]

Mr. SOLOMON. And everybody else voted against us. I hope that doesn't happen with this committee. With the leadership of Mr. Hamilton and Mr. Boren, Dave Dreier and the others, I certainly hope we are going to be successful. Thank you for taking the time.

Chairman HAMILTON. Mr. Solomon, you've given us a target to shoot at. Thank you for your appearance.

Mr. DREIER. Thank you very much, Mr. Chairman.

Mr. EMERSON.

Mr. EMERSON. Thank you, Mr. Chairman.

I just want to say, Gerry, I think you made an excellent statement and your six very positive recommendations up front in your statement are recommendations that I would find it hard to understand how reasonable people could really disagree with those. They

are good and they are substantive. I am reminded of Speaker Foley's statement, I've referred to this a number of times, in his opening statement to us he told us that those in the minority should think like the majority and those in the majority should think like the minority and then we would understand how each other feels. I think that is a good principle that we should abide by as we move forward in our deliberations. But your six very specific recommendations, it is hard to understand how any of us, frustrated as we are by the legislative process, could disagree with those recommendations because objectively they are reasonable. They may not meet our subjective desires in a given situation, but on the point of process that I made in my earlier statement today, I think that your recommendations would help us ensure more orderly process.

I have a specific question I want to ask you and it relates to what the gentleman from Washington has been talking about here about how the majority sometimes doesn't understand the minority's frustrations and we in the minority don't necessarily understand their exasperation with us. When Messrs. Mann and Ornstein were before us, in one of their appearances I put the question about the closed rules and how you would ensure fairness, recognizing that the majority wants to move legislation and there are occasions when the minority is obstructionist or at least want the opportunity to offer an alternative proposal. Their suggestion was depending on the magnitude of the legislation, just let the minority have, say, three amendments and you decide what three amendments minority you want to offer, or if it is a huge bill you maybe have five amendments or seven amendments. But depending on the magnitude of the legislation, just let the minority have X number of amendments and they decide what those amendments are going to be and then put time limits on the debate. At least in that manner, alternative points of view do get presented. What do you think of that solution? Do you think as a general proposition that's a good solution or do you have to continue very specifically structuring rules and having the debate in the Rules Committee rather than in the House on the substance of amendments?

Mr. SOLOMON. Again, scholars Mann and Ornstein called attention to the disturbing trend of limiting debate and limiting amendments on specific pieces of legislation. They again said there was nothing wrong on a limited basis with limiting or structuring amendments. Of course, Mr. Dreier and I discussed the defense authorization bill, the foreign aid bill in which the Republicans were allowed to sit down in the case of Mr. Moakley and myself along with Mr. Aspin and our ranking member Mr. Dickinson on the Armed Services Committee, we sat down and we negotiated those amendments that would be made in order. It was done on a fair basis although some of the "king of the hill" arrangement was not that fair but at least they did give us the right.

I believe as long as there is consultation and agreement between both Republican and Democrat leadership that we can have a structured rule on occasion when you're talking about omnibus complex pieces of legislation. But when you're talking about specific pieces of legislation dealing with a singular subject, that bill should be allowed to come on the floor either under suspension

where it requires two-thirds vote or it should be put on the floor under an open rule process so that every single Member can be representative of his constituencies or her constituencies in developing that piece of legislation. And I agree with Mann and Ornstein on their testimony.

Mr. EMERSON. Thank you.

Mr. DREIER. Thank you very much, Mr. Emerson.

Mr. WALKER.

Mr. WALKER. Thank you, Mr. Chairman.

I appreciate the testimony you have presented, I just had a chance to read through it here, and I think the point that you make about open rules is one that we must be conscious of as we develop our reforms here. In large part, it seems to me that not only the points you make are true but that we end up with better products in legislation as a result of the deliberative function of the House taking place, that it really is undermining of the legislative process to shut members out because ultimately you end up with products then that become more difficult to sell in the context of the whole country when you have narrowed the numbers of people that have had a chance to participate that. Beyond that, what we are being asked to accept, it seems to me, and maybe you would reflect on what you're hearing in the Rules Committee, we are being asked to accept the fact that the work products of the committees are perfect and that the House has no role in doing anything but deciding whether the work product of the committee is a good thing.

My view as an authorizing committee member is that is less true than seems to be reflected in the process because a lot of the work products of the committees reflect the casting of proxy votes, that the members are even participating in the committees. So what you have got are bills being brought out of committees that were amended and sometimes voted on with proxy votes, which means that there was very little member participation in the committees, and then brought to the Rules Committee as though they are perfect products that can't be amended on the floor and we have a restrictive process that undermines the whole process.

I guess my question to you is, is that what you are hearing in the Rules Committee from these chairmen that we ought not get in the way of the committee's work because the committee has produced a consensus product here and, therefore, the House has no role? And secondly, do you believe that does undermine the ability to get legislation which is broadly accepted?

Mr. SOLOMON. Bob, you weren't here for my earlier testimony, but certainly you have pointed out the real problem. Most members of the 435 Members of Congress do not have any input in the developing of legislation. When you have one-third quorums and when you have proxy voting, as Ms. Dunn and I have discussed earlier, you have a very few members developing legislation which ends up not being able to be changed either sometimes on the floor on when you go to conference.

I think that in the past there has been this feeling from many of the Democrat chairmen of committees that they wanted to close down those rules. I sense a change of feeling from a number of Democrat chairmen who now are I think more supportive of the



open amendment process. I think they understand that this system will not be abused and I think they are willing to give it a try. I think with my conversation with Mr. Swift earlier that you are seeing some comity being developed now where I think it is going to lead to a more open rule process and I think more members—I think you, as a matter of fact, and your chairman are coming before the Rules Committee next Tuesday and I believe that your Democrat chairman is going to be asking for an open rule on your specific piece of legislation.

Mr. WALKER. We both will be.

Mr. SOLOMON. Which we look forward to and we certainly hope that it continues in this direction. The House will be better served because of it.

Mr. WALKER. Thank you, Mr. Chairman.

Chairman HAMILTON [resuming Chair]. Thank you very much, Mr. Solomon. We thank you for your contribution. It is good to have you with us.

Mr. SOLOMON. Thank you.

Chairman HAMILTON. The next witness is Chairman Dingell, Chairman of the Energy and Commerce Committee. John, we're delighted to have you. We appreciate very much your willingness to come before the joint committee for testimony. I just had handed to me a moment ago your statement. I presume other members are now receiving it. We look forward to our discussion with you. You may proceed, sir.

#### STATEMENT OF HON. JOHN D. DINGELL, A U.S. REPRESENTATIVE FROM THE STATE OF MICHIGAN

Mr. DINGELL. Thank you, Mr. Chairman. Just one comment that was raised by my good friend, Mr. Solomon. He will remember my many appearances before the Rules Committee. I can recall no instance in which we have asked for a closed rule out of our committee. I have always suggested open rules. It is my view that those are rules which enable the House to work its will and which are, in fact, fair. I have resisted funny rules, that is rules which would make in order nongermane matters which are not properly germane. I believe that is a bad situation. I have tried to see to it that the rules afford fair opportunity to all of our members of the committee and of the House to offer their amendments within sensible constraints, one of which I believe is the traditional practice of requiring printing of amendments which would be offered to committee bills simply to prevent the enthusiasm of members causing them to draft unwise amendments which might be suddenly popular on the basis of very, very limited consideration.

First of all, Mr. Chairman, I thank you for the privilege of being here and I am delighted to see this committee diligently at work. You have my good wishes for your success in a very, very difficult undertaking.

As you know, I am the Chairman of the Commerce Committee. Our is an effective committee; it does its business. One of the reasons that you are hearing attacks made upon us is that we do our business. We present our legislation to the House in a timely fashion and we present it with a consensus. If you will observe, rarely

indeed does our committee present an unseemly fight to the House because we work these matters out because we work well with our mannered and we have a respectful and affectionate relationship with our colleagues on both sides of the aisle. It is a relationship which I believe serves the committee, serves me, serves my colleagues on the committee, and serves the House well.

One of the first suggestions I would make is that criticisms of the House, criticisms of the Congress are not new. They go back to the earliest days. I will limit my comments to the business of the House, although I will have a couple of comments later about what the House might wish to do where the Senate were to decide that it wishes to engage in an inquiry into the business and the conduct of the affairs of the House.

One of the first principles that we should recognize then is that criticism of the House is not a new matter. We have gotten it for a long time; we will continue to get it. One of the reasons that we hear constant criticisms of gridlock is the fact that, very frankly, there are matters on which there is no consensus or matters on which there is great division amongst the people and inside the Congress which results in the inability of the Congress to carry out its proper role of serving the wishes of the American people. I believe as you engage in this undertaking, you should follow the adjustments first of the medical profession which are, "first, do no harm" and, second, the great and wise counsel of the shade tree mechanic who says "if it ain't broke, don't fix it."

The question of rearranging jurisdiction is one which is a very popular one, and I note that many of the people who are talking about rearranging jurisdiction are people who are interested in benefiting themselves and their committee by achieving new jurisdictional authorities and opportunities to legislate. Jurisdiction is something which is fixed in the Rules of the House, it is something which is very sensible and it, like the germaneness rule, enables us to have an orderly procedure, something which I regard as being a very, very sensible thing. I see no great reason for changing the jurisdiction of the committees in the House. I see no great benefit and I would point out that the consequences of rearranging jurisdiction in the House would be about like setting up a new cabinet department. People would immediately decide how they are going to get new limousines, build new office buildings, retain large numbers of new staff, select appropriate drapes and office furnishings, and spend the taxpayers' money in large sums for no significant increase in efficiency or performance by the Government.

As I mentioned, our committee on Energy and Commerce is one which has a long tradition. We are, indeed, the oldest committee in the House and we have over the years given up substantial jurisdiction to other committees. Most recently, we gave up the transportation jurisdiction which we had to the Public Works Committee. We gave up the entirety of the jurisdiction over space and science to the Science and Technology Committee. I saw no great reason for criticizing those actions although I must observe to you I see no significant benefit to be achieved by further sacrifice of jurisdiction on the part of the committee.

The committee is effective. It does its business. It works. We bring legislation to the floor which accomplishes its business. I

would point out that if you will look at some of the things, you will find that we not only have time to do these matters, but we have time to engage in vigorous oversight. If you watch, you will find that our committee, as some of my colleagues on the House Administration Committee will recall, effectively brings in several billion dollars each year which we do by oversighting the agencies under our jurisdiction. We do things like finding that there is need to deal with the safety of the blood supply, problems with the safety of fish and foods, problems with things like nuts and bolts which are unsafe and going into facilities like nuclear facilities, and a large number of other matters, including a careful and continuing scrutiny of the securities industry and the financial industry. I would point out that although there have been scandals in the securities industry, there have been none which we did not find and there are none which have threatened either the security of the investors or which have cost the taxpayers anything in the way of restitution to FSLIC or FDIC or which have jeopardized in any way the business of the committee or the effort that make on a continuing basis to see to it that the industries under our jurisdiction are functioning well.

Our committee is I believe a good committee for a number of reasons. First, we have an admirable relationship between the majority and the minority. This is one which has existed since before I became Chairman, it is one of which I am proud, and it one which enables us to work together in the public interest. Our committee attracts good members for a number of reasons. First of all, we have diverse interests in the committee. We have a history of having said yes when they are right and said no when they are wrong. As a matter of fact, the rule in our committee is to help them when we can and tip them over when we must. We also have an experienced, knowledgeable, and professional staff, both for the full committee, the several subcommittees, and for the minority.

We will hear constantly the discussion of jurisdiction. A lot of people talk about jurisdiction as being simply petty turf fights between sparring egos. That is sometimes true, but more often it is true that jurisdictional questions are questions which relate to basic questions of philosophy. And without denigrating my good friends on the Banking Committee, I will simply observe that one classical example is the differences which existed over whether or not banks should be deregulated. The Commerce Committee years ago under Sam Rayburn came to the conclusion that banks and other financial institutions should not engage in the same undertaking, that the sale and underwriting of securities should not be done by banks. Why? Because good hearted citizens like Mr. Poncey, Mr. Morgan, and others had disregarded this, the economic system had been bottomed on the idea that we could have these two kinds of activities merged and the consequences were the now well known and much lamented 1929 crash. Jurisdictional tension is then oft times a useful device. It is one which tends to create a wholesome and an effective and healthy competition between committees, and the presenting to the House different views that can be debated, discussed within the Rules of the House to ascertain where public policy should go.

Our committee system does some other things for us. It builds expertise in the members. Members of the Congress are indeed experts, the committee system is indeed a school system, and it is extremely important that both be kept intact. The resource of skilled members is something which should be protected and preserved rather than denigrated and denounced. I would point out in the days when my old daddy was a member of this body, the Ways and Means Committee had members who sat there for as long as 30 years and it was an exercise in pure terror for the bureaucrats to come before that committee because they understood that the members knew about legislation, about the history of the legislation, what it meant and why it was being done. They also knew that the Members of the House and members of that particular committee, as our committee too, had the expertise to ask the proper questions about legislation. That is something which is important in the interest of all of the people and should not be lightly destroyed or tinkered with without the very, very best reason, especially on the basis of some reformer's pen. And I find that reformers are oft times people who were once described in my hearing as a fellow with a big mouth and a mimeograph machine in his basement. I would urge that we be careful in listening to that kind of advice. You have a very important responsibility here, Mr. Chairman and members of the committee, to see to it that you do protect the basic integrity and the functioning of the institution.

Now you have heard I think some suggestions about changes. I would like to observe, first of all, that there are some changes which can be made. Quite honestly, if you talk to any member of any committee or chairman of any committee or subcommittee, you will find a very interesting thing. The first complaint is the total inability of members to schedule themselves and to conduct the business of the House in a rational way. That is, in good part, because the chairmen are incapable of fitting all of the responsibilities that all of the members have into any rational, cohesive, and workable package. The number of committee assignments has proliferated in a fashion that makes mold or yeast look like a slow mover.

When I came here the Commerce Committee had 29 members. Today, in spite of my very best efforts to resist the efforts of the leadership, we now have 44. We find ourselves affronted with a situation where we have subcommittees that are bigger now than the full committee was when I came here. And I think if you were going to address any question which is bothersome, irritating, and perplexing to the members of this institution, you are going to have to address the fact that we have altogether too doggone many committee assignments demanding the time of the members, preventing committees from getting quorums for purposes of doing business. I would beg you reduce the number of subcommittees, limit the number of committees on which members may serve, and I would suggest two committees and four subcommittees, and then see to it that there is an intelligent way of enforcing this situation. It causes more aggravation, it causes more delay, it causes more difficulty than anything I can think of in connection with the business of the several committees.

You are hearing a lot about joint and sequential referral of bills. This, like other things, is something which should be addressed. It is my feeling that joint and sequential referrals of bills have uses and that we should maintain to at least some degree both practices. But equal with that goal should be your goal of seeing to it that the curious practice of engineering legislation to go to a particular committee without regard to the subject matter or where that matter has properly been dealt with over the years is something that should be brought to a speedy and screeching halt. Let me observe to you that members in their enthusiasm will try to put a bill in a particular place because they can work on it or their committee can work on it or a friend can work on it.

Clearly, that is not acceptable because it goes both against the traditions of the body, the Rules of the House, and, very frankly, it puts into the business of legislating on important matters of public policy people who really don't have any experience with the traditions or the reasons, the underlying philosophy of the legislation, how the legislation works, and how the agencies function. And I would beg you, if you were going to address this question of joint and sequential referral, that you can and should reduce both the amount of joint and sequential referral if you will see to it that the parliamentarian, who appears to be a rather timid soul, will refer these matters on a proper basis instead of on the basis of simply satisfying somebody who goes over to the Office of the Speaker or the Office of the Parliamentarian to raise hell and demand that they get a bill which in no manner of good sense should go to them, remembering that jurisdiction is to define an orderly path for the consideration of legislation and to see to it that future legislation and present legislation generally follows the wise policies which were adopted by prior congresses. So I would beg you to address both of these questions but deal very specifically with the question of how bills are referred to see to it that they are, in fact, really referred.

Now, oversight. Oversight is something that the Committee on Energy and Commerce does and has done very well. We have been quite nonpartisan in who we have been spearing with this particular weapon. It is something which needs to be done, the rules require that each committee set up an oversight subcommittee and they require that they engage in oversight. This is almost as much disregarded as some of the other matters that we have to address.

With regard to House procedures, one of the major problems we have is the continuing problem of legislation on appropriations bills. The Appropriations Committee, being somewhat frustrated I suspect, seeks to have greater policy input so they try to legislate. We have a similar problem in legislation coming back from the Senate on appropriations bills. Now if I am pressed, I will tell you why I think they do that but my remarks here are intended to be friendly to the Senate and to stay out of the Senate's business in the hope that the Senate will do like, because there is the rule of comity which exists here and we should not intrude into their business nor they into ours.

With regard to conferences and conference committees, I would suggest that there be a limitation of conferees in number of a manageable number and simplify the practice of having conferences. I

have attended conferences on Clean Air and conferences on Superfund in which the membership of the conference was larger than the membership of the United States Senate and in which we had 50 to 70 members of the House and in which we had 9 or 10 or 14 committees and in which we had about half the membership of the Senate present.

You have heard many people talk to you about openness, responsiveness. I have served in the Congress in days when we had openness and in days when we had "unresponsive" congresses. I have never been able to discern the difference between the two circumstances. I would point out to you that sunlight is the best disinfectant but I will tell you that too much disinfectant can be extremely toxic. And it is my view that today we are not legislating well in view of the fact that we are so infernally open. Let me describe to you a situation in the Committee on Energy and Commerce, any of our subcommittees, or conferences where we go to meet with our dear friends in the Senate.

One of the interesting things that I observe is that the members no longer talk to each other; on the contrary, they make splendid speeches to the audiences which are composed not of ordinary citizens interested in the affairs of their Government, but rather lobbyist. I am sure you all are aware of this fact. The lobbyists always have been able to find out what was going on in the committees, could very well in the old days and they still can. But I would tell you that in the old days when we had small subcommittees, three to five members, we would go into the room after we had completed our business, take off our coats, proceed to address the business at hand. We talked to each other and we dealt with the important questions and we fought very, very hard for our respective views. Lobbyists, ordinary citizens, and the newspapers all knew what was done behind those closed doors but the business was conducted in a way in which members could talk frankly to each other, in which the speech was perhaps intemperate but in which no offense could be taken because everybody understood that was part of the process. And from that came good legislation, legislation like Amtrak, legislation like Conrail, legislation involving appropriations, or the business of each and any one of the committees. Hard fought but agreed to which would then go and pass the House without any significant controversy simply because the members had discussed it and had worked out the differences which existed there.

Again I reiterate, I am not here to discuss the Senate or how the Senate should conclude its business or how the Senate should reorganize itself. I will say that if the Senate chooses to enter into these matters, I will be delighted to commence an immediate discussion of Senate rules which I think would be most helpful to our colleagues in the Senate. But I don't think that the House should do that because I think that is neither wise nor proper and I reiterate that the rules of comity should preclude that. The House is a key. It is the key to our system of republican democratic Government. It represents all of the people. It is by nature inefficient, messy, and troublesome and you are going to constantly be criticized, Members of the House and Members of the Senate, for being messy and inefficient. It is to be observed that Bismarck said that

there are two things you ought not see if you like either one, one is sausages and the other is laws. You ought not watch either of them being made because the process was, in his view, sickening.

I do have one last little story. I mentioned to you, Mr. Chairman and members of the committee, that it is oft times said that the Congress should be more responsive. We can't respond if we don't know what the people want and very often the situation as to what the people, in fact, want is extremely unclear. I keep hearing talk about efficiency and I heard the other day about a fellow who had studied industrial efficiency and he had looked to see what was going on with regard to industrial efficiency. He found that there were certain industries which were simply inherently inefficient. So what did he do? He studied them and he chose to look at music and he decided he was going to look at a Beethoven string quartet. As he looked at this Beethoven string quartet he found that in 1795, when it was written, it required 4 fiddlers, 4 stringed instruments, and 48 minutes. And he looked to see today after the passage of almost 200 years, it still takes 4 fiddlers, 4 stringed instruments, and 48 minutes. The making of laws is a little bit like this.

Regrettably, there are all manner of people out there who have all manner of suggestions as to how the place should be made better and they talk about people like me as being mossbacks, incompetent, inefficient, under the control of vested and special interests. Of course, if you tell any special interest that, they will laugh straight in your face, as they should, and as they should in the case of almost all of my colleagues because we have recognized that it is our function to serve the people in the public interest and do what we think is right. These same enthusiastic reformers in a great burst of enthusiasm and a great lack of knowledge both about the system and how the people up here are have made a large number of suggestions. You have a difficult task. That task is to see to it that necessary and wise changes are made. You do not have the duty to simply respond to the whim and the caprice of some guy with a typewriter, a mimeograph machine, or a big mouth. I would urge to look to the well-being of this institution. This institution belongs to the people not to a select group of elitist who want to make an assortment of changes in it which would, interestingly enough, oft times better them or their peculiar special interest rather better than it would the public at large.

You have a difficult task, you have my good wishes, and I hope that you are successful in your undertaking and I hope it will be possible for me to support you as you go forward.

[The prepared statement of Mr. Dingell is printed in the Appendix.]

Chairman HAMILTON. John, thank you very much. You obviously took your testimony before this committee very seriously. You have put together really an excellent statement which reflects a lot of your experience which is great in this institution. I think the suggestions you have made have just been exceedingly good and helpful to us. I want to thank you for that.

We are going to reverse order here and begin down at the end here with Mr. Emerson. Mr. Emerson.

Mr. EMERSON. Thank you, Mr. Chairman.

I greatly enjoyed your testimony, Mr. Chairman. It was stimulating and I know that you are indeed an historian of the House. I think you have given us some wonderful admonitions that must be integrated with our deliberations. We must be very careful in the recommendations that we make. I agree with you that what's not broken shouldn't be fixed. But your committee has probably the broadest jurisdictional base of any of the committees of the House, Ways and Means perhaps, but you really have broad jurisdiction.

As we look at the committee structure, the Library of Congress has given us plans A through N down here as how we may organize. I would like to ask you, is there any part of the jurisdiction of the Energy and Commerce Committee that you think appropriately doesn't belong there and that should be placed somewhere else? For example, I have in mind should railroads go to transportation or should they remain where they are?

Mr. DINGELL. Let's talk about railroads. You have had two rail strikes in the last about 3 years. Perhaps one of our great mistakes has been the way that we have handled those rail strikes because we solved the first in 18 hours and the second in 48 hours. It used to be that a rail strike would hang for 2 or 3 weeks. We believe that it is our business to address those questions; we do it well. I see no reason that anyone should assume that we're not handling rail strikes. We're doing it so well that nobody knows we're doing it, and, by the way under the leadership of Mr. Swift, who is seated immediately to your right, who has provided extraordinary leadership in these matters. Beyond that, I would simply tell you that I know of no other committee that could do it as well. And, again, I would observe if it ain't broke, don't fix it and don't do any harm because we're doing it well and I'm not sure anybody else could do it as well.

Mr. EMERSON. I wouldn't quarrel with that. I come at it simply from the standpoint that the Public Works and Transportation Committee has jurisdiction over all other elements of transportation—air, surface, and water—and wouldn't it make sense just to get all of our transportation elements under one roof?

Mr. DINGELL. Well, that's one of the things that you will always hear the reformers talk about. They want to draw nice, neat lines on the jurisdictional map of this place. It comforts them greatly to do it and I would like to have them happy if I could. The hard fact of the matter is that there is no great need for doing that. Railroads were always in our committee for reasons that I will describe to you if you want to be bored. A prior reorganization took the rest of transportation out but left railroads with us. And there is more to railroads than just spending money.

One interesting story, one of my greatest single errors in my service in this place was that I wrote the original Airport and Airways Development Bill. I put in there a tax which would fund navigation and safety and things of that kind. I found that I had created a monster because what happened was all of a sudden I found that Public Works found there was this big huge pot of money here and they went out to get it and did and we lost jurisdiction over this particular matter.

There is one thing that I think you have got to keep in mind, and this is this. One of the reasons that the Commerce Committee



legislates well, and if you listen to scholars of this place like Norman Ornstein, he will tell you that one of the reasons we do it well is because we have enormously broad jurisdiction. We have pressure coming at us from every direction. This pressure keeps us standing nicely erect. We are not a single interest committee or a special interest committee. A lot of people around here would like to design all of these committees so that they become essentially single purpose and single interest committees. If you do that, if you, for example, put all financial matters in one committee, you are going to find that all of a sudden that committee is going to be playing great games and that there is going to be no restraints with regard to financial activity. They will become owned by the special interests that they are supposed to regulate. And a committee of more diverse and greater jurisdiction will not succumb to that sin.

And if I had another piece of advice to you to which I hope you will listen, it is don't set up single interest committees because you will then have reason to rue it and the reformers will—not now, they will think it's great now, but they never remember what they said yesterday so it won't make a great deal of difference—they will be down here to denounce you very shortly because you have essentially set up a bunch of special interest committees. I would urge you not to do that.

Mr. EMERSON. Thank you. I see my time has expired. I know it will please you to know that we are being consulted with and consulting with Messrs. Ornstein and Mann with great regularity and they do indeed have some wonderful observations. Thank you very much.

Chairman HAMILTON. Mr. Swift?

Mr. SWIFT. Thank you, Mr. Chairman. The need to redirect jurisdictions is usually founded on the basis of three things that need to be accomplished. One, is to make it neater; two, is that the members are spread too thin; and the third one is to deal with the jurisdictional overlap which interferes with the prompt processing of legislation.

I would observe, first of all, that there is nothing neat about the legislative process to begin with and any endeavor to make it neat is probably useless because, you made the reference to sausage and legislation, that one I think just does not make a lot of sense. I would note that the ISTEPA bill, which I think is one of the best pieces of public works legislation to come out of the Public Works Committee in a long time, has an excellent railroad provision in it that we were able to work out very, very cooperatively with both Bob Roe and Norm Mineta in the last Congress. They did extraordinary work in setting up an intermodal process of dealing with transportation and worked very closely with us to include rail as a part of it and it worked out very well without having jurisdictional neatness. The job got done very effectively.

The second thing, you seem to have addressed the problem of members being spread too thin very directly. As I understand your proposal, and others have made it, it is that we just simply limit to two the number of committees on which people can serve and to two the number of subcommittees they can serve on each of those

committees and develop a mechanism of enforcing it. Do I understand your proposal correctly?

Mr. DINGELL. Not only a mechanism to enforce it but an absolute assurance that the leadership can not go off and cut deals because it is more comfortable and convenient for them to deal with it that way than it is to simply say no to members who feel they ought to get certain committee assignments.

Mr. SWIFT. Well that leaves us then with the jurisdictional overlap issue which is one that, in fact, troubles me and it may be that you and I disagree on this to some degree. You indicated some support for joint and sequential referral and I am not sure but what that is the culprit.

We had very interesting testimony from the Library of Congress several sessions ago in which I asked what the rationale was for putting that in the reforms of the 1970s. They said it was tied entirely to the committee jurisdiction restructuring that was intended. That part was lost, left behind was drawing all these nice bright lines around jurisdiction and there was no independent rationale for doing that in the Bolling Commission Report, according to the testimony from the Library of Congress. It seems to me that it is human nature, you draw bright lines and people start defending the lines.

I was not around here prior to that. You have been. I am wondering how in the world did committees ever get their work done when there was jurisdictional overlap before we invented joint and sequential referrals?

Mr. DINGELL. Well first of all, there has always been jurisdictional overlap. As you pointed out, it is impossible to reduce the operation of the House of Representatives to a set of neat lines on a chart or a map. It is not doable.

Second of all, there has always been this problem. The problem has been addressed. I was somewhat actively opposed to Mr. Bolling's recommendation because for strange reasons he chose to abolish not one, but three of the committees on which I serve. This did not seem like good sense to me.

[Laughter]

Chairman HAMILTON. That turned out to be a fatal mistake, I think, Mr. Dingell.

[Laughter]

Mr. DINGELL. I enjoyed it more than Mr. Bolling. Having said that, before Bolling there was sequential referrals. Sequential referrals of that day were not common coin. They were essentially the atom bomb, to mix metaphors, they were the atom bomb. If somebody threatened to demand a sequential referral, that got the attention of the Speaker, the leadership, the other committee and it worked very well.

Just one last thing. You hear all this talk about jurisdictional overlap and how committees do not work together. Committee chairman around here will tell you there is a constant, constant friction between committees. What you hear about is an occasional inability of the chairman, the system to address that. But almost every piece of legislation has the potential for some kind of jurisdictional conflict. These things are worked out very routinely by the staff now, worked out very routinely by the chairman, and I

would say that in about 999 or perhaps 9,999 out of 1,000 or 10,000 the issues are resolved without the matter ever attracting the attention of anybody other than the chairman or more probably the staff.

This is something which requires leadership on the part of the Speaker. It is something which requires proper performance on the part of the parliamentarian. I do not want to say that the Speaker has taken the easy way out of these matters because that would be unkind. But I do want to say that the parliamentarian permits an awful lot of engineering which is of doubtful propriety both with regard to jurisdiction and with regard to sequential referrals. And with perhaps a better draw in rules we could achieve the benefits of both sequential and joint referrals and we could achieve a workable system.

Now I will tell you that there are times when you are going to have bills that are simply going to demand joint referrals. They are, for example, the health care bill, which is going to involve at least three committees and probably four or five. There is no way that we can or should fail to have joint referral of that bill under proper understandings and under proper suzerainty by the Speaker. I will tell you that will actually make for better legislation and I hope you would not prevent that. But controls and constraints on the way the system works are, I think, very much in need and you could devote a very profitable, useful, and valuable amount of time to that and serve the House well.

Mr. SWIFT. Well thank you for your observations, John. It just occurs to me that in order to achieve the problems of members being spread too thin and dealing with something of our jurisdictional overlap, that rather than biting off this huge, massive job of restructuring the committees, which incidentally has always failed in the House in my memory, that there are some minimalist things that I think could have much greater effect. Reduction of the number of committees on which individual members can serve and, in the case of the latter thing, doing something that will encourage committee chairman to walk across the hall and talk to another committee chairman if they have a jurisdictional overlap problem and work it out rather than seeing the bright lines of sequential referral as a kind of bastion you have to defend rather than simply working it out so that you can get legislation on the floor.

I thank you very much, John, and I yield back my time.

Chairman HAMILTON. Mr. Walker.

Mr. WALKER. Thank you, Mr. Chairman.

I too appreciate your testimony, Mr. Chairman. I think that it is a valuable contribution. I would say that in your initial remarks where you talked about open rules and said that the one thing that you did endorse along the way was pre-printing requirements as being a reasonable kind of thing, that is where some of us in the minority would disagree. We think that is restrictive because our experience has been that the pre-printing requirement then leads to an ability of those who are structuring the bill to bring in secondary amendments and allows the real effect of some of the amendments that people want to bring forward to effect real policy to be diluted in the process. In fact, the pre-printing requirement is a device used by the majority to control the system and to the det-

riment of the minority in bringing forth its policy issues. So some of these things that I understand that sometimes the majority believes are simply ways of getting things done and being more efficient and so on do have a fairly deleterious effect on the ability of the minority to make its feelings known.

You do make one point on page 13 which I thought was useful, and that is that the minority has in fact limited the number of member assignments in committees and that has tended to have minority members showing up more regularly in committees to do the business because they are not stretched quite as thin. I will tell you that from the standpoint of those of us who serve in leadership on the Republican side, that has been made more difficult by the fact that the majority has not adhered to that and so our members see the people with all kinds of assignments and then come back to our leadership suggesting that they ought to have these broad-based assignments too. So a pattern that would have both the majority and minority in a similar boat on that I think would help both parties and would also lead to better attendance of committees. Comment?

Mr. DINGELL. Let me try to respond. You raised two points, the second being the question of membership and the way that the memberships are allocated, the number of members. I would tell you that statement with regard to attendance and participation by the minority being better than the members of the majority is an absolutely true statement and the reason is I think correctly assigned. You have probably not watched me very closely in the way I run the committee or the way I appear before the Rules Committee. But if you look you will find that when I appear before the Rules Committee I have always asked for an open rule. I have said pre-printing, but I have always suggested that pre-printing be done with dates and so forth that afford the members time to properly respond. I have never addressed the question of whether amendments to amendments are in order and that is, of course, probably something I should pay attention to. But I want you to understand I have never run the committee so as to deny the minority the opportunity to offer their amendments. Don't believe me, go and consult with Mr. Lent or now with Mr. Moorhead or any of the senior Republicans or the freshman Republicans how I conduct the business of the committee either in the committee, on the Floor, or in the rules.

Mr. WALKER. Just one other point to follow up on the point about the committee assignments. What is frustrating I will say again to the minority, and maybe you can comment on whether or not you think this is a practice that should be continued, is while we often get our people to show up and participate in the debate and do all of the things which I think good committee work demands, the fact is that when it comes to the voting then, despite the fact our members are in the room, the proxy votes are then hauled out and voted against us. So the effect of our attendance and our participation is diluted by ghost votes that all of a sudden appear in the committee room. I wonder whether you would favor an elimination of proxy voting as another way of getting members to attend more sessions and participate more heavily?

Mr. DINGELL. No, I do not favor the repeal of the proxy rule. It is available to my Republican colleagues and available to my Democratic colleagues. It is something that is long embedded in the traditions of the House. And let me tell you something, I have seen my senior Republican member show up with a pocketful of proxies in his pocket and significantly impact the conduct of the business of the committee. I see no great benefit in taking that right from the Democratic members nor do I see any significant benefit in taking it away from my Republican colleagues.

Mr. WALKER. Well my guess is that the Republicans would more than happily give it up given the structure of the committees where the proxy votes are typically weighted heavily against us. But your response is useful. Thank you. Thank you, Mr. Chairman.

Chairman HAMILTON. Senator Boren?

Chairman BOREN. Thank you very much, Mr. Chairman.

Chairman Dingell, I want to express my appreciation to you for coming and for spending the time that you have with us and the time in preparing your testimony for us. I find it very thought provoking and I commend you for it.

Your idea of limiting committee assignments I think is a very good one. We have an even bigger problem on the Senate side. I do not know if you have looked at those figures, but the average Senator is now serving on 12 different committees and subcommittees and we range up to a high of 23 assignments for some members. It is just an impossibility for us to cover all of those areas and I think you make a good point. If we would start with that, we also begin to depopulate some of the unnecessary subcommittees. If we limit the number of assignments, they are going to drift into those committees where there is really important work to do and they are going to no longer want to have membership in those that do not matter. That will help us through a natural attrition process to begin to prune out some of the things that are not needed.

Would you favor, and I believe Senator Byrd suggested this on our side, that if this rule, let's say that we establish six committees and subcommittees as a total or whatever figure it is in terms of member assignments, would you favor some enforcement mechanism like perhaps a vote of the whole House or whole Senate in order to waive that rule in the case of an individual member? We find very often what happens is the leadership gets put under terrible pressures. Our leaders say that they do not want to be put under those pressures, to do it through a caucus procedure or otherwise really through a leadership procedure. Is that something that we should think about? To make it very, very tough and very, very public in essence to have a waiver of the number of committees and subcommittees on which you could serve?

Mr. DINGELL. I think you and I agree. I did not realize how bad the situation was in the Senate; I only know how intolerable it is in the House. My prayer would be that you craft simply an absolute ban. My thesis is that any time you let somebody run to the leadership and say "I have got to have this" the leadership will give it to them. If you were to simply by extension make that be a decision of the entire House—and again, Senator, I do not want to talk about the Senate, I think that this is a very useful exercise that we are doing here and I am delighted to see the House and

the Senate work together on it, But I sure don't want to get my oar into the business of the Senate and I hope the Senate will have the same kind feelings toward the House. I think to allow this to be done on the basis of a vote would simply assure that this would be regularly done and you would be right back in the same mess you are now.

Mr. BOREN. Right. So just leave no procedure for waivers at all. Just make it an absolute.

Mr. DINGELL. I don't think you would benefit. Now I would suggest this. First of all, you are not going to succeed if every member of the House or Senate figures he was going to get kicked off of the various committees or subcommittees of which he is a member. I would say that this is something which has to be done by an orderly process of attrition and there are ways that in the wisdom of skilled members of this body you can do that. It is something that every committee chairman will rejoice in simply the fact that we know that after a while we are going to get our members back.

I will tell you something else I find. I find that members will be members of several committees, and we talked about this jurisdictional mess we have over there, they will then by serving on a number of committees know what goes on in the committee and they will come to the splendid conclusion that what they ought to do is engineer their legislation so it will not go to one committee of which they are a member but that it will go to another committee of which they are a member because they know the chairman of the committee or subcommittee or the membership are not friendly to what it is they are trying to do, they will know the other committee does not know a great deal about what is going on and will probably as a matter of comity vote this thing forward.

So I would say that if you are going to do this it ought to be humanely done. It ought to be done absolutely. It ought to be done according to a time schedule and, very frankly, if it is done in a way that appears fair to the members, I think they will accept it and I would urge you to do it.

Mr. BOREN. As I have indicated, I think our problem with subcommittees and committee assignments is even far worse than the House problem. If we start to draw down the number of subcommittees partly through attrition, as some of these subcommittees are depopulated as they are not found to be really essential as members have to make choices, what would be the best mechanism for doing that? For example, I suppose this committee could try to sit down with the House members looking at the House and the Senate members looking at the Senate and try to determine which subcommittees are not necessary. But that would seem to be troublesome.

Another way of doing it might be to leave it up to the chairs of the committees and the members of that committee. For example, I think we had Senator Leahy here earlier in the week and I think we have eight or nine subcommittees in the Agriculture Committee and he would be very happy with probably having three and redefining the jurisdictions. As it is now, it is pretty hard for a chairman on our side of the Capital East to turn down a member who wants to have his own subcommittee. Any majority member who

wants to have a subcommittee, pretty well is kind of like you talked about waivers, how does the leadership turn them down.

So I think many of our chairs would welcome us to say—and very obviously, Appropriations has to have more subcommittees, Finance, Ways and Means, I do not know how many subcommittees your committee has but you have to have several — but there are many committees that really do not need too many subcommittees and the chairs would probably welcome but we could say no more than three for this range of committees and then the committees could make up their own mind what the jurisdictions would be and how they would be defined in the membership. Would that make more sense to you than us trying to tackle the question of the subcommittees?

Mr. DINGELL. I think if you try to address the question of how many subcommittees you are going to have on any one committee you are going to put yourself in an impenetrable thicket. This is a very able group, it has been very carefully selected, but I do not think any group could be selected out of either the Senate or the House who could address that question. I think what you ought to do is to define the number of subcommittees that you have on a committee.

Mr. BOREN. Right.

Mr. DINGELL. You ought to also identify the number of slots that you are going to have total overall. So that if you figure that you have 100 members of the Senate you are going to have that number of slots. Now maybe you want to move the slots around. Maybe you have a committee that does not do a great deal. All right, so they will not get a lot of slots. Maybe a committee that does a lot is going to need a lot of members or you have a lot of interest in it so you are going to give them a greater number of slots. This does give you a chance to let the unproductive, undesirable subcommittees and committees atrophy as they very well should. It is sort of a Darwinian approach but it is one where that kind of Darwinian approach is useful and that will enable you to do a lot of things, including then allocate resources, staff responsibilities, and things of this kind.

Mr. BOREN. Right, more effectively.

Mr. DINGELL. I would beg you, however, to do one thing which is important. One of the reasons that the Commerce Committee is successful is that we engage in oversight. We do it with great diligence. This enables us to see to it that the laws are properly carried out. Now we are hard as flint but we have a reputation within that of being fair in terms of the oversight that we do. I would urge you to keep oversight as an essential function that has to be done. This will result in opportunity for significant savings in terms of staff and budget, it will result, if you do it as I know you can and want to, in a fashion which will enable very significant savings of time and suffering for the members and for the members, like yourself and Mr. Hamilton, who have the blessing and the curse of having to lead this place and make it work.

Mr. BOREN. I agree with you. Let me ask one last question. I apologize, Mr. Chairman, for taking time. On the question of committee jurisdiction, and I think it is very interesting to hear you say don't try to rationalize at all around a single interest or a

single function because you will then get committees that are too narrow and too much taken over by the interest in which they form an association so that in some cases broader jurisdictions are more advisable. I think that is an interesting point and I think it has some validity to it. I also understand what you are saying about not trying to worry about being too neat and tidy. Let me ask you this question. On the conference committees, and this is something that does involve the interaction of two Houses, should we at least look at trying to make the jurisdiction between the House and the Senate somewhat more parallel to reduce the number of people on conference committees?

Mr. DINGELL. I don't see the reason why that should be done. In my view, there is really no way you can. Let us take health care bill, regardless of how you rationalize it you are going to have a financial component, you are going to have a component which is going to relate to the providing of health care, you may very well have an antitrust question, you may very well have questions relative to other issues that fall in the hands of other committees. Unless you require both the House and the Senate to have Health Care Committees to deal with this so you can appoint your conferees solely from that you are going to wind up with that kind of a mess. Let us go to Superfund. I had to handle Superfund and I think you were there too and you remember what a intolerable mess that was. I had to handle Clean Air. We had huge numbers of members of the Senate, huge numbers of members of House, business of both bodies was somewhat impaired by the simple fact that members had to be giving huge amounts of attention to this matter.

I do not see any way that we could have done it. For example, Public Works has water pollution, Commerce Committee has clean air, components affected both and they were both present. There was a jobs component in each, so Education and Labor had to be there to address the question of unemployment compensation and job retraining and things of that kind. You could not have done away with it. You had other committees like Merchant Marine and Fisheries because of their important off-shore jurisdiction. I want to say that Merchant Marine is a valuable committee. It has broad jurisdiction, it does good work, and has a great tradition. I do not think there is any advantage to anybody in doing away with it. There is simply no way that you can reduce the number of committees on an important bill of this kind. Now maybe on a piddling matter you can.

We routinely in the House take other committees. For example, we have got right now the NIH authorization bill. The Senate put an amendment in relating to immigration of people with AIDS. That is not an area of expertise to us and I really do not want to deal with it. I think it should be dealt with by the Judiciary Committee as a matter of their judicial policy. Now this was a nongermane amendment that was added in the Senate because the Senate does not have germaneness rules. I am not going to again going to comment on the absence of germaneness rules in the Senate even though I have very strong feelings on the matter.

Mr. BOREN. You are showing admirable restraint.

Mr. DINGELL. It is very difficult.



Mr. BOREN. I understand. It is very difficult many of us on our side too as we look at the irrationality of our own rules.

Mr. DINGELL. We have our internal rules problems, as you very well know, in our end of the business but I do not see any way that we can be protected from that. But in each of these instances what we can bring to us is, first of all, we can have the expertise of the Judiciary Committee which knows immigration law. We really ought to have them there to deal with it if you want to have a rational immigration policy, unless you want people like the Commerce Committee writing immigration policy, it will be done by a congregation of blockheads who don't know the law or the history of the policy. We do not think it ought to be done. We also would lose the advantage of the very good staff of the Judiciary Committee to deal with that. So I do not think that there is any way that you can obviate this problem simply by making the jurisdiction of the House and the Senate.

Mr. BOREN. You would just limit the number of conferees. You would try to have incentives for reducing the number from each committee.

Mr. DINGELL. And you could do what is now done which works quite well and that is simply to have different parts of the matter referred to the different committees for purposes of conferencing with the other body. And that, believe it or not, does work. A lot of the problem that people simply do not understand and they appear to be quite determined not to is the fact that on a clean air bill you are talking about 1,300 pages of legislation. On health care you are talking about probably 1,000 to 2,000 pages of legislation. Enormously complex. That is going to be the most complex bill that we are going to work on in our career or in our lifetime, maybe the most complex piece of legislation that Congress will ever consider. You are simply going to have to have a bunch of committees doing it and there is no way you can get around that.

You really ought not unless you want to set up mammoth staffs in single committees where you can shuffle staff back and forth to address the components. This is done, believe it or not, with extraordinary good will. Now there are the normal frictions that go on and, if you really want to deal with those normal frictions probably the best thing to do is to let us close the conference so that we could do our business. When I am going to conference what I have to do is I have to get the staff off and cut a side deal and then I have to bring it on the floor and ratify it. Both of you gentlemen as Chairman understand that is what you have to do too. It is against the rules but you do it because it works. I see no great benefit in affecting your traditions or our traditions or changing our committees. It has worked much better than people think.

Mr. BOREN. Thank you again. I appreciate your comments and we hope you will continue to give them to us as we work along. We do want to bring about the right kind of changes. We are not going to leap in and make change just for the sake of change unless we think it is wise and constructive, and we value your continued input into it. We appreciate your coming.

Mr. DINGELL. Thank you, Senator. You have my good wishes. You have a vastly difficult task.

Chairman HAMILTON. John, what Senator Boren said is very, very important. We want to keep in touch with you here as we move along and so I know I and I am sure other members will be contacting you. Thank you very much for your testimony.

Mr. DINGELL. Thank you, gentlemen.

Chairman HAMILTON. The next witnesses are Representatives Gerry Studds, who is the Chairman of the Merchant Marine and Fisheries Committee, and with him is representative Herb Bateman. We are very pleased to welcome both of you gentlemen to the joint committee.

Without objection, the opening statement of Representative Jennifer Dunn will be entered into the record immediately after the opening statement of the Chairman this morning.

Chairman HAMILTON. Congressmen Studds and Bateman, thank you for joining us. We look forward to your testimony. You may begin, sir. Representative Studds.

**STATEMENT OF HON. GERRY STUDDS, A U.S. REPRESENTATIVE FROM THE COMMONWEALTH OF MASSACHUSETTS; ACCOMPANIED BY: HON. HERBERT H. BATEMAN, A U.S. REPRESENTATIVE FROM THE COMMONWEALTH OF VIRGINIA**

Mr. STUDDS. Thank you very much, Mr. Chairman. I will spare you not only our opening statement and a long analysis of the history of the committee and its legislative jurisdiction and productivity, but I will spare you even some of my own talking points out of sheer humanity. I was just sitting here listening to much of Mr. Dingell's testimony and it really brings back some memories. My first term, as you will recall, was the 1973-1974 era of the Bolling Commission and I was in the thick of that as a freshman member of the Merchant Marine Committee. It was one of the few times I have disagreed with Mr. Dingell who was a senior member of the committee at that time. We were all sworn a blood oath to oppose the entirety of the Bolling recommendations because hidden in them was a restructuring of the committee system which, as Mr. Dingell indicated, would have led to the dissolution of the Merchant Marine Committee. I supported very strongly the committee then, as I do now, but I also supported the totality of the reform efforts. So I think my credentials in that regard are in order. I speak to you with some humility as the youngest of the old bulls, or at least the newest if not the youngest.

At my left is the representative of our ranking member, Jack Fields, who, in an uncharacteristic fit of irrationality, is running for the Senate. I think that you will see that he is here in spirit and, in fact, any one of the majority or minority of our committee I think would say to you what it is that Herb and I wish very briefly to say. I am going to spare you all the rhetoric about what you have talked so much about. I am somewhat comforted by the fact that we do not have a great deal that is new to say. There appears to me to be something of a consensus with regard to some of the things that make it very difficult for this place to work. I am going to go directly, if I may, to the more prosaic of my own recommendations first and I note with interest that they are very similar to

those of Mr. Dingell and I suspect of others who have appeared before you.

You really need a physicist on this committee to tell us how we can all be in three or four or five places at once. I suspect that everybody who has testified before you has cited this. This is my 21st year and I am damned if I understand how any of us can function at all. I used to be, as I say to my staff regularly, a real person. I used to do things like read books and think thoughts. Now, it is only a debate in my mind as to at what day in the week I will throw away the preceding week's newspapers unread. As you very well know, each of us probably at this very moment, you and I and Herb should be in five other places simultaneously. My own committee is having a hearing at the moment of one of my own bills. Our schedules are simply a nightmare.

I would suggest to you that there is not a university or high school in the country that does not do a more rational job of scheduling far larger numbers of people with potential conflicts than we with 435 and 100, respectively. There are, as I understand it, computers that can do things like modular scheduling and it is entirely within the realm of human capability to schedule committees and subcommittees so as to minimize the conflicts. I think all we need to do is talk to any administrator of a school or college to find out how that's done, and if your committee did nothing more than that, you might make it possible for this place and the individuals in it to think and to function.

Secondly, as I hope everybody is saying, we have too many subcommittees, not too many committees, but too many subcommittees. It dilutes the value of each, it takes too much of what's left of our time, and it decentralizes authority in this place. As you know, Mr. Chairman, all you've got to do is walk out in the hall and say, Mr. Chairman, and at least 125 heads will turn. It is absurd, the extent to which we have gone. I don't think we should have more than five subcommittees on a major committee and four on a minor. And I suppose you have to let Appropriations keep 13 unless you in your wisdom decide to do away with them all together. But I really do believe that step one is to limit strictly the number of subcommittees.

In the current configuration of the Congress, if we were to do that we would have 98 subcommittees. That's 20 less than what we have at the moment, it's 38 less than what we had in the last Congress, and there would be a proportional decrease in the number of membership slots available if we do one more thing. This House has not had less than 100 subcommittees since 1955. I think it's time.

Secondly, we have too many members on too many subcommittees. I think, as I heard Mr. Dingell, I was delighted to hear before me say that we should limit ourselves to four subcommittee assignments. If we did that and limited the number of subcommittees that I have just suggested, we would have reduced the number of subcommittee slots by nearly 40 percent. And I think that the increase in the availability of breathing space and maybe even thinking space per members would be more than welcome. We literally don't have enough seats, Mr. Chairman. I have 46 members on my committee and one of our expenditures this year was to get smaller

chairs so that we could fit everybody in. We had a meeting of the committee chairs last week, and we regretted this habit of the leadership always asking us to expand. I got back to my office, there was a call from the leadership asking me if I could accommodate an additional member for whom service on our committee was absolutely essential. I know Mr. Rostenkowski addressed that in a very pointed fashion. I think he is absolutely right. I think we should put limits on committee size and I think we should abolish temporary appointments, although I am enormously fond of our own temporary appointments.

With regard to jurisdiction, none of us would design the House the way it is in a perfect world starting from scratch. But as most of us have noted, it is not a perfect world, we are not starting scratch, and I agree with everything that Mr. Dingell has said in that respect.

Let me finally get to a point, Mr. Chairman, where if I did not address it you would be shocked and I would be excoriated, and that is to respond to the proposals made by some here that the Committee of Merchant Marine and Fisheries is in some sense expendable. Let me say that the bottom line as far as I am concerned is that this committee is not the problem, nor is any other committee. If there were one shred of evidence that doing away with the Merchant Marine and Fisheries Committee would end the gridlock that has so infuriated the people of the country or make us more effective or get us to where we want to be, I would be first to board up the doors and gleefully lead my fellow committee members out of business. But I would suggest to you that the clear evidence is to the contrary and in fact I think we can make a pretty compelling case that the Merchant Marine and Fisheries Committee is a model committee and a stellar example around here of how this place ought to operate. So let me give you what we call our Admiral Stockdale scenario, who are we and why are we here.

The only reason any of us on this committee, and I know I speak for both the minority and majority, can fathom for wanting to get rid of it is that not enough people know who we are and why we are here. To know us really, Mr. Chairman, is to love us. Our freshman Democratic delegation which comprises some 40 percent of our membership is taking a shot at fixing this as you may know by suggesting a name change to more accurately reflect what it is that we do. They are going to be requesting that the name be changed to the Committee of Marine Affairs and Environmental Policy, but until that change clears everything up, I would like to provide you as I said with a short history and legislative analysis of the committee's work which will be coming momentarily. I would just say, if I may, I know that brothers Ornstein and Mann have talked to you and we have talked to them as well and they are among those who have said that this committee has a single client group, presumably the merchant marine industry, and is characterized to use their words "by its unabashed advocacy of outspoken constituency groups." If you knew anything about maritime industry, you would know that doesn't make any sense because it hasn't spoken with one voice in the 21 years that I have been here. I can't think of an issue in which any of the multiple components of that industry agree at all, which, Mr. Chairman, is one of the reasons that in the

last 10 or 20 years we haven't done very much with regard to maritime policy.

I suppose in all honesty we are guilty of advocacy. We certainly are guilty of advocacy of jobs for American workers on ships and in shipyards and for an American merchant marine who can carry our goods in trade and in times of military crisis. As you may know, we had to charter some 12 Soviet vessels among other things to get supplies to the Gulf. And we were fortunate in those circumstances that nobody was shooting us on the way. We are also guilty of advocacy of clean water, advocacy of a pristine and coastal environment, advocacy of safer oil tankers, a strong and competitive fishing industry, and for the preservation of threatened and endangered species. I don't know, if the committee is allowed to continue this kind of unabashed advocacy unrestrained, what will become of the republic. But let me say to you that this committee has a distinguished record of responsible and balanced maritime and environmental legislation. It is renowned for its bipartisanship. Anyone who has ever watched us in operation I think will be struck with the contrast between the bipartisan camaraderie I would say and certainly legislative cooperation that you will see in our committee on the one hand, and some of the rancor and partisan bitterness that has been occasioned in other committees. I think we are in the best sense of the term a little legislature for important environmental and maritime matters and I think we have facilitated the work of the House on any number of occasions. It was Dave Obey I think who told the committee last week that what counts is what works, and we would be prepared to argue as strongly as we can, Mr. Chairman, that this committee most emphatically and most clearly and in some extraordinarily important ways works.

I'm going to yield at this time to my ranking minority member, acting.

Chairman HAMILTON. Thank you very much, Chairman Studds. Representative Bateman.

**STATEMENT OF THE HON. HERB BATEMAN, A U.S.  
REPRESENTATIVE FROM THE STATE OF VIRGINIA**

Mr. BATEMAN. Thank you very much, Mr. Chairman. I'm pleased to be here today and I'll ask unanimous consent if I may that the full statement of our colleague Jack Fields of Texas be made a part of our record.

Chairman HAMILTON. Without objection.

Mr. BATEMAN. I have also submitted a more extensive written statement which I would ask you make a part of the record. It had been my intent to summarize the points made in Congressman Fields' statement and my own and to endorse the views expressed by my colleague and chairman of the full committee, Mr. Studds. I'm going to do even better than the written summary of all of those statements and follow the example of my colleague and just make some very general and I hope they'll be brief observations.

The first thing that I'd like to suggest is how much I agree with the point of view that the Merchant Marine and Fisheries Committee is not a single client constituency committee and if there is some notion on the part of some that it is a committee that is out

there pandering to the interests of the maritime community in some egregious way, that view is totally and completely erroneous. If you look at the American maritime community and the component parts of it, none of them are well. None of them have fat cats who are succeeding in some egregious way to advantage themselves at the cost of the public good. In point of fact, we are on a trend line where the American flag merchant marine will disappear from all of the oceans of the world in a few years if we don't do something successfully to revitalize it.

There is no component of the American merchant marine that is well, healthy, expanding, prosperous. They are all bordering upon extremists and it runs the gamut from the shipping lines and operators to maritime labor to American domestic shipbuilding. Certainly, those interests which are so vital to our National security and prosperity need and deserve a committee that focuses upon them at least in the better hope that we will find some solutions if we get an Administration and a Congress determined to do the things that are necessary for the revitalization, indeed the survival, of our American maritime. I would suggest to you that this ought to be a compelling matter of National priority because a United States of America that is not a maritime power has no power. And we delude ourselves by thinking we are a super power if we do not have a very significant, robust, and continuing maritime capability.

I'm very unashamed of the fact that I am an advocate of putting together a national policy which does that. I think this is something that all thoughtful members of the Congress certainly would applaud.

My Chairman has already suggested to you that it is a committee that works in I think a very commendable bipartisan spirit. I'm very fortunate in my committee assignments in that I am a member of the Armed Services Committee of the House which is the only committee of the House even that has a nonpartisan professional staff. And I applaud that and I enjoy that working environment in trying to do the things that I think are important to advance sound public policy in the country. I'm very pleased that is the atmosphere on the Merchant Marine and Fisheries Committee which I also serve. I would commend it to more of our committees and to more of our members that they approach things in that context.

There has been a suggestion that the name of our committee should be changed. It would not have occurred to me to come and advance that as a suggestion, but I'm certainly not here to oppose it and if we can be better named, so be it. I would applaud, once we use up our existing store of letterhead and stationery, a more meaningful and descriptive title if that is helpful.

I'd like to also endorse, while it is beyond that which specifically brings me here as spokesperson for my colleague Jack Fields and as ranking member of the Merchant Marine Subcommittee, what has been said by our colleague Congressman Dingell, what has just been said by my colleague Congressman Studts, with limiting the number of subcommittees and limiting the number of subcommittees on which members could serve. I think that is constructive and we've got to face the sheer physical dimensions of spreading

ourselves so thinly that we do not as a good a job of anything as the people who send us here are entitled to expect of us.

I'll close with one other thought and it's very sincerely expressed. I know how busy I am. I know that I don't get done in any given day, whether it's a 12 or a 16 hour day and there are few that are ever any shorter, much of what I really feel it's important that I have gotten done. The members of this joint committee I know suffer from that problem as much or even more than I and; yet, you have come forward to accept the responsibility that is attendant to these very protracted hearings that you are presiding over and to focus upon the problems of our institution all to the end that the American people will get more effective representative Government and that the standing and credibility of the Congress with the American people will be enhanced as it very badly needs to be enhanced. And so, not only do I express gratitude for the fact that you are doing what you are doing, it is, I think, an extremely important assignment that you are discharging.

Mr. STUDDS. Mr. Chairman, may I add one thing. I, in my desire to be humane to you, I omitted one subject which I wanted to develop two sentences to. It is true that we are concerned with the revitalization of the U.S. Merchant Marine and we hope within a month to be coming with the new Administration with a proposal to revitalize both the shipbuilding component and the capacity of this country to have vessels flying its own flag. But I thought you ought to know, what else it is that we are concentrating on this year. We deal with some of the toughest resource protection, economic development questions faced by this Congress. We are in the midst of reauthorizing the Endangered Species Act which, as every member knows, is a matter of extraordinary importance both philosophically, biologically, economically, and politically. We have exclusive jurisdiction over the National Environmental Policy Act. We have fisheries, we have the protection of marine mammals, we have marine pollution, wetlands, energy development in refuges and offshore, and this year we are on the cutting edge of some of the most difficult policy issues facing the Congress. Bio-diversity, we'll be introducing legislation to create at the request of the Secretary of the Interior a National Biological Survey, environmental technology, trade and the environment, funding clean water efforts, among other things. We are in the thick of some of the issues of the day of very major consequence and there is a long history of experience and legislative productivity and expertise here which I think is of great value to this institution and to this country.

But I don't want to appear defensive. I think we can make our own case with pride and in a bipartisan fashion, and I share my colleague's thanks to you for putting up with what you must put up with.

[The prepared statements of Mr. Studds, Mr. Bateman, and Mr. Fields are printed in the Appendix.]

Chairman HAMILTON. Well thank you very much, Gary and Herb. We appreciate your testimony. You have both given us strong and compelling support for the Merchant Marine and Fisheries Committee. I'm not sure you can see all the plans that we've got in front of us here suggesting how to restructure committee and subcommittee organizations, but as I glance over them at the

moment I notice that Merchant Marine Committee probably is the committee missing from most of those charts. So your defense is timely. We've had suggestions to knock out the Post Office Committee, suggestions to knock out the Small Business Committee, as well as your own, as well as all kinds of structural change. But let me just ask you the question, is it the position of both of you that this joint committee should recommend no changes with regard to the jurisdiction of committees and no abolishment of any standing committee?

Mr. STUDDS. No, not at all. I think you can probably look around and perhaps find some subject matter that can be reshuffled and more rationally aligned among the existing committees. But I certainly share the words of admonition of so many people that I know have testified here that if you attempt to get into the question of, from scratch, redesigning the committee structure, I speak only of the House at this point, I think you are going to run the risk of obfuscating everything else you try to do because I think it will inevitably engender such intense emotion and such intense upset around this place that we may lose all the things that really could make a difference in how we live.

Chairman HAMILTON. Would your advice to the joint committee be don't touch jurisdictions of the full committees?

Mr. STUDDS. I would not presume to say that, and I have not done the work which I would have to do to respond to you in detail. I mean, I probably could think of a number of things where you could polish a little bit here and there, where you have some divided jurisdiction that isn't necessary, you could take a subject and put it predominantly in one or predominantly the other. But I really agree with those who say that it ain't neat, there is no way to make it neat, and any attempt to do so I really believe could jeopardize everything else we are trying to do.

Chairman HAMILTON. Herb, you agree with that basically?

Mr. BATEMAN. Yes, essentially I do, with everything that was said. I'd like to reemphasize the point that you can take the subject matters now being dealt with by the Merchant Marine and Fisheries Committee and you can parcel them out, but I don't have the perception that any of the candidate committees to which you might parcel them out are lacking for a sufficient workload. The Merchant Marine and Fisheries Committee and its subcommittees, of which we have already reduced, maybe we can reduce more, they meet more often, process more legislation, do more legislative work than any other committee I am aware of in the Congress.

Chairman HAMILTON. This is an impressive list that Congressman Studds put into his testimony of the acts that you have enacted in the recent years or at least considered.

Mr. BATEMAN. I think your commission in the omission of Merchant Marine and Fisheries is inevitably going to have to start focusing on where do all of the things this committee now does go to. And what are you doing in terms of a distribution of the workload and what are you doing in terms of the dilution of an area of expertise that has been accumulated in the Merchant Marine and Fisheries Committee.

Chairman HAMILTON. Suppose we came along and adopted one of your suggestions, and that is that we limit the number of subcom-



mittees. How do we do that? Do we just send a letter to Chairman Studds one of these days and say cut down your subcommittees to four.

Mr. BATEMAN. My view is if you make the determination and the body approves the recommendation that the number of subcommittees be limited, make it binding, make it without exceptions except for those committees where you have specifically excepted it, and then leave it to the committee chairman, the ranking members, and membership to parcel or to re-parcel out that jurisdiction. They will be more familiar with it, better able to do it, and yet they will be bound to accomplish it. I think that would be the way to implement it.

Mr. STUDDS. Your own committee is the only one I know of around here that has honest to God subcommittees that people attend. I think that's largely because they are quite small compared to most and most of the other committees I am familiar with, you might as well almost not have them because they are simply two-thirds or three-quarters of the full committee.

Chairman HAMILTON. As the chairman of a full committee, you would not object to this joint committee recommending, as you say in your testimony, to the major committees no more than five subcommittees?

Mr. STUDDS. Absolutely, I think it's essential.

Chairman HAMILTON. Now obviously, we ought not to try to tell you how to draw the five subcommittees. I mean, that would be your responsibility, but giving you a kind of ceiling as it were.

Mr. BATEMAN. Mr. Chairman, if I might volunteer this, on the related subject of limiting the number of committees and subcommittees on which any member can serve—

Chairman HAMILTON. How many subcommittees do you have, do you know off hand?

Mr. STUDDS. We have five.

Chairman HAMILTON. You have five now. OK.

Mr. BATEMAN. My notion on this is if this should be done, and I think the evidence is compelling that it should, it ought to be something that emanates as a recommendation from this commission, something that ought to be supported by the members of the bodies, and having done so there shouldn't be any waiver provisions. If there is a waiver provision, somebody, because of dent of immediate political circumstance on one or the other or both sides of the aisle, is going to end up with waivers. Because the nature of our body, the way we work, the collegiality that exists at least within our respective caucuses is such where accommodations have to be made if the rules permit accommodation. So why if the rule is sound should accommodation be permitted.

Chairman HAMILTON. Well one of the suggestions that Gary makes here is to simplify the scheduling. I don't know how you simplify scheduling around here unless you cut the number of subcommittees down. I just seems to be to be absolutely critical. If you ask most members—the single comment I get from members more than any other comment knowing that I am on the joint committee, is do something about my schedule. I'm just absolutely overloaded and, as Gary said in his opening remarks, it gets to the point of absurdity.

Mr. STUDDS. May I say one other thing. We have this tradition of characterizing our committees as either major or minor. That's a reference to the breadth and scope of the jurisdiction rather than the importance of it, obviously. But with regard to those that have traditionally been labeled minor, I would urge the members of this committee to look very carefully at each committee in that category as we now have them and to ask of each of them the questions we have tried to answer for you with respect to what it is we have quietly in our own bipartisan way accomplished. I think you'll find that there is not another minor committee in the league of this committee in terms of the importance and significance and amount of legislation produced. Some of the fundamental statutes of this land in the environmental field were written in this committee. Many of them by Mr. Dingell, incidentally, when he was on it.

Chairman HAMILTON. I'm aware of how active you both are with respect to environmental legislation, but I must say I'm quite impressed by the list you have given us of the laws you have enacted. Oh, well, there are so many questions to ask every chairman; I see Chairman Clay is waiting. I want to thank you for helping us with your very specific suggestions. You have taken a broader view than just your own committee. That's important to us and you have contributed to our discussion. I hope that we will have a chance to keep in touch with you as recommendations are developed, and I'm sure we will do that if you are open to it.

Mr. BATEMAN. I hope sometime we will see another chart that includes the Merchant Marine and Fisheries Committee in whatever name you choose.

Chairman HAMILTON. There are a few of them that have it on there. Very good, thank you very much.

Chairman HAMILTON. The next witness will be Chairman Bill Clay, the chairman of the Post Office and Civil Service Committee. He, I think, is to be accompanied by Congressman John Myers—

Mr. CLAY. I assume he's lost, Mr. Chairman.

Chairman HAMILTON. He could very well be lost down here, but if it's all right with you, Chairman Clay, we will begin with your testimony right away and I'm sure Mr. Myers will not object. Thank you very much for joining us. We appreciate that greatly. It's at an awkward time, I know, at noon, but thank you for coming and you may begin, sir. Your statement of course will be entered into the record in full.

**STATEMENT OF HON. WILLIAM L. CLAY, A U.S. REPRESENTATIVE FROM THE STATE OF MISSOURI; ACCOMPANIED BY: HON. JOHN T. MYERS, A U.S. REPRESENTATIVE FROM THE STATE OF INDIANA**

Mr. CLAY. Thank you, Mr. Chairman. Let me say thanks to you and the other members of the committee for giving me this opportunity to testify this morning. Having lived through the controversies that surrounded the Bolling-Hansen reforms and as a former member of the Patterson Committee, I fully appreciate the difficulties of the assignment you have undertaken.

A thoughtful and reasoned analysis of how Congress works, what its shortcomings are, how they might be addressed would have sig-

nificant worth for the House and the Senate and for the country. Let me add, however, that the works of this committee is not without peril. Improving the orderly consideration of legislation is not synonymous with improving the substance of that legislation; simplifying the operations of Congress can just as easily weaken, as strengthen, the effectiveness of the Congress.

The focus of my remarks this morning will concern the committee I chair, the Post Office and Civil Service Committee. The committee's name does not fully describe, Mr. Chairman, the responsibilities vested in it. The committee has jurisdiction over the Federal Civil Service and Postal Service. But within these broad jurisdictional categories, the committee is involved in a surprisingly wide range of issues such as jurisdiction over White House personnel, members' pay, whistle blower protection laws, the senior executive service, designation of Federal holidays, the establishment of Federal commissions, and the franking commission.

The committee also has jurisdiction over the census which is the largest peacetime undertaking of the Federal Government. The critical design, planning, and preparation phases for each census take place throughout the decade and require extensive, on-going oversight. This oversight often requires legislative guidance from the Congress. The execution of the census demands continuous real-time oversight of operations. For the most recent census, the Subcommittee on Census and Population held 26 hearings to review the final year of preparations, the operational phase, and the post-census review of statistical adjustment techniques. As wide-ranging as this task is, it is only the cornerstone of the massive Federal statistical system which spans over 70 Federal agencies.

Last month, Fortune magazine cited our Nation's economic statistics as the biggest infrastructure problem of all. The newly constituted Subcommittee on Census, Statistics, and Postal Personnel is reviewing structural weaknesses in the statistical system in an effort to ensure that the needs of policymakers for accurate, timely, and useful statistics are better met.

The committee has a long and distinguished history, nearly as old as the Nation itself. A select committee on the post office and postal role was first established in the House of Representatives in 1806 and was made a standing committee in 1808. Abraham Lincoln ranks among those who served as chairman of this committee. Among the actions of the first Congress was the creation of a select committee to recommend procedures for the conduct of the census. The House maintained select census committees from there on until 1901 when it created the standing committee on the census. In 1893, the House established a committee on reform in the civil service as a standing committee. Its name was shortened to the Committee on Civil Service in 1924. As part of the Legislative Reorganization Act of 1946, the jurisdiction of these three committees were combined to form the Committee on Post Office and Civil Service. With the exception of minor changes made by the Hansen Reforms, the jurisdiction of the committee has not changed significantly since 1947.

Throughout its history and especially in the recent past, the committee has been the principle congressional repository of knowl-

edge, institutional memory, and expertise on census, postal, and civil service issues. It has been this committee that has initiated important pieces of legislation such as the Postal Reorganization Act, portions of the Ethics in Government Act, the Hostage Relief Act which provided benefits for Iran hostages, the Family and Medical Leave Act, the Hatch Act Reform Bill, Federal Employees' Pay Comparability Act, Civil Service Reform Act, and the National Advisory Council on the Public Service. In addition, the committee has historically played a crucial role in fighting off attempts by other committees to change the Nation's civil service laws to serve some parochial interest.

In the absence of a committee with the focus and expertise to act as a gate keeper, Federal pay and employment practices would long ago have become Balkanized. The committee has aggressively exercised its oversight responsibilities and it was this committee that investigated the controversy surrounding the theft of President Carter's debate briefing book during the 1980 campaign. It was this committee that initiated an investigation last fall of the improper use of then candidate Clinton's passport files and the improper use of civil servants for political purposes. Last year, this committee conducted an investigation of the post office shooting in Royal Oak, Michigan. Committee investigators have uncovered major wrong-doing including criminal activity in postal service real estate acquisition transitions, discriminatory employment practices by the Federal law enforcement agencies, agency reprisals against civil servants, uncontrolled spending by the White House on travel and transportation, and possible criminal activity in connection with the Christopher Columbus Commission.

It is inconceivable a subcommittee would have the wherewithal to have undertaken the legislative and investigative activities that this committee has undertaken over the years. The Congress and this Nation are a lot better off today because the standing committee like the Post Office and Civil Service Committee, possessing both a singular and trained focus and the resources, was minding the store. Some have suggested that the committee should be eliminated because it is no longer important. I would note that this unimportant committee is under reconciliation instructions to produce \$39 billion worth of savings, except for two other committees, the highest amount of any committee of the House of Representatives. Among other issues that this unimportant committee is facing, a comprehensive reform of the Federal Employees' Health Benefits Program, extension of the Occupational Safety and Health Act of Federal agencies, reform of equal employment procedures for Federal employees, and the restructuring of the Civil Service to increase flexibility, efficiency, and productivity. Furthermore, the committee continues to aggressively monitor the Postal Service's restructuring, perhaps the largest of its kind by any Federal agency in history, and to investigate charges of sexual harassment in Federal agencies.

Similarly, it has been suggested by some that the committee be eliminated because of its special clientele relationship. I would point out that the clientele of this committee are special and deserve the attention they receive. After all, the Federal Government is the largest employer in the country. Its employees carry out the

programs and policies established by the Congress and provide services that directly benefit 250 million Americans.

I would like to close, Mr. Chairman, with some general comments. While the House and Senate as legislative bodies share a common objective, to view the Congress as a single institution would be a mistake. Both the manner in which the respective institutions of the Congress consider legislation and the role of individual members within that process differ. To ignore the differences between the bodies as proposals to implement identical committee systems in each body do, is to guarantee that either the House or the Senate or both will not function optimally. The larger membership of the House automatically confers certain advantages and disadvantages as compared to the Senate. Simply because of the greater number of members, as a general matter an individual member of the House will not exercise the same degree of influence on all bills that an individual Senator will. However, because of the greater size of the House, House members have the luxury of being able to specialize in specific subjects to a greater degree than our colleagues in the Senate.

The means by which the House achieves this specialization is through its committee structure. To argue that because the Senate is not large enough to sustain separate Post Office and Civil Service, District of Columbia, and Government Operations Committees, that the House therefore should create a Governmental Affairs Committee is to ignore the singular advantage that the House possesses. The consequence is to diminish the quality of consideration that the Congress as a whole is able to give to legislation.

I thank the Chairman and the committee for permitting me to offer this statement.

Chairman HAMILTON. Bill, thank you very much. That's a very strong statement in support of the committee and the next witness is Congressman Myers. John, I want to apologize, we went ahead before you got into the room here in order to try to keep to our schedule as much as we can. We appreciate your coming down too to testify and we recognize you now for whatever statement you care to make. Your written statement of course will be printed in the record.

**STATEMENT OF THE HON. JOHN T. MYERS, A U.S.  
REPRESENTATIVE OF THE STATE OF INDIANA**

Mr. MYERS. Thank you very much, Mr. Chairman, for having us this morning. And I apologize to you for not being here on time, but over in Appropriations Committee where I have been, we're trying to get our work done so we can present an appropriation bill sometime by the end of next month. So we have been very busy.

Our Chairman has done the usual excellent job in presenting the historic background of this committee and the role that this committee plays which is very unique in Congress. No other committee of the Congress performs the kind of works that this committee must do. And that is of course having to do with the oversight of the Post Office Department, as the Chairman said, but probably as important or maybe even more important to most of us, it's the constituent service that this committee performs for members of

Congress and for the staff of the Congress. Making sure about retirement benefits, that they are properly taken care of and properly supervised, the health benefits that we are all so concerned about that we are still grappling with right today. We found that there are more than 700 different health plans that Federal employees may have. We're trying to reduce that number. No other committee has that kind of expertise nor the experience and the staff. So it would be a tragic mistake to do away with this committee at this time or at any time for the future, I believe. But we both recognize the necessity of this committee to make some reforms in Congress. We all recognize we must be more efficient, more effective, get more bang for the buck, and this is the responsibility you have. But to do away with this committee right now, I think would be a big mistake.

The other issue the Chairman mentioned about is the 10 year census. It is not just every 10 years, as most Americans recognize that every 10 years they get counted in some place on the first day of April, but this committee has to work with that every year so it will be ready for next year. And certainly Congress is vitally concerned about the proper count of our own congressional districts. That's just a few of the things that are unique and there are many others. But the discussion that we have heard about doing away with this committee and folding the responsibilities in the Government Operations Committees—and I have served on both. Years ago I was on Government Operations; a very fine committee. But I think if you have to do something like that, you are probably going in the wrong direction.

The unique responsibility this committee has and the expertise we have developed with the staff is unique, it's different than what the Government Operations Committee has today. So it would seem if you would want to eliminate numbers of committees, and I'm not all sure that's the goal, but if that is the goal that we should have, then it ought to be really the other direction because the work that this committee does cannot be easily transferred over to that committee. The job that committee does could be handled by the staff with a little bit of help from the staff they presently have. We recognize that something has to be done, but look very long before you start doing away with this committee and the responsibility it has to serve each of us and the great number of Federal employees we all have back in our congressional district. No other committee in the Congress has this unique experience and expertise and the responsibility and the job that they have been doing. I have served on both, as I mentioned, but I have served longer on this committee and it is a responsible job, a good job. It is one that is hard work sometimes, but it is a committee that really you just can't replace.

[The prepared statements of Mr. Clay and Mr. Myers are printed in the Appendix.]

Chairman HAMILTON. Thank you both very much. What advice do you have for us on this whole question of committees and subcommittees? Is this an area that we ought to leave alone, not do anything with respect to the jurisdiction of committees, leave the committees as they were. The committee of the Congress was set up, I think, in the 1946 Legislative Reorganization Act. What about

subcommittees. Do we not try to cut back. I think, Bill, you were here probably when Gary and Herb were talking about cutting back the number of subcommittees. John Dingell before them suggested we cut back the number of subcommittees, and both of them said not to touch the full committees, leave them as they are basically. What kind of advice do you have for us.

Mr. CLAY. Well, we the same as Studds said, we've cut back our subcommittees from seven to five. I think the problem, and I heard you express the problem of scheduling, the problem I think could be resolved by limiting the number of committees that a person could serve on which would also affect how many subcommittees they would be on and how many conflicting schedules you would have. Our committee is a small committee in terms when you compare it to Dingell's or Ways and Means. We only have 24 members and we have exactly enough members to serve on each of our subcommittees. So we don't have that problem and we get good attendance at our meetings. We have one of the few committees where it is really bipartisan. Almost every piece of legislation coming out of that committee is almost, I would say 99 percent, in agreement.

Mr. MYERS. We're working for 100.

Mr. CLAY. Yes, we are.

Chairman HAMILTON. Suppose the joint committee came along and said every committee in the Congress can have no more than four subcommittees, how would you react to that? You would have to draw your own subcommittee jurisdiction, obviously, but suppose we put a limit of four on you.

Mr. CLAY. Well if you also limited the number of committees that people could serve on, we would have no problem. But if you let people serve on five committees and then on four subcommittees, I think that would have to be a part. Would you agree?

Mr. MYERS. Well certainly, it's almost up to each committee though to decide how to divide the responsibilities that committee has. Some committees have a much broader responsibility. I think probably, not having studied this, our committee could get along with four probably. But as an example, Appropriations, we wouldn't handle it with four subcommittees. If we continue, I've just been reading here where more and more people are joining the anti-appropriations and that's not what you are doing here today, but some committees—

Mr. DREIER. Sure it is.

[Laughter.]

Mr. MYERS. Well, I mean, this bill doesn't have the same concern that I have about appropriations too.

[Laughter.]

Mr. MYERS. But nevertheless, I think everyone should have the concern about the responsibilities of the appropriation and the job we do. I think each committee, you would have to study that and probably you can fold some committees together. Not having studied the other committees, I've served on I think five different committees in my years here—

Chairman HAMILTON. Let me just give you a broad shot here, then I'll turn it to Dave. What are the most important things you would like to see come out of this committee? Forget the fact that you are chairman and ranking member of the Post Office Commit-

tee for a minute. You are both respected and long-term members. What would you like to see come out of this committee? It may not be a fair question I've shot it at you here.

Mr. MYERS. Lee, I want to change hats here. In Appropriations, we ought to change the responsibility and functions and the allocations of funds. They don't line up with the committees. If I had your responsibility, I'd line up those functions and I'd line up two committees. We have overlap today and that's costly, time consuming. Elimination of duplication would be one place where we can make the most progress, I think, in the reorganization that you are considering here. And certainly, the functions that we allocate the dollars for appropriation, those ought to be the lines that we have in the authorizing committees.

Chairman HAMILTON. OK, that's helpful. Thank you.

Bill, do you have anything?

Mr. CLAY. I would think that one of the better things that could come out of this committee would be some kind of a system for making sure that legislation is only referred to one committee. Right now I am sponsor of a piece of legislation, Striker replacement. It's in three different committees. It's in Public Works, it's in Energy and Commerce, and it's in Education and Labor. One committee ought to have that jurisdiction and if you could devise some kind of a means to make sure that we don't have that sequential referral.

Mr. MYERS. The bill we have on the floor right this moment, two committees, and that's a good example of why.

Chairman HAMILTON. Thank you very much.

Mr. DREIER.

Mr. DREIER. Thank you very much, Mr. Chairman, and I too want to join in extending my appreciation to both of you for very important testimony.

Obviously, as you have said, the work of your committee is very important, but we face a very tough challenge. I'm sure that the Government Operations Committee would come before us, John, and say that we shouldn't see any kind of movement of things from Government Operations into Post Office and you say this. We're going to have to make a decision and it's a very tough thing because so many of the proposals which we have seen do talk about modifications of your committee. And in light of that, I'm just wondering what conceivable modification could you see us making other than this one that Lee just addressed, the idea of possibly reducing from five down to four subcommittees?

Mr. CLAY. I would think that we have to investigate what is driving these recommendations. And I think that it is starting with a false premise. That there is some need to revise the structure of Congress because we need to save some money. I think we need to start off with what is best for the public and how does this Congress protect the interests of the American citizens. When you start at that level, then you say do you need a Government Operations Committee. The answer very well in my opinion would be, yes. Do you need a Post Office Committee. It would be, yes. You might need some other committees if you start from that frame of reference. So I think that we don't need to be looking at it in terms of our budgetary constraints and that is what is driving most of the



recommendations that I have been able to look at, is can we save some money. That's not the point that we ought to be debating here.

When I came to Congress 25 years ago, the Administration just ran over this Congress because they had all of the resources, all of the technology, all of the expertise. Subsequently, we put money into the Congress so that we would have competing resources so that we would know exactly what they were proposing over there and whether or not it was accurate and I think that it has been for the best of this Nation.

Mr. MYERS. Well Dave, to answer your question, I think that to streamline, if I may use that description, making Congress more effective, letting the committee process be more effective. What the Chairman has suggested here, to eliminate subsequent referral where you have two or three committees, as he has discussed here, that's one way to streamline it. To eliminate that kind of sequential referral, that's unnecessary, absolutely unnecessary. And to streamline it and make it more effective, again as I mentioned make these authorizing committees align up with the responsibilities and functions of allocations for the dollars for the various programs. But we have got to speed it up. That's the thing I think the American people write today and I guess this is what is the driving force to have this committee act. The American people are getting impatient and we all recognize why; their impatient with the fact that we don't seem to get anything done.

Mr. DREIER. I think that you are right in that we need to make Congress more effective. We also need to make Congress more fair. I think that's a concern that many Americans have raised and certainly those of us in minority have raised in a wide range of areas. If you all were to look at, I don't know if you have had a chance to look at the different plans that we have had submitted to us from the Congressional Research Service, but there are a wide range of options that we are going to be considering and if you haven't I would recommend that you look at the proposals that have been submitted.

I guess to put you on the spot as Lee did, I'd like to ask what committees do you now see in the Congress that you'd like to see us fold into others or eliminate?

Mr. CLAY. I don't see any. Of course, that's the decision you will have to make ultimately.

Mr. DREIER. We're looking for some advice, though Bill, and I think that you might be able to provide us with a little input there.

Mr. CLAY. I don't see the necessity of abolishing any committee. I see the necessity of limiting the number of committees that individuals can serve on.

Mr. DREIER. In light of that, would you think that if we limit the number of committees on which members serve, meaning that members wouldn't have to be rushing off to another meeting constantly, would you favor the elimination of proxy voting?

Mr. CLAY. It depends on what that limitation is. If there is only one committee you can serve on, you should be there for each of the meetings. But if you are serving on two committees and two subcommittees on each of them, that's four meetings, possibility of a conflict. I would hate for a vote to come in one committee on

something that is very critical to my district and one in another committee at the same time and I was forced by the procedure to miss one of them.

Mr. DREIER. One of the proposals is to have maybe an A committee meet on a Tuesday and a B committee on Thursday so that you could eliminate that problem.

Mr. CLAY. Well you know, one of the arguments, Mr. Dreier, is that we ought to function more like the private sector. When IBM and AT&T eliminate proxy voting, I think maybe we ought to consider it seriously.

Mr. DREIER. Well I think if you are talking about shareholder involvement, I think that is a little bit different than representatives of 600,000 people who are here in the U.S. Capitol.

Mr. CLAY. We represent 250 million don't we. We're their proxies.

Mr. DREIER. Right. John?

Mr. MYERS. I've served on a number of committees here in this House. You go down through, some have legislative responsibility. Government Operations, primarily when I served on it years ago, was an oversight committee reviewing the Executive Branch. It was the liaison between the Legislative Branch and the Executive Branch, making sure that the various agencies were carrying out the intent of Congress. It has broadened out a little bit since that time, but the Government Operations was an oversight. And somewhat the role of our committee, I can see that similarity, we have oversight with the Post Office. We don't have primary responsibility for making decisions for the postal but we do review their programs. I don't know as you could do away with any. As the Chairman has said, you might be able to, say, serve only on one committee or possibly two if the other committees don't meet as frequently, that might streamline it. But I don't know how you could really do away because these are aligned up pretty much—and here I go back to my Appropriation hat—most of these are lined up pretty closely, except for the budget process, they are lined up with the various committees on Appropriation. We have 13 committees on Appropriations and each one of these, like Armed Services, they overlap somewhat with the Armed Services because nuclear weapons do not go through the Armed Services Committee, but things like that, there is an overlap sometimes. We ought to eliminate the overlap and reduce the size of committees. Reduce the number of people serving on the committee. Today when we have so many people on the committee, it's difficult to get a quorum sometimes.

Mr. DREIER. Well, obviously, that would happen if we were to reduce the number of committees on which members could serve.

Mr. MYERS. Yes, that's right. Maybe I shouldn't cite the Senate, but when we go to conference with the Senate it's hard to get a quorum. The Senators are all there to vote but it's hard to get them there to discuss the legislation. A good example when you diminish the effectiveness of members by having them serve on so many committees. We know every Senator serves on half a dozen committees so they just can't go to conference, we don't get them there. That's one of the good examples I see for why Chairman Clay is talking about eliminating the number of committees a person can serve on.

Mr. DREIER. One thing I will say is that if we simply bring about a reduction in the number of committees on which members serve and don't make any real change in the committee structure as it is, I think that this will have been an exercise which is less than successful. I think there is a cry amongst our membership and I think there is a cry out there among the electorate for some major changes to the 1946 act. I mean it has been a half a century since we have seen real changes here.

Mr. CLAY. I don't think either one of us would be saying that we shouldn't make some major changes. I think when you suggest that you eliminate sequential referrals that you are talking about realigning some jurisdictions. To me, that would be major when you realign the jurisdictions of various committees.

Mr. DREIER. Could you all talk a little bit about your relationships with the other body on particular issues, and I wonder if there is a way in which you could improve those through the committee structure on items that fall within your jurisdiction.

Mr. MYERS. The retirement program is a good example a few years ago. Were you on that conference when we changed the retirement benefits.

Mr. CLAY. No, I don't think so. Well, I probably was. Are you talking about the Civil Service Retirement, yes I was on the conference. Right.

Mr. MYERS. That's an example where you had trouble getting members there. That drug out over almost a three year period.

Mr. DREIER. What could we do to improve that? We don't have any Senators here right now, but I wonder what proposals you might have as to how we could address that more effectively.

Mr. MYERS. If you are going to change the committees, both the Senate and House should have the same committees, which we don't have today.

Mr. DREIER. So parallelism between the House and Senate.

Mr. MYERS. I think that would be absolutely essential.

Mr. DREIER. Do you think that's a good thing for us to do all the way across the board?

Mr. MYERS. I do.

Mr. CLAY. I don't agree that it should be parallel because I think that the Senate would object and they have already shown that they don't want to be parallel. They were the ones who abolished certain committees some years ago that were parallel with ours. And now the recommendation is that, in our committee in particular, that we become a subcommittee of some other committee like they did with their Post Office and Civil Service Committee. So my statement is in opposition to that.

Mr. MYERS. That's the reason when we had the change forced on us by legislation to change the retirement program, we had trouble meeting with them because they all were busy doing something else.

Mr. DREIER. The Veterans Affairs Committee has had joint hearings. Have you all had any joint meetings at all with the Senate on issues and do you think that could improve the process?

Mr. CLAY. On Education and Labor, another committee I serve on, we have had joint hearings, but I don't recall any joint committee—

Mr. DREIER. Not your Post Office Committee. Do you think that would be a good idea?

Mr. MYERS. Leave that up to the committees to decide that on issues. It would save time. The Executive Branch, agency heads, cabinet officers particularly would love it because it would save them a lot of time, but I don't know if that is the most effective way to have hearings.

Mr. DREIER. Well, I thank both of you very much for your very helpful testimony and appreciate the advice that you are providing us and look forward to hearing private meetings with you over the next several months. I suspect that if this committee begins to move at all on your committee that you will be in touch with us and want to provide some further proposals to us. So I thank you very much.

Mr. CLAY. Thank you, Mr. Dreier.

Mr. MYERS. Good luck with it, Dave.

Mr. DREIER. Thank you very much.

Mr. DREIER [assuming Chair]. We are next going to be hearing from the Chairman and ranking member of the Banking Committee. I'm told that they are in a markup right now and should be here in just a few minutes I would hope. So we are going to take a brief recess until that time.

[Recess.]

Mr. DREIER. The committee will come to order.

We are very fortunate to have with us two very distinguished witnesses. Henry Gonzalez has been representing the 20th District of Texas since 1961. He is Chairman of the House Banking, Finance and Urban Affairs Committee and Chairman of the very important Housing Subcommittee there. The ranking minority member, Jim Leach has been representing the First District of Iowa since 1976 and serves also on the House Foreign Affairs Committee. We are very pleased to have both of you here. As a former member of your committee, I'm particularly interested in the proposals that you might make. I should let you know that a couple of hours ago the Chairman of the Energy and Commerce Committee, Mr. Dingell, testified. We'll look forward to providing you with copies of his testimony at some point.

Mr. Chairman, we're all ready for you.

**STATEMENT OF HON. HENRY B. GONZALEZ, A U.S. REPRESENTATIVE FROM THE STATE OF TEXAS; ACCOMPANIED BY: HON. JIM LEACH, A U.S. REPRESENTATIVE FROM THE STATE OF IOWA**

Mr. GONZALEZ. Thank you very much, Chairman Dreier. It's good to see you. As a former colleague on the Banking Committee, it's always a pleasure when we have occasion to go before you on the Rules Committee and it certainly is now.

I want to express my gratitude first for the invitation to appear and render whatever testimony I would be able to give on this question of reorganization of functions and the like. My perspective on these issues arise from a lifetime of experience you could say now, though I don't really look at it that way because I had never intended to be in politics. I find that on this Saturday, May 1, I will commemorate 40 years of service in an elective legislative repre-

sentative or what I call legislative advocacy, which is the only thing that I really have been drawn to. So that I have had the opportunity to serve on the local and the State and the national legislative level. During this span of time here, I have had the privilege of serving with, I notice this statement, I wish it to be corrected, it says "under". I had intended to correct that and say "with".

Mr. DREIER. You learned that from another Texan, didn't you.

Mr. GONZALEZ. That's right. Sam Rayburn was always very positive in expressing the fact that we didn't serve under a President, we served with a President. I have served with eight Presidents and five Speakers. I have seen the U.S. Congress rise to the occasion many times, inspiringly, dealing with such difficult problems as civil rights, the constitutional questions that arose with respect to the Executive Branch, but more importantly some of the challenging policy making decisions that were made by a legislative body such as the Congress. Regrettably and sadly, I have seen the deterioration, mostly through an abdication, perhaps not a direct but maybe, as they say, more with the elbow than with the fist, but what I have called the erosion of the institutional integrity of the House of Representatives. I'm not qualified to speak on the U.S. Senate. It is something that has saddened me. Incidentally, one reason I was anxious to testify here was because that erosion I noted since 1974 and the reforms then. The Budget Reform Act, which I did not vote for, and the Legislative Reform Act, which I did not vote for, and subsequent to that, almost as a triple punishment, in 1977 the creation of a so-called Committee on Official Standards of Conduct. I didn't vote for that either.

My reasons were very basic even though overlooked. I said that in the case of the Budget Reform Act, given some of the wording that now has been fleshed out in such things as rescission and the like, would entail a total turnaround in the traditional two track method of handling. And that the impulse then for budget reform motivated because of what was then described as congressional insufficiency in budgeting has turned out to be something that those old nesters in that day and time would never have tolerated, such things as continuing resolutions, much less supplemental, and much, much less dire emergency supplemental, not just within a period of weeks, but first months and then from one session to another and then from one Congress to the other. Why you could say all you want to about that old rigid system, but those old nesters would never have tolerated the chaotic situation now that the Congress has indulged in. The idea that such an enterprise as the Federal Government would travel on such a thing as a dire supplemental from month to month or session to session is just something that I think certainly that reform needs reform.

Now the nature of Congress is cumbersome, of course, that was recognized from the outset, but its present organization makes it needlessly ineffective. The energies of the Congress are often directed inward and little is ever accomplished except for the preparation of lengthy legal memorandum used to argue institutional issues against ourselves. The success of your work will have a real bearing on our ability to receive the pressing national problems which need vastly our attention.

Legislatures by the very nature are supposed to be deliberative bodies, but never to be inflexible as to permit arcane rules and procedures to impede or delay our ability to carry out a responsibility. I fear we are quickly approaching this point, if we haven't already, and it is especially crucial that this reform committee continue to work and set new organizational guidelines for the Congress as soon as possible.

Now this effort follows a very historical, cyclical effort. If you were to pick up the journals from 1947 after the war, you'd see editorials in *Life Magazine* and the others saying the biggest need is for congressional reform. And you did have a reform. Then in 1974, in the name of reforming the committee system, we proliferated it to the point where you had an increase of several hundred percent in the number of subcommittees. What I then said would be the inevitable erosion in the integrity of the process. In the case of the Banking, Finance and Urban Affairs and my responsibility thereto at this point, I'm pleased to be joined by the new minority ranking member of the banking panel, Mr. Leach, who is well regarded for his astute insight into the issues before this committee and the Nation. I sincerely look forward to hearing his testimony. We'll keep copies of it.

One of the most obvious characteristics of the Banking Committee is the number of members on the committee. Fifty-one members presently serve on what is one of the largest committees in the House. I often describe the Banking Committee as one half of the U.S. Senate plus one. While I recognize the Speaker's prerogative to negotiate committee sizes, I would strongly recognize that serious consideration be given to limiting the number of members assigned to various committees and reducing the size of some of the larger committees. My point is illustrated by the fact that five of the committee's subcommittees are too large to utilize our two subcommittee hearing rooms. This makes scheduling of full and subcommittee sessions difficult since every single one of our legislative panels must use the full committee room or make arrangements to use another committee's larger room.

The principle point of my testimony, however, is that the committees, particularly in the House, are required to spend far too much time and energy on jurisdictional questions. One of the principal reasons for attention to jurisdictional issues is that it has been for too long since the House has realigned committee jurisdictions to reflect current realities. We have done very little since the adoption of the Legislative Reorganization Act of 1947 to perfect House practices and procedures concerning committee jurisdictional issues. It is clear that the work of the Bolling Committee in 1974 failed to achieve the substantive reform. One observer assesses the contribution of the 1979 Patterson Committee as "it left behind barely a trace of its 13 month long effort to change House procedures."

The result of 50 years without reform in the House is legislative overlap, duplication, and in too many cases inter-committee squabbling, accompanied by frustration and postponement of working legislative initiatives. Neither the Congress nor the American public benefits in these situations. All too often, the issues are not public policy issues but discussions about which committee has

stronger jurisdictional claims. How many times have important public policy issues been put aside during multi-committee conferences only because committee turf conflicts could not be resolved. It was precisely to avoid such jurisdiction that Speaker Wright turned out and produced the ad hoc task forces. You see it even to this day a proliferation of task forces.

Of course, it can be said the different committees have sometimes brought alternative perspectives to complex national problems. Unfortunately, the more common situation is that these differing positions of view become entangled in jurisdictional battles and the committees' positions become competitive. The results of these struggles are usually unproductive. In recent years jurisdictional claims, counter claims, and disputes have intensified and produced the legislative so-called gridlock and increased it dramatically.

For purposes of illustration, let me describe the example of a long jurisdictional battle involving the Committee on Banking, Finance and Urban Affairs. Both the Banking Committee and the Committee on Energy and Commerce, which you just heard from you said, deal with important issues relating to the availability and delivery of financial services. The Banking Committee is responsible for a full range of issues concerning the viability of federally insured deposit institutions. Over \$3 trillion of insured deposits, I'll correct that, it's \$4 trillion now, are backed by a Federal insurance system operating in the red and supported or backed by the taxpayers.

In recent years, the Banking Committee has worked hard to reestablish public confidence in the safety and soundness of the operations of these federally insured financial institutions. The Commerce Committee has worked diligently on issues involving the SEC's responsibility to protect investors. And let me say here, the reason the Energy and Commerce Committee, at that time known as the Interstate and Foreign Commerce Committee, has jurisdiction of SEC was that Sam Rayburn, the Speaker, got miffed at the then Chairman of the Banking Committee and took it from the Banking Committee and placed it in the Interstate and Foreign Commerce Committee. That's the history of that, but originally it was Banking Committee jurisdiction.

However, in the always changing fast paced financial services market, the distinctions between insured depositor and uninsured investors are often blurred as we are finding out in a costly way. The Energy and Commerce Committee efforts to authorize the SEC as a regulator of financial institutions often conflicts with the necessary work of the banking regulators and the express intentions of the principal committees with jurisdiction over financial regulators, the House Banking Committee. The world of financial services has imprecise boundaries. Money market funds control \$1.6 trillion in assets. Banks control as much as 20 percent of the money market business. The viability of banks and efficiency of capital markets require a comprehensive approach to regulate and produce the necessary regulation of financial services.

Now let me be blunt, the Senate Banking Committee has broad jurisdictions over financial services. The Senate is therefore able to consider comprehensive financial reform legislation as reported by

the committee with the expertise in the subject area. This is simply not possible in the House of Representatives. When the Banking Committee attempted to legislate significant financial reform in 1988 and again in 1991, the Energy and Commerce Committee's jurisdictional claims were successfully pressed for a sequential referral of the legislation. In 1988, the Banking Committee's bill was significantly amended by the Energy and Commerce Committee and the bill died when the differences between the two committees could not be resolved. Again, in 1991 the Energy and Commerce Committee reported amendments to the Banking Committee's major reform legislation which fueled a bitter struggle over opposing lobbyists' interests that led to the eventual defeat of the legislation.

These situations result when jurisdictions are unclear. When the jurisdictional lines are clearly defined, there are many examples of cooperative efforts, as we have had them between these two committees and are having them now, even between the Banking Committee and the Energy and Commerce Committee, as I said and repeat. For example, in the Housing and Community Development Act of 1992, the Congress established a significant land abatement program. The Energy and Commerce Committee's contributions as a committee of the House with well-defined jurisdiction over public health issues were a vitally important part of the development of the new program with the Department of Housing and Urban Development, a part of the well-defined jurisdiction of the Banking Committee. Confrontation and legislative gridlock occur when two or more House committees make jurisdictional claims over issues that are not specifically listed in the out of date categories of jurisdictions and jurisdictional areas found in the Rules of the House. At a minimum, I would strongly urge that the joint committee consider recommending and updating a Rule X of the Rules of the House. Further, we must keep in mind that the joint committee must be concerned about the efficient operation of the entire Congress. The House appears more vulnerable than the Senate to jurisdictional overlaps, since the Senate generally accepted the recommendations of the Stevenson Committee which in 1977 re-drew the lines of Senate committee jurisdictions.

Modernization of the House jurisdiction will not be fully effective unless there is some reasonable conformity with the jurisdictional guidelines for the committees of the Senate. As just noted, the jurisdictional guidelines in the Senate tend to be more up-to-date. Accordingly, I suggest that as a practical matter the joint committee seek to conform the financial services jurisdiction of the House Banking Committee to that of the Senate Banking Committee. In this manner we will obtain a clear and meaningful delineation of the areas in which the comparable House and Senate committees will be able to report comprehensive legislation to the full House and Senate, rather than expend our energies in jurisdictional claims that simply prevent the House from receiving a comprehensive coherent legislative recommendation.

In conclusion, clear, bright lines of legislative jurisdiction will reduce the number of joint and sequential referrals, eliminate a need for the committees of the Congress and our staffs to be in constant and very unproductive negotiations with other committees on



jurisdictional issues. We will be able to improve the quality of the legislation and its product and go a long way toward reducing the frustration we and our constituents are suffering. I sincerely hope that the joint committee will bring greater clarity to questions of committee jurisdiction. We each cherish this institution. We want to make it more effective. Our job can never be made easy, but we can at the very least make the process workable. I wish you well in your efforts.

Mr. DREIER. Thank you very much, Mr. Chairman. That is very helpful testimony. Your testimony is going to spark many questions, not just from me but I know from a number of other panelists in the debate that will ensue from these proposals.

Mr. Leach.

#### STATEMENT OF THE HON. JIM LEACH, A U.S. REPRESENTATIVE FROM THE STATE OF IOWA

Mr. LEACH. Thank you. First let me say I have a very lengthy statement. I'd like to ask unanimous consent to submit for the record.

Mr. DREIER. If anyone on the committee at this point won't object, happy to put it in the record.

Mr. LEACH. Secondly, let me thank you for your attention to this issue. You are the first Chairman or co-Chairman or vice-Chairman of a committee that has ever come to other members' offices to seek their perspective before the committee met. I want to extend my appreciation for that thoughtfulness and diligence. Secondly, let me say I'm honored to not only agree with virtually the entirety of my distinguished Chairman's statement, but I'm honored to sit at his side. Whatever philosophical differences, I frankly know of no member in the United States Congress with more impeccable integrity than Henry Gonzalez.

Mr. GONZALEZ. Thank you, Jim.

Mr. LEACH. And then I thought I would just briefly summarize what I consider to be six principles of reform that this committee might well look at. I think it's very important to look at principles before looking at the specifics because from principles one can derive conclusions and it's a way of looking at the overall. And I'm not going to talk much about several of them because they are rather self-evident and several I'll talk about at more length.

The six principles of reform that I would suggest would, first, be the reduction in the number and size of committees, and that is one I'm not going to address just because I think most members have a sense for that issue; second is the reduction in jurisdictional dissimilarities between the House and Senate committees, something that Mr. Gonzalez has just referenced; third is the reduction in the overlap of committee jurisdiction within each body; fourth is the reduction in the disequilibrium of power evident in current committee jurisdictions; fifth is the reduction in staff imbalances; and sixth, and perhaps most important, is the reduction in the influence of outside groups with an interest in committee actions.

In terms of how one addresses those issues, let me just say that there are a number of examples where the jurisdiction between the House and the Senate being unequal have caused odd situations.

For example, in a major bill in 1989 there were 8 Senate conferees, 75 House. They had one principal committee of jurisdiction and in a minor way a second. We had some five committees of jurisdiction. It was a chaotic circumstance. And I do believe that these jurisdictional dissimilarities make it more difficult to focus attention of both bodies at the same time.

As far as the overlap of committee jurisdictions, this is again one of these issues that has grown over time and part of it is by choice, part of it is by chance that the way the domestic economy changes affects how jurisdictions interact. And here I think an extraordinary important precept relates to whether or not we want to reduce the disequilibrium and authority of power of the various committees of the Congress. Again, by accident and by choice, the Congress has given some committees rather startling jurisdiction. Whether that makes the best sense for the membership is something that I think has to be brought into question. I mean, do you get the best out of the average member if that member feels he is more an observer than participant in the committee legislative process. It is something that I think we are all going to have to address. My own bias would be to give the benefit of the doubt to looking to balance certain of these circumstances out; but of course that would be up to this committee in terms of recommendation.

On my fifth recommendation which relates to staff imbalances, and let me begin by saying out of an act of fairness, Mr. Gonzalez has granted the minority as high a staffing balance as any committee of the House.

Mr. DREIER. What is that ratio?

Mr. LEACH. We have about 20 percent of the investigatory staff. But in terms of precept, the minority party in the United States Senate controls 43 percent of the seats and the House minority party controls 40.5 percent of the seats. In historical comity, the Senate authorizes a third of the staffing to the minority, in the House it is substantially less than 20 percent. I personally think, although I shouldn't be speaking to you about this, David, but I do think that there a number on the majority side that don't realize the depth of minority frustration on that particular circumstance and, in terms of basic fairness and how a Congress operates, it's crucial. I would say it is particularly crucial when the majority party of Congress is the same as the majority party of the Executive Branch, particularly when we look at the oversight function of Government. One of the functions of the Congress is to oversee the Executive Branch and I think the minority claim for a greater chance of doing that is with a more professional staff.

Finally, let me just turn to this issue of reducing the influence of outside interest groups. Historically, the committees of the Congress are considered repositories of specialized expertise. And as such, the Congress itself has been inclined to give the benefit of the doubt, if not totally go along, with the committees when they bring their finished products, that is their bills to the Congress as a whole. The problem is that in an advocacy oriented environment it's not at all clear that specialized expertise and balanced judgment are precisely the same thing. A case in point, and probably the most poignant case in the last several decades if not the century, relates to the S&L debacle where our committee of jurisdiction

frankly let the Congress down more than any other committee that I know of. On the other hand, the problem isn't simply one committee or one problem. It literally relates to all committees and a large number of small mistakes. Members after all make their reputations generally by being greater advocates or greater opponents of almost every cause, more normally the former, the greater the advocate. The end result is from the committee structure perspective an almost inevitable bias towards more. Now Congress, in recognition of this problem and as a partial palliative, developed a budget committee process. Clearly, the results of the last decade and a half have indicated that it has some but not a very overwhelming effect. And so one of the questions that I think we all have to ask ourselves is, are there other things that can be done to recognize this circumstance. And personally, I would urge that this committee give very serious consideration outside of the whole debate on campaign finance reform to asking whether the rules of the Congress, the House and the Senate specifically, should be modified to preclude members of committees of jurisdiction from accepting PAC contributions from interest groups which have primary activity before their committees. Now I realize this recommendation may seem somewhat radical, but I personally know of no more effective way to rivet members' attention on the public as contrasted with what might be described as a particularized interest of committees of jurisdiction.

In any regard, I would just come back to and conclude with the observation that I would hope as this committee goes forth that just as a parameter of looking at the changes it may want to recommend, that it first look at precepts or principles and then look at changes it might consider within the confines of those principles and whether it meets the precepts that might be set in advance. Thank you very much.

[The prepared statements of Mr. Gonzalez and Mr. Leach are printed in the Appendix.]

Mr. DREIER. Thank you very much, Mr. Leach. Both of you have offered very helpful testimony. I have a number of questions I would like to pose to the two of you.

Mr. Chairman, you refer to the Banking Committee as the United States Senate plus one. How many members do you think should serve on the Banking Committee?

Mr. GONZALEZ. I don't know what other chairmen, I understand they have better consideration than I have, but there is no consultation from the leadership to the chairman as to membership on the committee.

Mr. DREIER. Really?

Mr. GONZALEZ. Not in my case. I don't think that is case of some of the other real powerful chairmen. So I am just a VIP, very important peon. The point is this, when I came aboard in 1961 the committee consisted of 30 members. I was endeavoring to get, mostly because of the political pressure from my district, on the Armed Services Committee because of the nature of my district which has some of the most historical defense bases and outposts of our country and continues to. I couldn't get on that committee and the reason was that my delegation was one of the fiercest seniority delegations. So then Wright Patman, whose son had been in the

State Senate his first year, my last year in the State Senate, expressed to the Speaker a desire that I be referred to the committee. He wasn't chairman; the chairman was Brent Spence from Kentucky who was on the verge of retiring.

There was an effort made by the then chairman of the Interstate and Foreign Commerce Committee, which, to me, was a great tribute, Mr. Staggers—he called me, which I thought was a tremendous expression, and said that the reason he would like for me to go to the Interstate and Foreign Commerce Committee was that he knew my background and that he wanted to have a fresh, uncommitted face from Texas, an oil producing State, rather than the ones he had to contend with on his committee. Well, the fact is that Speaker McCormick then prevailed on the Ways and Means Committee. The Ways and Means Committee at that time was a committee on committees. And so I was assigned to the Banking Committee.

Then I find out later from the Speaker that unknown to me the White House had called on behalf of a lady who had been named by President Kennedy the Commissioner of Public Housing and who had been the director of public housing for the San Antonio Housing Authority when I worked for it in an expansion program for 3 years. When she found out I was coming up she wanted me to be on the housing subcommittee. At that time, that subcommittee consisted of seven members and it was chaired by Congressman Raines of Alabama who resisted enlarging the subcommittee. I wanted to go on Education and Labor as my next choice after Armed Services. Texas did not have any member on Education and Labor Committee. I didn't know that all of this work was going on in my behalf. I expressed to the Speaker my desire and he said let me check with Chairman Adam Clayton Powell. Adam Clayton Powell said absolutely not. He didn't want to have one additional member to his Committee on Education and Labor.

So the next thing I know, he calls and says you are going to Banking and Currency Committee, as they called it then. Then the next thing is that Chairman Raines, who was a proper man, called me and said "I understand you are pushing". I said, "Well, sir, I don't know really what you are talking about." "Well, you know, I don't see how I can enlarge the subcommittee by one." I said, "Sir, I really don't know what I have to do with it." He said, "You mean you haven't pressured the White House?" I said, "Oh, no, sir. I haven't even discussed it with anybody." So the next thing I know is Speaker McCormick called me again and he said "Very reluctantly, you have been accepted to membership on the Housing Subcommittee." Then I found out that I would be on the Consumer Affairs and Coinage Subcommittee and the International Finance Subcommittee.

So I have been on those ever since with the exception that later on I was a member of the Small Business Committee when it became a legislative committee in 1975—and, incidentally, that brings to mind that was a subcommittee of the Banking and Currency full committee.

Mr. DREIER. One of our proposals is to have the Small Business Committee fall back within jurisdiction of the Banking Committee.

Mr. GONZALEZ. I think a little history here would be in keeping. It was never active. Even though it was on paper Small Business Subcommittee, it never had a meeting. The reason was that Chairman Patman had to wait from 1928 to 1963 to become chairman of the committee. In the meanwhile, he was very active as one of the co-authors of the Robinson-Patman Act and wanted something that he could chair, so he was the main reason and also Speaker Rayburn, to quiet him and appease him, created the Select Committee on Small Business and that is the one that really triggered all the activity on small business-related matters until 1975.

Mr. DREIER. Do you think if we were to have the Small Business Committee fall back under the Banking Committee that it would remain active as it is today?

Mr. GONZALEZ. I think it would. As a matter of fact, all of the pertinent active jurisdictional work now since you have had a demise of the SBA as intended by the Congress when it was created and then the legislative reform that created the minor committee known as a full-time legislative subcommittee in 1975, I think really properly it should be restored to the Banking Committee and probably could be a part of one of the committees we now have structured as a result of reducing from eight to six. The Committee on Credit.

Mr. DREIER. You mentioned also the Securities and Exchange Commission and the way in which it shifted from the Banking and Currency Committee to the Interstate and Foreign Commerce Committee. Short of having a Speaker get enraged with the chairman of the Energy and Commerce Committee and shifting it back then to the Banking Committee, what proposal would you have as far as a way in which we could deal with that? And second, Mr. Chairman, what other items are there that fall under the rubric of other standing committees would you like to see shifted back to the Banking Committee?

Mr. GONZALEZ. Well, frankly, the country changes dramatically; it is still a dynamic growing country. The Banking Committee was created as a result of the National Currency Act of 1865 and all of those committees created about that time were drawn from Ways and Means. You had one big one, see, so they had that problem then, relatively speaking.

I am not a believer in the accumulation of power. There is only so much anybody can do. This is the reason why even though I could have belonged to five subcommittee, I never did go on five subcommittees; I just couldn't see what good it did for me to just list them knowing I wasn't going to make meetings or much less mark ups. So my personal philosophy is that those activities in keeping with the basic purposes outlined that the Committee on Banking, Finance, and Urban Affairs now has jurisdiction on credit allocating activities and functions. This is the reason why you will recall we have shared jurisdiction with the Education and Labor Committee on Sallie Mae, the Agriculture Committee with Farmer Mac. All of these are actually credit allocating and banking activities and we have shared jurisdiction. We have had no jurisdictional problems there. We don't have any desire to dictate to the Agriculture Committee, never have, and they have always respected our role when they have amendments.

In our case in the specific case of SEC, since the Federal Reserve Board chose to interpret section 20 of the Bank Holding Act in such a way as to allow them to permit some of the larger institutions to get into such things as the securities and stocks and all, it meant that you were then going to have a shared jurisdictional area there. But since, as I said earlier, financial activities have become so disparate nowadays worldwide, I don't necessarily feel that we have to subtract SEC if it is there and it is institutionalized. I have never seen any reason why in a plain case where obviously an SEC, which is not set up to regulate to especially insure depository institutions and banks, why there should be any insistence that SEC become a regulator of banks. We have reconciled so many of these differences that I see no reason why there is an effort made constantly in the attempt to enlarge some aspects, say, on accounting standards the jurisdiction of either one of those, either the Federal Reserve over securities or SEC.

However, from a structural standpoint, and as I said in the statement, it would be desirable to have some kind of parallelism with the Senate. It would reduce such things as what we had just 2 years ago where there conference—if we had obeyed the Senate-passed dictates, we would have had 19 different committees, minor and major, that would have participated in the conference on our side. But that is something that is outside of my kin. With respect to SEC or, for that matter, Farmer Mac or what have you, it shouldn't be necessary to go to a lot of expense and everything else. But I do think that if it is at all possible it would be preferable to more clearly delineate those lines so there wouldn't be any chance to misinterpret. Actually, when we have come down to a contest, which I have tried to avoid in every possible way I could, we won out, even in the full committee last year, overwhelmingly, because it was clearly seen by the colleagues that was a proper area of Banking Committee jurisdiction and here was a bill that was going to totally avoid any referral to the Banking Committee. So I don't know how much of that is due to other factors but I do think that we shouldn't hang up on one specific issue in trying to achieve some corresponding way to give us some range of activity that parallels the Senate Banking Committee.

Mr. DREIER. Mr. Chairman, you know there are a wide range of proposals that have been submitted to us.

Mr. GONZALEZ. I imagine so.

Mr. DREIER. Some of them are before us here. One of the things I wanted to ask you, Jim, because you have the unique position of serving on both the Banking Committee and the Foreign Affairs Committee, is if you have had a chance to look at the proposal that Norman Ornstein and Tom Mann have submitted calling for the establishment of an International Economic Policy Committee which would sort of address both of those items.

Mr. LEACH. I haven't looked at it carefully. I will say that if you just take the Foreign Affairs function for those that kind of look at an overview of it, it is clear that the last half century has been all about geopolitics and the next half century we hope is going to be a lot more about geoeconomics. So one of the aspects of that becomes whether or not you take a new committee, which I have some doubts about, by definition, everybody in Foreign Affairs is going to

shift their emphasis from politics to economics. So the committees of jurisdiction, by definition, are going to shift. Likewise, if you take a Banking Committee, 40 years ago the Banking Committee, which has certain international economic jurisdiction, looked at itself as dealing with banking and the currency of the United States and now principal subcommittees deal with many international issues, both international banking and international jurisdiction. So I don't feel compellingly that the committees have to be reshaped into a new form. But I do think within the committees, almost by definition, they are reshaping themselves.

If I could, at the risk of presumption, address just very briefly several of the questions you asked the Chairman. There have been shifts from the Banking Committee jurisdiction. Let me give an example of one I don't think we should receive back. In 1974, mass transit was taken from the Banking Committee and given to Public Works. I personally think that makes imminent good sense. I think the Banking Committee does not have particular expertise and, in particular, it was transferred to a committee that, if anything, is an under-utilized rather than over-utilized committee of the House and I think mass transit should stay there.

In terms of the Banking Committee, I would only make one overall comment in terms of precept. I think the word "banking" has become misleading and it ought to be considered financial services. I would stress this because not only are banks going into areas they haven't been before, but securities firms and others and regular American industry—AT&T, GM—are going into banking. So one of the problems is how do you orient a committee of jurisdiction. I think you do it basically by looking at the committee in a little different way. These are changes wrought by society at large, not wrought by decisions made within the Congress as much; that is, the financial landscape has changed, the committees of the Congress have not. I think that should be addressed.

Mr. DREIER. Let me thank both of you very much. I have a number of written questions which I would like to submit to you. We have about 7 minutes left on a vote on the House Floor that we're going to have to proceed to. I know that my colleagues are sorry they can't be here and a number of them will have questions that they, too, would like to submit to you. But let me say on behalf of the committee that I greatly appreciate your testimony and appearance here this morning, and I look forward to working very closely with you over the next several months as we work out this whole issue of jurisdictional disputes and parallelism and a wide range of other things. So thank you for your very fine service on the Banking Committee in this House and your testimony before the committee.

The committee stands adjourned until next Tuesday.

[Whereupon, at 1:30 p.m., the committee was adjourned, to reconvene on Tuesday, May 4, 1993.]





## COMMITTEE STRUCTURE

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TUESDAY, MAY 4, 1993

UNITED STATES CONGRESS,  
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS,  
*Washington, DC.*

The committee met, pursuant to call, at 3:30 p.m., in Room H-C5 The Capitol, Hon. David Dreier (vice chairman of the committee) presiding.

### OPENING STATEMENT OF HON. DAVID DREIER, A U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. DREIER. The committee will come to order. Today we hold our fifth hearing on the committee system of Congress. We have already heard from two dozen Chairmen and Ranking Members from the standing committees to hear their views on the issue of reform. Today we continue this process, as we will during our next three hearings.

For the information of the committee, we were to hear from Senator Glenn today, who chairs the Governmental Affairs Committee, and he is serving as the Floor manager on the department of the environment bill and is unable to be here today. We will try to reschedule his appearance later.

We have two panels today. First, we will hear from Representative John LaFalce, who chairs the House Small Business Committee. After his testimony we will hear from the Chairman and Vice Chairman of the Senate Indian Affairs Committee. Let me say here that Mr. LaFalce is our first witness, and he has been serving the 32d District of New York in the House of Representatives since 1974. He is Chairman, as I said, of the Small Business Committee and also serves as a member of the Banking, Finance and Urban Affairs Committee.

We have already heard from the Ranking Minority Member of the Small Business Committee, Mrs. Meyers, and we look forward to your testimony. Mr. LaFalce.

### STATEMENT OF HON. JOHN J. LAFALCE, A U.S. REPRESENTATIVE FROM THE STATE OF NEW YORK

Mr. LAFALCE. Thank you very much, Mr. Chairman. It is a pleasure to appear before you today. I have a statement of approximately 29 typewritten pages. I would ask unanimous consent that it be put in the record.

Mr. DREIER. We will be happy to put it in the record and we will look forward to your summary.

Mr. LAFALCE. All right. Thanks very much.

Mr. Chairman, there are a number of things that this committee has been charged with, but I think in general you might be able to summarize it by saying this committee must strike an appropriate balance between efficiency on the one hand and rational deliberation on the other. If we had too much deliberation, we would have no efficiency. If we had too much efficiency, we really wouldn't be able to have rational deliberation, and the key, the genius is in striking the right combination.

Mr. DREIER. It is interesting that you mention that because at the opening hearing of this committee the Speaker of the House referred to the fact that the founders wanted this institution to be deliberately inefficient.

Mr. LAFALCE. You could say that, and that would be accurate. You could also say they probably wanted it to be deliberately efficient, and that would be accurate, too.

Mr. DREIER. I am just quoting Speaker Foley.

Mr. LAFALCE. Sort of proceeding with deliberate speed, the question is how fast can you go before going too fast or going too slow. I think that there are a great many reforms that this bipartisan and bicameral committee should be considering, and I would like to just tick off some of them.

First of all, I think we need to deal with the Senate usage of the filibuster. The filibuster could be used for your purposes, for my purposes, but whether yours or mine, whether liberal or conservative, Republican or Democrat, it is always a tactic of obstructionism. Some people have looked to what transpired in the past several weeks when the filibuster was used and said that is proof that gridlock still exists. Now, I think there is a difference between gridlock when there cannot be a meeting of the minds of the executive branch and a majority of both bodies of the legislative branch and obstructionism when something is prevented from coming up for a vote.

Democrats have used the filibuster to obstruct, Republicans have, sometimes it has been used by both parties in a nonpartisan way, but always to prevent something from coming up when there is a majority vote. I think we would be remiss if we didn't consider, we do not have a filibuster in the House. If we did have a filibuster in the House, then truly we wouldn't be able to get a single solitary thing done.

Something else I think is extremely important. When you look at what takes so long, usually it has to deal with money, and I think one of the reasons that it takes so long is we have not just a two-fold process, but a three-step process. We have a Budget Committee, an authorization committee, and Appropriations Committee. A good many individuals make reference to the practices in the States, and they say States are able to, for the most part, come up with balanced budgets and come up with those budgets on a timely basis. Now, I think there are two reasons.

Number one, for the most part they don't have a three-step process or even a two-step process. They have a one-step process. I think we should—if you want to talk about saving time, I think we should consider whether we need that three-step process, the budget resolution, the authorization process, the appropriations

process. So long as we do have some authorization process, I would recommend that other committees do what you know our Small Business Committee does, engage in multiyear authorizations rather than come in each and every year and have single-year authorizations. I think that could save considerable time, too.

Something else. All of us would like to go toward a balanced budget, reduce the deficit in any event. We spend so much of our time debating, though, what the numbers really represent that we vote upon. One of the reasons is to my knowledge we are the only government within the United States that does not use a capital construction budget. All the States have balanced budget requirements, but all the States also have capital construction budgets. I think that this committee probably could do more good if it is within its legislative charge by considering recommending a capital construction budget. It would enable us to look at what is truly important, patterns of consumption, spending and patterns of investments and there is a sizable difference.

What would constitute as an investment as opposed to an expense is something we could differ on, but we could come to closure on it as the 50 States have come to closure on it. If we come to closure in advance, and we stick to it, then I think we would have a much more meaningful, efficient, productive worthy budget.

Some other things I would toss out, too. I am a committee Chairman. I enjoy being a committee Chairman, I do the very best job I possibly can, but I also know, too, that there are a great many other individuals in the House of a tremendous amount of competence who probably could do a good job also and perhaps a better job, and I do think that we should consider—this is something the Minority has explored—limitation on the terms of office of Chairmen.

MR. DREIER. We have done more than explore, we have put it into place for our Ranking Members.

MR. LAFALCE. I think that is something that should be explored by both Houses in both bodies. I also think there is something else we should explore, too, the ability to take a leave of absence from a committee. If you could, say, get off of the Energy and Commerce Committee for one term when there is a vacancy someplace else, I think it would make life in the legislative body much more meaningful. You would be much more aware of the issues that are taking place, arising elsewhere. It would make one's stay within the House or the Senate much more interesting. I think we should provide for that. We do something right now that I don't think is a good thing, and we permit waivers to serve on additional committees, but I think that is a problem. I think that impairs the effectiveness of the House.

I think the biggest problem we have is dealing with all the demands on our time, and I think if this committee does anything we ought to come up with the best approaches to deal with the conflicting demands on our time that we can. A good place to start, it would seem to me, is to enforce the rules that presently exist. Now, we have a lot of rules on the books, and they are pretty good rules, but—well there is something else we could do, too, and that is scrutinize a bit more carefully individual and committee budgets.

We vote on the budgets and, bang, we vote for them all at one fell swoop. There are decided differences in the approaches that different committee Chairmen have taken to increasing their budget staff. Sometimes the less staff you have the more time you are going to have to do what is important rather than being called upon to do 50 million and one different things.

I have appended to my full testimony the increases since 19— from 1986 to 1992 of the various committees. I would just tick them off, Agriculture, 66 percent; Armed Services, 85 percent; Banking, 67 percent; District of Columbia, 23; Education and Labor, 43; Energy and Commerce, 49; Foreign Affairs, 63; Government Ops, 35; House Administration, 114; Interior, 50 percent; Judiciary, 46; Merchant Marine, 31; Post Office, 44; Public Works, 51; Rules, 35; Science and Technology, 47; Small Business, 22; Veterans Affairs, 59; Ways and Means, 78. One of them had a negative, and that was the Ethics Committee, but that is because that gets a flat amount and then if there is a special ethics investigation a supplemental appropriations.

So of any standing legislative committee, the House Small Business Committee had the smallest increase by far of any over the years, not even commensurate with the cost of living. I think if we can tend to that, that would solve a good many of our problems, too. What are some of these—while I am on the subject of appropriations there is something else that I think hinders our efficiency because it calls upon us to be in so many places at one time. We have discretion over how we can use our monies, and we can use our monies not only for individuals who work in our personal offices and our committees, but we can use our monies to finance employees of various caucuses, task forces, et cetera. I don't know how many caucuses and task forces exist within the House, but to my knowledge there is no mechanism for controlling this. As many can exist as want to exist, and you can fund as many as you want to fund.

Mr. DREIER. Are these what they call the legislative service organizations, the LSOs?

Mr. LAFALCE. Not just the LSOs. I am not sure if some of these are legislative service organizations, but there are all sorts of them, whether you have an automobile caucus, the Northeast Midwest coalition, the arts caucus, DSG, et cetera, there are just countless groups that compete for our time. When I look at the competing demands upon my time, ten times more often than not it is not a committee or a subcommittee that is in conflict, it is a caucus meeting of one sort or another that is in conflict, so I think if we could get that under control in some way. One way might be say, well, you can't control groups of individuals getting together to discuss common concerns, but you can control the governmental subsidy of that through our budgets. That is something that I would commend for your consideration.

The enforcement of existing rules. Right now we have three types of committees: An exclusive committee, major committee and a nonmajor committee, but at present there are 16 members who serve on three exclusive committees who also serve on one or more other committees, not including temporary assignments to budget, ethics or intelligence, so there is 16 members presently on exclu-

sive committees who also serve on another major or nonmajor committee. That is quite a large number.

Similarly, you are supposed to serve, at least if you are a Democrat, on either, on a major and a nonmajor. I am not sure exactly what the rules are for the Republicans, but I do know this: There are 62 Members presently serving in the House of Representatives on two major committees, and some of those also serve on a third committee, a nonmajor committee. That is 62 exceptions there.

Finally, there are 40 Members serving on three or more committees. In all, this comes up to 118 Members whose committee assignments would not be allowed under existing rules. More than one-fourth of the House presently exist on waivers. Well, if we want to start someplace, let's start there, by enforcing the existing rules. Of these 118 Members, approximately 62 percent are Democrats, and that is slightly higher than the 59 percent of the total House membership held by Democrats.

You have heard so much about the scheduling of House action and Senate action, I won't go into that. I think the subject of referrals and rules is quite important, though, and let me talk about that. Sometimes we have referrals from one committee to another because there is conflicting jurisdiction, that is jurisdiction in Ways and Means. There is jurisdiction in Energy and Commerce, there is jurisdiction in Banking, et cetera, there is jurisdiction in Judiciary. It is very important that whenever there is multiple referrals that this sequential or concurrent referral be with dates certain. If it is open-ended, you have either gridlock or obstructionism or a combination of the two, and so when there is multiple or sequential referral, once one committee has acted, then it seems to me that that should set in motion a set of dates certain for other committees to act.

While we are talking about certain rules for Floor action, let's talk about a pet subject of yours, Mr. Dreier, the question of the open rule or modified closed or open or an absolute closed rule. When I was in the State legislature in Albany, we had a Republican Governor and a Republican Senate and a Republican assembly. It has changed now, but at that time we had a triumvirate of total power, the Governor, the Senate majority leader, the assembly speaker. They could report out or hold up any bill they wanted to. Very frequently they would just report out a bill the last day of the session, deem it to be an emergency, and it would pass. Usually it was fairly decent legislation if you were only concerned about product. The process, deliberative process was an atrocious one.

I came here to the House of Representatives, and I saw an entirely different process with a different problem. There a premium was placed upon diffusion of power, an unbelievable deliberation. I remember there was one bill in particular, billing that created the Department of Education, and that bill was—came up in an open rule and it was debated for almost 3 weeks. Well, you simply couldn't do that and function effectively. I argued that we needed a stronger Rules Committee in order to modify the ability of the House to consider legislation and amendments, but do it in a way that assured one thing, that we could do it orderly, but that we also permit any important and controversial amendment to be submitted to the Floor.

We have to be careful that we don't swing the pendulum in either of two directions; one, total openness where you have total inefficiency, or the other direction much too closed where you might have great efficiency, but you do not allow enough for consideration of minority perspectives, minority views, controversial issues, and we must always strive to make sure that pendulum is in the middle.

Mr. DREIER. Those of us I should say in the minority who have been pushing for open rules have been trying, John, to strike that balance. The case we have made using as examples are things like the defense authorization bill whether we realize that 400 amendments could be submitted and when we are looking at an issue like the strategic defense initiative there is no reason to have 50 amendments on the SDI. We have said if we have four amendments doing, as you say, addressing the controversial aspect of the issue and then coming up with some sort of consensus, so I just wanted to say that those of us who have been arguing for open rules have been frustrated over the fact that 100 percent of the rules have been restrictive and there have been no open rules. We would like to find that balance to which you have referred.

Mr. LAFALCE. I think there is a similarity of viewpoint on a number of these issues. Let me now turn my attention to the small business sector and the Small Business Committee. As any committee Chairman, I come to you with a bias. As any committee Chairman, I have a certain amount of turf that I must be interested in protecting. That goes without having to be said. But having said that, I don't have to tell you the importance of the small business community.

First of all, of all the countless millions of businesses within the United States, close to 99 percent of them could be deemed small. They account for over 50 percent of the total GDP of this country, and they account for most of the new innovation, most of the job creation that is taking place, et cetera. Over 50 years ago the House of Representatives at that time decided that there must be a Select Committee on Small Business, and for each of those years there was a Select Committee on Small Business. In 1971, they said rather than reauthorize this every single year, let us establish a permanent Select Committee on Small Business, and then in 1974, which was the year of great reform. The major reforms were made in 1974, and in my judgment one of the principal reforms was to convert the permanent Select Committee on Small Business into a full standing committee of both the House of Representatives and the Senate. This was a major reform because it was said for 50 years we have recognized the need for a special committee for small business.

Let's recognize that now as a full standing legislative committee, and we have had full standing legislative committees in both the Senate and the House from that time to the present. Right now there are 43 Members; 26 Democrats, 17 Republicans. Forty-five are authorized; there is one vacancy in each party. I have never asked that the size of the committee be increased at all, number one. I have just said, OK, how many members are interested, and it has been up to the leadership of my party and your party to make that decision.

One of the things that we ought to consider doing before even considering the subject of committees, all these other subjects that I have raised, and that is limiting the size of the committees, limiting the number of subcommittees and limiting the size of subcommittees. If we are trying to do something to better marshal our greatest resource, our time, then it seems to me if we enforce the existing rules which say you can't have 118 exceptions out of 435 and you can't have 45 or 50 Members on every committee, but if you have X number on a major committee, whatever it might be, let's say 30 or 35, and then on a minor committee, 25 or 30, you would limit the number of instances where a Member would have duplication.

If you limit the number of subcommittees, too, we have attempted to limit it this year, six for a major, five for a nonmajor. We can limit that further. It could be anything, five, five-four, five-three, four-three, four-two. We can greatly limit the number of subcommittees. We must also limit the number of—limit the size of the subcommittees. I remember when Congressman St Germain was Chairman of the Banking Committee, I think there were about 90 percent of the members of the Banking Committee who wanted to be on two subcommittees, Housing and the Financial Institutions, and that was permitted, and it continued under its present Chairman. We now have a rule that says no more than 60 percent of a full committee can be on any one subcommittee. That is absurdly high. If we had an equitable distribution of the powers of the subcommittees, and let's say there were four, then I would submit that 25 percent of the Members could be on any one subcommittee and that would be an equitable distribution. Sixty percent is much too high right now.

These are the type of changes that we could make that would be, I think, very effective without being Draconian. The Small Business Committee is interested in a good many issues. Now, one of them has to deal with the issues that come before it legislatively. Let me say something right off the bat.

I know, Mr. Dreier, you in particular have said well maybe we can fold the Small Business Committee into something else, some other committee, Banking, Energy and Commerce. Let's meet that head on. If you are only considering the legislative jurisdiction of the Small Business Committee, then maybe you could do something like that, but when I became Chairman I said the legislative programs that we have might impact 3 to 5 percent of the small businesses of America, but there is a world out there of small businessmen and women, 99 percent of all businesses, who have very limited or no contact with the Small Business Administration but are affected by a myriad of other laws, of other regulations, and they need a voice in Congress. They need a full committee to deal with the other full committees in those subject areas where the other full committees are going to be impacting them without having heard their voice, and that is what I have tried to do more than anything else. I have spent most of my time on that.

I could tick off literally dozens and dozens of issues, and you know some of them. You battled with me on the Section 89 issue. That didn't just affect small businesses. That affected every employer in America. It affected big business, small business, profits,

not-for-profits, you name it. Nobody gave it a chance. It was the number one legislative priority of the business community of America. I don't think there is any question we would not have been able to repeal that were it not for the bipartisan actions of the full Small Business Committee.

We could point to countless other examples. In my judgment the small committee's perspective was not being heard on civil rights legislation, a very difficult issue, but there was a special perspective that the small business community had. In my judgment the small business community's perspective was not being heard on family leave legislation in the years 1989 and 1990. We held countless hearings, did a lot of work as only a full committee could do vis-a-vis other full committees, and the legislation that was finally adopted, whether you voted for it or against it, reflected greatly the concerns that we raised, and we could point to countless other issues, too, where we were able to take action on them.

We had the hearings on the special problems the small business community was having because of the Wetlands Manual. We did the spade work leading, I believe, to the moratorium, the appropriations moratorium, the moratorium on the imposition of the 1989 Wetlands Manual. On lenders' liability, because of court decisions, small businesses were not able to get money from banks because banks would have been held liable. We couldn't get a hearing anyplace else. We did yeoman work on that. We turned the Bush administration, we turned the EPA around. They came out with a rule. It took 2 years.

The Small Business Committee was the only committee expressing the sentiments, and this had nothing to do with banking. This had nothing—this was a rule of the EPA. It took a full standing committee to turn that around. On the issue of the credit crunch, we have used the Small Business Committee to point out what administrations and Federal Reserve Boards had been denying in years past, that a real credit crunch problem existed for the small business community. Now the administration acknowledges that. Now the Federal Reserve Board and 180 percent-180-degree turnaround, recognizes the existence of a credit crunch for the small business community, is attempting to do something about it.

We have used the small business community, too, for the past 10 years to develop the concept of something that could help with this credit crunch problem, and that is the development of a secondary market for small business industrial and commercial loans. It took 10 years of hearings, but now everybody is starting to talk about this, and I think something is going to happen, and hopefully within the relatively near future. It is difficult to get a hearing on product liability, and what impacts the small business community much more than product liability? Not too many issues.

In one Congress I had 19 days of hearings on that one issue, 19 days of hearings, trying to emphasize the importance of reform of our product liability laws to the small business community. I have had individuals come to me and say yours is the only committee in the House that will even have a hearing on this subject. We introduced the first Federal uniform product liability laws. Because of the hearings of our committee, we introduced the first laws calling for the repeal or modification of McCarran Ferguson because of



what we deemed to be the adverse impact of McCarran Ferguson, the exemptions to the antitrust laws, to the small business community in particular.

Right now we are doing something that no committee in the House or Senate has dealt with; a revolution is taking place within the small business community. It is not just the individual moms and pops as you and I knew it. It is now franchisees. Indeed, well over one-third of all retail sales in the United States this past year were through franchised outlets, over \$750 billion.

By the turn of the century, over one-half of all retail sales will come from franchise outlets. We are leading the effort, our Small Business Committee, to try to see what the difficulties are in this relationship between franchiser and franchisee, calling for new data, calling for uniform disclosure laws and calling for fair dealing. We have accomplished great good already even though we haven't been able to pass legislation because the Franchisers Association for the first time has created a franchisee council. They have created an ethics code for the first time. They are now talking about the best methods for enforcing their ethics code.

State legislatures have looked at our work, and you now have dozens of State legislatures that have introduced legislation modeled on the Small Business Committee's work and the Small Business Committee's efforts.

Mr. Chairman, I could go on and on and on. But when we are spending less than anybody else, when we have been the most bipartisan and nonpartisan often committee, when we have dealt with the most difficult of issues in a way that has caused you often-times to join forces with us, I hope that the wisdom that was seen by every Congress of the United States for the past 50 years will continue to be seen by this Congress.

[The prepared statement of Mr. LaFalce is printed in the Appendix.]

Mr. DREIER. Thank you very much, Mr. LaFalce. It is very helpful testimony, and you certainly do make a very compelling case, and I would argue that most of your success has taken place since I left the Small Business Committee.

You know, you also made some very interesting points early on before you got specifically into the Small Business Committee.

Mr. LAFALCE. I omitted that commission that you and I created to help the small business people of Czechoslovakia, Poland and Hungary, which was the only legislation that was enacted in Congress that year to be of assistance to the small business community of the emerging democracies.

Mr. DREIER. You referred to some very interesting ideas that some of us have discussed, but I think you are the first committee Chairman to ever discuss consideration of term limitation for committee Chairmen, and that we appreciate the fact that you have laid that on the table here.

Another thing, which I have sat here several times and has been without a doubt probably the most sweeping reform that this committee could make would be to see Congress simply comply with existing rules.

Mr. LAFALCE. Absolutely.

Mr. DREIER. That is one of the arguments we have made. Now, as a member of the Rules Committee I see us constantly waive existing rules of the House, and I appreciate your support of our attempt to do that, and I do appreciate your support of the concept of moving to a greater degree of balance when it comes to rules that emanate from our Rules Committee.

I also like the idea of establishing this date certain in dealing with this question of joint and sequential referrals, which is a problem. There are a number of people who have advocated complete elimination of them as a step in the right direction, and it is possible that your proposal here could be a good one. I am not going to get into the exchange on the existence of the Small Business Committee. You and I have discussed it before, and I have discussed it in many other fora. We are going to have an opportunity to consider that.

We have listened to testimony on it from Thomas Mann and Norm Ornstein, who have made a proposal with which I am sure you are familiar. What I would like to do at this point—we are going under the three-minute rule at this point—is to call on my colleague from Washington, Ms. Dunn.

Ms. DUNN. Thank you very much, Mr. Chairman.

Mr. LaFalce, I would like to touch on something that you mentioned that is of great concern to all of us, and especially it bothers me a lot, and that is the busy schedules Members have to contend with. I am still trying to figure mine out and get it down.

Do you remember, your having been here ten terms, when did we go to a three-day week for committee hearings and sessions such as this one?

Mr. LaFALCE. I don't believe we have a three-day week for hearings. I think we have, more often than not, 3 days for legislative Floor consideration.

Ms. DUNN. And how long has that—

Mr. LaFALCE. That was always the case.

Ms. DUNN. Is that true? My experience has been that Mondays and Fridays when you are in town are great creative days and days to get things done, but we are just on the run Tuesday, Wednesday and Thursday. I wonder if you have ever given any thought to a scheduling change that has been discussed now and again before this committee that would allow us to focus very much on the work we have in our Washington, D.C. offices 3 weeks out of the month and to focus on our home district one week. It is something that has been done in the Senate. What is your thought on that?

Mr. LaFALCE. I am personally not very favorably inclined toward it for a number of reasons, although reasonable people disagree, the Senators disagree, there are a good many within my party who disagree, too. I am fearful that what would happen in the House is what basically has happened in the Senate. They get the one week off, and they still have a three-day session.

Chairman BOREN. You are exactly right.

Ms. DUNN. Do you think it would be better if we did it in the House, though, in a similar way so that the schedules would be cooperative?

Mr. LaFALCE. No, I think that would virtually lock in one week off and three-day sessions. Also, there are a number of other impor-

tant reasons, too. I am fearful that too many Members of Congress have become basically Washingtonians. They don't have that much contact with their own district. If we go to five-day legislative sessions, especially if we do that 3 weeks in a row, you know what is going to happen. We are going to be as busy 5 days a week as we are 3 days a week, and that is not behind our desks. Usually I get to the end of the day, whether it is 7 or 8 I say, my God, I have spent 15 minutes behind my desk, and I have phone calls lined up, my mail, my memos. I need those Mondays and Fridays and Saturdays and Sundays to do a whole slew of things, but an awful lot is just return the phone calls that you get because of the great demands that this institution imposes upon you Tuesdays through Thursdays.

If we didn't have those Mondays and Fridays free, they would be filled by others, by the caucuses, by your State delegation, et cetera, et cetera. Let's not think that if we are here everything will work just wonderfully, but also it is going to keep us away from home, and we will become Washingtonians. We might go home once every month, but we won't be going home once every weekend and once every other weekend as most of us either do or would like to do, and I think we would have less contact with our constituency. We would become more citizens of Washington than citizens of our district. Right now we have a balance. We are citizens of both worlds; citizens of Washington, D.C., but citizens of the district we represent.

If we went to that schedule, I think we are much more likely to be primarily citizens of Washington, D.C.

Ms. DUNN. Let me ask you one quick question, Mr. LaFalce. What is your thought on 2 to 1 staffing ratio, two Majority to one Minority, and your thought also on the Ranking Member of a committee's being able to control one-third of the budget?

Mr. LAFALCE. I think basically our Small Business Committee is operating on something like that. I have never had a single solitary complaint from any of the Ranking Minority Members that I have had, Mr. McDade, Mr. Ireland or Mrs. Meyers nor at any session of the House Administration that I have appeared before. They have always thought that whatever accommodations we have been able to enter into with the Minority have been acceptable, fully acceptable to the Minority.

Ms. DUNN. Thank you, Mr. Chairman.

Mr. DREIER. Thank you very much, Ms. Dunn.

Mr. Walker.

Mr. WALKER. Thank you, Mr. Chairman. Do you have proxy voting at the Small Business Committee?

Mr. LAFALCE. Yes, we do.

Mr. WALKER. Could you get along without it?

Mr. LAFALCE. I don't think we could, Bob, on the system that presently exists, where you must be ten places at one time. I just don't think it would be possible. Also I think there could be too much game playing that would go on, you know, somebody were to offer an amendment, you know, you would have somebody—you would have the supporters of that amendment there. You would be able to pass it, but it wouldn't reflect the true sentiment of the full committee. I think there would be so much gamesmanship going

on. I think proxies really enable the true sentiment of the committees to be reflected.

Now, if there is a problem with the proxy system, it is that too many individuals give proxies without directions as to how it is going to be used. It is not—it is the person who gives the proxy who is the problem. It is not the use of the proxy.

Mr. WALKER. Well, except that what it does is it tends to make certain that people have no interest at all in attending committee markup sessions. I mean, if in fact what you can do is give a proxy, you don't have to show up, and you are recorded as though you have been there, and, in fact, in my view it distorts the process and does not reflect the will of the people there because very often amendments come up that were not anticipated, and so therefore a couple of people are empowered to basically sweep those off the Floor.

Mr. LAFALCE. We have never used a proxy on the Small Business Committee when it would have thwarted some position that the Minority was taking and we were only doing it with proxies. As a matter of fact, I don't remember reporting out any bill from the Small Business Committee in the past 8 years that I have been Chairman without the concurrence of the Minority. We have only reported out bipartisan legislation.

As a matter of fact, Mr. Dreier, I don't recall bringing any bill to the Floor that hasn't come under an open rule, so my legislation has been bipartisan and with an open rule, and that is why we have never had a proxy problem in my committee. We have never abused that privilege. We have never tried to roll the Minority. We have always said let's work it out, and we have been able to. I have been very fortunate. I have had three great Ranking Minority Members—McDade, Ireland and Meyers—and we have been able to work everything out.

Mr. WALKER. Well, given that, I mean, why then are the proxies needed? If, in fact, you can work things out and you do not need the authority, why do you have to operate with something which is completely outside the real scope of the legislative process?

My point is this; we now have the rules becoming more and more closed. You rightly point out that to some extent that helps with the efficiency of the House, but part of the excuse for that is all the work takes place in the committees. The committees have deliberated and so therefore the House Floor does not need to be a place of deliberation.

Mr. LAFALCE. Often that is not true.

Mr. WALKER. And the fact is that in many of these committees ghost votes are being used as an integral part of the deliberation process, and I think the quality of the product is thereby undermined.

Mr. LAFALCE. I understand your point.

Mr. WALKER. Thank you, Mr. Chairman.

Mr. DREIER. Thank you very much, Mr. Walker.

The only thing I was going to interject on this, John, is you have made the case for reducing the size of committees and the number of committees on which Members can serve, and if we do that, the point that you raise, which makes it necessary to have proxy

voting would not be there. Why? Because Members would have very little other excuse.

Mr. LAFALCE. I think the fewer committees you serve on, the stronger your case for elimination of proxies. I am not sure it would ever reach a point so long as we are in the majority where I would feel you have gone over the hump, but your case would certainly be stronger and stronger.

Mr. DREIER. You have made the case for the elimination of proxy voting in your testimony here is what I am saying.

Mr. LAFALCE. I will let everybody draw their own conclusions.

Let me make one other point that I haven't made. I also think the Small Business Committee is viewed with special fondness and special need by the minorities within the Congress. We have a heavy concentration of minority members, whether we are talking about Blacks or Hispanics, and I am not talking about women, although we do have a heavy concentration of women, too. We have about double the percentage of minorities on the Small Business Committee as exist within the House of Representatives. We have about double the percentage of women on the Small Business Committee as exists in the House of Representatives. Why? Because we have focused so much time and attention on the special problems of minorities and so much time and attention on the special problems of women in business.

We had, I think, the only series of hearings on the special problems of women, and one year we had about ten hearings. We came out with a special committee report. We passed legislation, the Women's Business Ownership Act. I think that was landmark legislation. We, through the work of our Small Business Committee, were able to extend the provisions of the Equal Credit Opportunity Act, not just to consumer loans for women, but to business loans for women, something that had never been done before.

Insofar as minorities, we have done so much with respect to minorities, including a major reform, a major overhaul of the scandal-ridden Section 8-A program. This is something we were able to do by unanimous vote save one, Congressman Savage. So I mean I think that if the special problems of the minorities of America and the special problems of the women of America in business are to be considered, we must have a Small Business Committee to make sure they continue to be considered.

Mr. DREIER. Thank you very much.

Mr. Allard.

Mr. ALLARD. Thank you very much, Mr. Chairman. I apologize to Representative LaFalce for being late. I did want to hear your testimony, and I picked up on your testimony on you would like to reduce the size of the committees and also a number of committees that people serve on.

Would you be in favor in reducing the number of committees?

Mr. LAFALCE. It would depend. I mean, I can't say that I am absolutely opposed, but I don't think that we should start there, and I think you will have to listen to the case that each and every committee Chairman makes. I think what is most important is that we eliminate whatever duplication or gray areas exist; we eliminate ambiguities.

I make a strong case, it seems to me, though, that the Congresses for the past 50 plus years have seen the wisdom of a Small Business Committee, and I would think this Congress should see that same wisdom.

Mr. ALLARD. I have—I am looking at several proposals, just trying to—we can see them, you can't see them, but we have proposals for bringing it down to eight committees per chamber and 12 committees per chamber and 20 and 37 committees per chamber, and I just wonder as you do that we shouldn't look more closely at where there is duplication between committees, and I wonder if perhaps maybe Energy and Commerce, for example, wouldn't be a better committee if we had more people that are on Small Business serving on Energy and Commerce.

Mr. LAFALCE. Well, you could make that argument, but my fear is that the jurisdiction of Energy and Commerce is so mammoth in nature, they have so many large concerns, the big telecommunications companies, the big energy companies, et cetera, come before them that the problems of the small business community that don't have the same ability to access the Washington scene would be lost in the shuffle. I mean, there is just absolutely no question about it, the small business community does not have the same ability to access the Congress, the executive branch as does Fortunes 500, not at all. And yet they represent 99 percent of America's business.

I think they will get lost in the shuffle. Every Congress for the past 50 years has thought they would get lost in the shuffle, and that is why they have said let's have a Small Business Committee. I do not think that would be a reform. I do not think that would be something good. It would seem to me nobody can point to anything that the Small Business Committee has done that has harmed the legislative process. There has not been one iota of legislative friction, of legislative overlap between the Small Business Committee and any other committee, and vice versa. There has never been a debate whether this should be in Small Business, not Energy and Commerce; this should be in Small Business. No, that has never been a problem. There has never been a delay.

The only thing that has happened because of the fact of the Small Business Committee is that the voice of the small business community has been heard. Let's continue having a body to ensure that the voice of the small business community continues to be heard.

Mr. ALLARD. Thank you, Mr. Chairman.

Mr. DREIER. Thank you very much, Mr. Allard.

Mr. Reid?

Senator REID. Thank you, Mr. Chairman.

Mr. LAFALCE. I note that half the recommendations do point out that the Small Business Committee could be folded in to some other committee, of course. Half suggest that it should not be.

Senator REID. So one of them is right.

Mr. LAFALCE. There is no question.

Senator REID. Half of them are right. It seems that we have had rare disagreement that both in the House and in the Senate that the committees are too large, that—and in your testimony you indicate that also, that in the House you indicate there are 23 different committees, that you propose that there be rules that limit the

number of subcommittees you can serve on. You don't talk about committees, but just subcommittees. If your rule were in effect, about 120 of the Members would have to get off of some of the committees they serve on because you say there should be no grandfathering, right?

Mr. LAFALCE. That is correct.

Senator REID. I am not going to prolong my statement because we have witnesses waiting other than to say that, Mr. Chairman, all the witnesses that have appeared before with rarer exception indicate that the committee system should be changed, that we have far too many subcommittees. Most people say too many committees. We have had not as many stress the no grandfathering, and I think that is really important, that those of us who serve on too many committees if, in fact, we initiate some of the reforms that you and others suggest, we would have to do away with some of our responsibilities.

Mr. LAFALCE. There are 19 members of exclusive committees that because of the grandfather are not just on the exclusive committee. They are on another committee of the House, too.

Senator REID. And under your rule that would change?

Mr. LAFALCE. That is right.

Senator REID. I have nothing further than to say that I think that while not all the witnesses who appear before us agree as to how we should rearrange the committee system, they all agree that it needs rearranging, and certainly they agree that there is a massive number of subcommittees that should be done away with, eliminated, and there is a lesser number that agree that we should limit the number of committees that people have. That is all I have.

Mr. DREIER. Thank you very much, Senator Reid. Since we all know that the last shall be first, I am happy to call on Chairman Boren.

Chairman BOREN. Thank you very much, Mr. Chairman, and Chairman LaFalce. We appreciate you being with us. I apologize that the Senate Members were a little late getting here today. We had three votes on the Floor just as we were scheduled to start our hearing, and—

Mr. LAFALCE. Maybe we can eliminate those votes.

Chairman BOREN. Maybe one of these days we will be able to schedule our committees at times when we won't have conflicting Floor votes. I was interested and noticed a reference that you made in terms of the Joint Committee on Taxation and the Congressional Budget Office, and wondering if there could be efficiencies found in terms of their operations. Some have suggested that we simply don't need both.

How would you find efficiency and how do you feel about that?

Mr. LAFALCE. It is not so much a question of efficiency as it is a question of staff reduction. If you have a Ways and Means Committee and a Senate Finance Committee and a Joint Committee on Taxation, what overlap do you have there? If you have a House Budget Committee and a Senate Budget Committee and then a Congressional Budget Office, what overlap do you have there? I think one excellent committee is the joint committee—what is it the Joint Economic Committee. But I mean they have hearings on

these macroissues that I am not sure who is aware of them other than the members of those particular committees, so if you want to look for efficiencies, you could start looking a million places other than the standing legislative committees.

Senator REID. Would you suggest that to Dave Obey and see what he has to say?

Mr. LAFALCE. Absolutely not.

Chairman BOREN. We may have to call you to help us break the news.

Mr. LAFALCE. I would say it is an atrocious idea. I say that not so much to Dave Obey as to Lee Hamilton, though.

Chairman BOREN. You think we should consider some combination of whether or not we need the separate committee on say the Joint Committee on Taxation with the separate staff as opposed to the Finance and Ways and Means Committee staffs?

Mr. LAFALCE. Sure, absolutely.

Chairman BOREN. You put a lot of emphasis on reduction of numbers of subcommittees I noticed in your testimony. Is that besides freeing up members' assignments, not being burdened with too many multiple assignments so that we try to cover too much territory, do you think that is also where we can achieve some staff reductions in total by reducing the number of subquestions?

Mr. LAFALCE. Absolutely. I don't want to put the highest priority on staff reductions because of the savings. I think you have to have a strong staff within the Congress, but it has also been my experience, too, that sometimes staff can create work, and there is only so much that one Senator and one Member can do, and very often you try to do everything that your staff wants you to do, and you wind up extending yourself ten times more than you should. I think we all have that problem to various degrees.

Chairman BOREN. I think that is certainly true. I have had a theory that if we were to reduce the staff in total, I don't know, maybe 25 percent, and I am not suggesting that all be in individual Members' staffers, but, for example, if you have, frankly, an unnecessary subcommittee that in order to justify itself starts having unnecessary hearings and having unnecessary legislative proposals, then pretty soon that generates mail from constituents who get alarmed about the unnecessary bill from the unnecessary subcommittee which is having the unnecessary hearing, and you have to have more staff to follow that, and so on and so on. I am just convinced that to some degree we create our own workload by the way we establish this.

In your committee you have, what, five subcommittees now?

Mr. LAFALCE. Yes.

Chairman BOREN. You have suggested a reduction. I think that the Senate Small Business Committee doesn't have subcommittees at all, as I recall.

Mr. LAFALCE. But I think any Senator can create a subcommittee at will if he wants to. I am not sure about that.

Chairman BOREN. I think there might be some of that going on. You have proposed, for example, three subcommittees maximum other than the very major committees, so I assume you would reduce—



Mr. LAFALCE. I think you could make three very strong subcommittees, on a major committee you might have four or five very strong. There is a tendency right now to have one or two subcommittees that everybody wants to be on and then four or so that you have to fight to get individuals on, so I think if you had fewer—also there is tremendous attrition that takes place with respect to subcommittee Chairmen. While I wouldn't grandfather these limitations, I would implement them through attrition, so as a subcommittee opening develops then consolidate, so I think you can do it not over one year, not over one Congress but over two Congresses or even three Congresses, so you would have a minimal detrimental impact.

Chairman BOREN. But if we were to pass—you have five subcommittees now on your committee. If we were to pass a rule saying that a committee in the category of the Small Business Committee could only have three, you would, in fact, welcome that and not oppose that?

Mr. LAFALCE. I would not oppose that, so long as this was also applicable to other nonmajor committees.

Chairman BOREN. Absolutely. I am not talking about singling out Small Business.

Mr. LAFALCE. I pointed out earlier, Senator, before you came here that from 1986 to 1992 the Small Business Committee had the smallest increase in staff appropriations by far of any standing legislative committee of the House. The only one that was smaller than us was the Ethics Committee, and, of course, they are not a legislative committee. They just get a flat appropriation unless we discover some wrongdoing and then we have a special appropriation, so, you know, they have basically been flat. We have the smallest increase of any by far.

Chairman BOREN. Right. Well, thank you very much, Chairman LaFalce. We really appreciate you taking time to be with us, and as I say, we will complete our hearings at the end of June, and our own deliberations will begin and I am sure as we proceed with those and try to come up with a blueprint that we want to present to the full Congress when we come back after Labor Day recess, we will look forward to continuing to have informal consultations with you and sharing thoughts with you as we go along.

Mr. LAFALCE. Thanks you very much. Will you discuss this with Senator Bumpers, too, right?

Chairman BOREN. I think you can be assured of that. Thank you very much. I have the privilege as soon as this committee assignment is over of going back on the Small Business Committee. I have been temporarily off that committee in order to assume these responsibilities, and I will be going back to that committee.

I would like to ask my colleagues, Senator Inouye and Senator McCain if they would come forward at this time, and serve as a panel as our last witnesses for the day.

Our next witnesses form the leadership of the Senate Committee on Indian Affairs. Senator Daniel Inouye of Hawaii is the Chairman of the committee, also a member of the Appropriations Committee, the Commerce Committee, Science and Transportation, Rules and Administration. He was first elected to the Congress, to the House of Representatives so he has experience in both sides of

the Capitol, with both parts of this institution, and in 1959 and was elected to the Senate in 1962, and has been reelected in succeeding elections by virtual acclamation by the people of his State.

Let me say he has brought experience not only in the work obviously of the Committee on Indian Affairs, which he has come to Chair only in recent years, but he served as the pioneering Chairman of the Intelligence Committee and it has been my privilege to learn a great deal from him as he helped shape the structure of that committee as its early Chairman. I also had the privilege of serving with him when he chaired the special committee investigating the Iran-Contra affair. I think the fact that he was asked to take on that responsibility or both of those responsibilities is an indication of the confidence that his colleagues have in him, in his leadership and in his judgment, so we are very pleased to have Senator Inouye with us today.

Also very pleased to have the Ranking Member of the Indian Affairs Committee from the State of Arizona, Senator John McCain, who began serving in the U.S. House of Representatives as well, so like Senator Inouye has experience in both the House and the Senate—in 1982, was first elected to the Senate in 1986, currently serves on the Armed Services Committee, Commerce, Science, and Transportation, Governmental Affairs, and Aging Committees, and we are really glad that you could be with us as well.

Let me say that Senator McCain and I have also had the privilege of working together on numerous pieces of reform legislation, including lobby reform among others, and it is a privilege to have both of you with us today. I think perhaps the best way would be, Chairman Inouye, to have you give your comments first. We will then follow with Senator McCain, then we will open up to questions from the panel to both of you.

#### STATEMENT OF HON. DANIEL K. INOUE, A U.S. SENATOR FROM THE STATE OF HAWAII

Senator INOUE. Thank you very much, Mr. Chairman and members of the Joint Committee. We are most pleased to have this opportunity and privilege to appear before you to discuss the status of the Indian Affairs Committee of the United States Senate. I have read with much interest the testimony of the codirectors of the Renewing Congress Project on the committee system reform, and so I welcome this opportunity to address the objectives for organizational reform contained therein.

However, first I believe that it is absolutely incumbent upon us to examine the Indian affairs responsibilities of the Congress within the context of the history that brings us to this moment.

Unlike many other committees of the Congress that have been established to deal with matters of contemporary concern or which reflect the great issues of this day, the responsibility for Indian affairs has its origins in the Constitution of the United States—Article I, Section 3, Clause 8—in which the Congress is vested with plenary authority over Indian affairs and the conduct of commerce with the Indian nations.

This responsibility of the Congress for Indian affairs cannot thus be lightly taken nor can the Congress divest itself of this responsi-

bility in the absence of an amendment to the Constitution. So this is where we begin.

For over 160 years the organization of the Senate has reflected its commitment to honor this constitutional charge by maintaining a permanent standing Committee on Indian Affairs. The only aberration from this pattern was the 30-year hiatus from 1946 to 1976 when jurisdiction over Indian affairs was delegated to a subcommittee of the Public Lands Committee, which in 1948 became the committee on Interior and Insular Affairs.

Mr. Chairman, we begin with the premise that Indian nations are sovereign. The United States Constitution, the debates of the continental Congress, and the writings of our founding fathers have all recognized the sovereignty from the earliest days of our Union.

For the last 23 years every President of the United States has reaffirmed this principle, in recognition of the government-to-government relationship that the United States has historically had with the Indian nations.

President Bush expressed his recognition of the sovereignty of Indian tribal governments by establishing as a matter of Federal policy that tribal governments are an integral part of the family of governments in the United States, a family consisting of the Federal, State, and tribal governments.

The 200-year history of dealings with the Indian nations which preceded this enlightened policy were unhappily not a history that we can point to with any pride because our dealings with the Indian nations has been one of dishonorable dealings, deception, and deceit.

In the early days of our history the conduct of our relations with the Indian nations was a matter of the highest priority in the Congress. We relied upon the support of the Indian tribes in our fight for independence. It was the Indian people who provided food to our troops, who fought side by side with Washington's continental Army, and who sustained General Washington and his men at Valley Forge.

Years later, we declared war on the Indian nations, and for over 50 years we undertook a concerted effort to exterminate the tribes—this was the era now known as the Indian Wars—in which the War Department became the instrument of Federal policy concerning Indian nations.

Anthropologists have estimated that there were somewhere between ten million to about as many as 50 million Indians occupying the territory that came to become the United States at the time of the first European contact. The decimating effects of the Indian Wars period reduced the Indian population to somewhere close to 250,000.

But despite our best efforts to wipe out the native people of America, they survived, and so our next attempt to deal with the so-called Indian problem, the problem of making room for white settlement in the Eastern United States and later west of the Mississippi was through treaties with the Indian nations and later the Federal policy of removal.

And while the treaties, too, were a recognition of the sovereignty of the Indian nations and were construed to be as much a part of

the supreme law of the land as our treaties with foreign nations, of the 800 treaties that we entered into with the Indian nations, 430 of them were never ratified by the United States Senate. However, we were adamant in our insistence that the Indians abide by the terms of those unratified treaties. Three-hundred seventy were ratified, but for our part we proceeded to and we have continued to violate provisions sadly in every single one of them.

Nonetheless, in exchange for the cession of millions of acres of Indian land to the United States, we did undertake commitments, commitments of health care and education and the protection of Indian lands and resources, commitments which were understood to be, and this is a phrase that you will find in many of the treaties "for as long as the sun rises in the east and sets in the west; as long as the rivers flow from the mountains to the seas; for as long as the grass grows green and the rivers run clear." This was our promise.

Mr. Chairman, we also adopted a policy of removal, in which we rounded up the remaining members of Indian tribes and forcibly marched them across the Eastern half of the United States. The history books refer to these as the trails of tears. There were not just one, there were hundreds of trails of tears where thousands of Indians died along the way from exposure and starvation. One of the most famous or infamous was the trail of tears of the Cherokees. They ended up in Oklahoma, and it is said that on this trail of tears 75 percent of them died.

As the distinguished Chairman from Oklahoma is well aware, Oklahoma became the dumping ground in this time of history.

Because the traditional ways of Indian existence were alien to the European experience, we then adopted a policy of establishing reservations, followed by policies of civilization and allotment. These are in our law books.

We sought to control the traverse of Indians across the wide expanses that were their traditional hunting and fishing and gathering grounds by placing them in reservations.

We thought we could civilize the Indian by making him a farmer and giving him agricultural tools to till the barren land on which we had placed him.

We thought that the traditional communal existence of the tribes went against the grain of what we considered to be American, so we authorized the reservations to be broken up into small parcels for allotment to each tribal member.

It was through the policies of treaty making and of allotment that the 550 million acres of land over which Indians once exercised dominion and control was reduced to about 50 million acres of land held in Indian ownership today.

All during this time, Mr. Chairman, of attempting to civilize the Indians, we actively undertook a campaign of eliminating any vestige of Indian culture, song, dance, and art. For example, the speaking of the Indian language was a punishable offense in public schools. And for years and years we took Indian children away from their parents and sent them to boarding schools where they could be cleansed of their Indian culture.

Forty years later, responding to the devastating results of the allotment era and our efforts to assimilate the Indian people, we

once again shifted our policy direction and this time called for the reorganization of tribal governments.

But in less than 20 years we adopted yet another policy, this time a concerted effort at assimilation known as the "termination era," in which relationships with the Federal Government were to be systematically terminated, and only a few years later this effort was coupled with a policy of relocating Indians to the major urban centers of our country.

Today, and for the last almost 25 years we have managed to steer a somewhat more consistent course in which the policy of Indian self-determination and self-governance has been the guiding philosophy.

Mr. Chairman, however, I believe it is worth reviewing this history because it reveals why we cannot look at committee structure and congressional responsibilities in the absence of their historical context.

Our relationship with the Indian nations arises out of our constitutional responsibilities, but, Mr. Chairman, I am certain you will agree with me that our record in carrying out those relationships has been far from exemplary.

The vacillation in Federal law and policy over the last two centuries are testament to the fact that we have expended considerable effort in developing Washington solutions to problems in Indian country.

It has been only in this era of self-determination that the Federal Government has begun to listen and be guided by those who have the real and workable solutions to the problems which confront Indian communities—the Indians themselves.

Scholars of our history with the Indian nations are consistent in their view that there needs to be a focal point in the Congress, a steady keel to guide the ship of state in Indian matters both in the formulation of policy and in the oversight and monitoring of the work of the Federal agencies.

The Indian program responsibilities with which we have charged executive branch agencies are widely dispersed. They involve almost every department of the Federal Government. There is no central point of coordination and oversight of these efforts other than in the Indian committees of the Congress.

Mr. Chairman, we pride ourselves as a Nation that honors the human rights of all people, and yet the history of our relationship with our own native people is a sad and a very embarrassing one.

Even if we were not charged with legal obligations and a trust responsibility, we would still have to recognize the moral imperative that we as a Nation are charged with when it comes to improving the conditions of life in reservations communities.

As to that latter objective, I don't think I need to cite statistics to anyone here because most of us know that Indian communities have the highest unemployment rates in our Nation. At a time when our Nation is experiencing a 7 percent unemployment rate, the average rate in reservations is 57 percent. This is an improvement in the last 5 years. There are reservations where the unemployment rate exceeds 90 percent.

The attendant social problems that accompany extreme poverty, such as suicide and alcoholism, hopelessness and despair are higher than in any other segment of our population.

I would just like to cite one, among young men between the ages of 18 and 23 in Alaskan Eskimo communities, the suicide rate is 14 times the national norm. In the United States the suicide rate among native peoples is seven times the national norm. Eleven percent of all Indian housing has no potable water. An alarming 56 percent of Indian homes have inadequate water systems or sewer systems that do not comply with the pollution control law and have no solid waste disposal facility. Now, therefore obviously the housing needs are greater than those of any other group of Americans.

At this moment we are considering health care reforms for the people of the United States. I don't know what we propose to do for Native Americans, but at this moment health care expenditures for Native Americans represent one-tenth of what is available to other Americans, and these, Mr. Chairman, are the vestiges of the past.

At a time when we are effectively engaged in a concerted, focused effort to address these pervasive problems, and at a time when we are further challenged with the reality that the resources to do so grow more scarce with each passing day, we simply cannot return to the outmoded organizational structure of 20 years ago that dispersed the Indian responsibilities of the Senate across numerous committees, fragmenting its focus, undermining any effective comprehensive oversight of Indian programs, and thereby enabling the executive branch to lose sight of the goal of coordinating programs and services designed to address the grave conditions in reservation communities.

Mr. Chairman, even assuming there was some merit to the jurisdictional arrangement of the 1970s, Indian issues are no longer natural resource issues.

Today the future of Indian people lies in the strength of Indian governments and the consolidation of governmental authority in a manner that is designed to foster economically healthy Indian communities.

Twenty years of Indian self-determination and self-governance has changed the landscape of our relationship with Indian country. The role of the Federal Government has been changed and must continue to change to adapt to these changed circumstances because the old paternalistic, guardian-ward relationship no longer obtains.

Today Indian governments administer the vast majority of Federal programs through the mechanism of self-determination contracts. Today, tribal governments have assumed total responsibility for the operation of the BIA agency offices and are now preparing to assume responsibility for the administration of BIA area office functions.

For example, it might please you, Mr. Chairman, to know that tribal governments operate eight hospitals and 332 outpatient health care facilities, 59 smaller health stations and satellite clinics, and 172 Alaska native village clinics.

Today Indian governments operate 87 schools and dormitories. Today there are 21 tribally-controlled community colleges and one tribal university. I hope that you can visit some of these facilities

because they do not compare with the campuses that we have been privileged to attend. Today the conduct of gaming activities on Indian lands has become a major source of economic growth in Indian country today. Indian governments and tribally chartered businesses are actively engaged in defense contracting and manufacturing. Today Indian governments are forging new relationships with State governments to provide a comprehensive framework for the exercise of civil and criminal jurisdiction, for the taxation of business activities, for the settlement of claims to water resources.

Mr. Chairman, today Federal law recognizes the authority of tribal governments to regulate environmental quality on Indian lands. They have the authority to regulate hunting and fishing on Indian lands, and to regulate energy development on tribal lands.

Today the relevant expertise in the field of Indian affairs is not a knowledge of Federal-Indian programs or natural resources, but an understanding of the governmental status of Indian nations, their sovereignty, and how it is exercised.

In short, function of the Committee on Indian Affairs in today's Senate is one of assuring that the relationship of the United States Government and the Indian tribal governments is premised upon and is carried out in a manner which is consistent with the political and legal foundations that were first recognized in the Constitution.

It is in this dynamic climate that the committees of the Congress must rise to the challenge of adapting Federal policy, developing and overseeing Federal programs to meet the growing demands of the significant metamorphosis that is going on in Indian country today.

Before concluding, I would like to take a few moments to address the prepared testimony of the Renewing Congress Project, and to correct a few of the factual errors and omissions contained therein as they relate to the Committee on Indian Affairs.

Unfortunately, the widely disseminated Ornstein-Mann testimony fails to take into account the 180 years of Senate organization. Had they reviewed the history of the Senate they would have found that the time period upon which Mr. Ornstein rests his conclusions was, in fact, an aberration from what has been the standard practice of the United States Senate for 160 years.

Senator INOUE. For the first 150 years, they were standing Committees of Indian Affairs in both the House and the Senate. Then for 30 years, from 1946 to 1976, the Indian Affairs' function was organized as a subcommittee of the Committee on Interior and Insular Affairs. But contrary to Mr. Ornstein's recollection, in 1976 the proposed legislative reorganization plan would have placed the Indian Affairs Committee in the Committee on Labor and Human Resources, not on the newly formed Energy and Natural Resources Committee.

However, the Senate chose to override the legislative reorganization recommendations with respect to Indian Affairs, and instead authorized the establishment of a Select Committee on Indian Affairs, primarily to oversee the enactment of the recommendations just issued by the joint commission on the Congress, the American Indian Policy Review Commission, which had been established in the 94th Congress.

In the years which followed, the sensibility of consolidating jurisdiction over all of Indian matters in one committee soon became evident. From the time of its reestablishment in 1976, the Indian Affairs Committee, unlike most of the select committees, was given legislative authority over virtually all aspects of Indian affairs.

Thus, the conclusion of the Mann/Ornstein Report that the Select Committee on Indian Affairs should be Exhibit A in why the system has gone out of control because select committees mean less focus for the standing committees that have real substantive jurisdiction, reflects a major misunderstanding of the history of the Indian Affairs Committee.

Likewise, the committee's comment that it is bemusing, in a way, 16 years later, to see current attempts to make this committee permanent, to avoid its elimination is indication that the authors are unaware that the Committee on Indian Affairs was made a permanent committee of the Senate in 1984, nearly 10 years ago. For almost 10 years this committee has been a permanent standing committee.

Perhaps the authors misunderstood the Senate's action in February of this year when it acted to remove the word "select" from the name of the committee, an action which was taken to reflect the reality that the Committee on Indian Affairs is a permanent committee of the Senate with substantive legislative authority over issues of concern to the Indian country.

In contrast to the Mann/Ornstein Report's conclusions about the Indian Affairs Committee, it is instructive to look at the goals that they articulate for congressional organization as they relate to a standing committee on Indian affairs.

The authors recommend that committees be organized to, first, enable the simultaneous consideration of many important substantive matters; second, enable the Congress to legislate, investigate and oversee Executive Branch behavior across the range of issue areas and Executive Branch agencies and departments; and, third, assure the development of in-depth knowledge and expertise.

The authors note further that by structuring committees and creating centers of jurisdiction, the Congress can set priorities and indicate areas of greater or lesser importance.

Mr. Chairman, each of these objectives has been achieved by the Senate in recognizing the need for a permanent standing committee on Indian affairs. The renewing Congress report also notes that jurisdictional alignments are critical—if an important priority is too fragmented or gets no attention at all, it will be ignored or delayed. And, Mr. Chairman, I fully agree.

Dismantlement of the jurisdiction of the Committee on Indian Affairs would result in precisely the kind of fragmentation that the report's authors warn against. For to assure that the Congress did not abdicate its constitutionally mandated responsibilities, for example, the oversight of Indian education and health and social services and welfare and employment would have to go to the Committee on Labor and Human Resource and the Committee on Finance; the oversight of the exercise of civil and criminal jurisdiction by tribal governments would go to the Committee on the Judiciary; the oversight of Indian house programs would have to go to the Committee on Banking, Housing and Urban Affairs; the over-



sight of the exercise of tribal governmental regulatory authority over environmental matters would have to go to the Committee on the Environment; the oversight of Indian agriculture, nutrition and forestry programs would go to the Committee on Agriculture, Nutrition and Forestry; the oversights of Indian treaty fishing rights as they affect the regulation of fishing in international waters or as they are affected by the Magnuson Act or as Alaska natives are affected by the Marine Mammal Protection Act would go to the Committee on Science, Commerce and Transportation; the oversight of the National Museum of the American Indian within the Smithsonian Institution with go to the Committee on Rules; and the oversight of Indian lands and natural resources would go to the Committee on Natural Resources.

Mr. Chairman, having served on some of these committees in my 34 years in the Congress, I know these committees are already overburdened. So there will be no savings of taxpayers' monies. It would just fragment our focus. I doubt that even with the best of intentions they could afford the kind of attention and focus that is enabled by consolidating this jurisdiction into one committee.

And, Mr. Chairman, there are many, many other issues, such as the conduct of gaming activities, the matter of Indian sovereignty, the exercise of taxation authority, the protection of native American religious freedom rights, economic development, Indian grave protection, repatriation of sacred artifacts. This is just to mention a few. These are matters we have taken us in the last 3 or 4 years, that would not easily lend themselves to the jurisdictional expertise of existing standing committees.

Finally, the authors of the report have asked to us consider the following objectives for congressional reform. First, whether they improve Congress's capacity to deliberate; second, whether they improve Congress's capacity to deliberate, or highlight important problems in society, and to so far see the performance of other institutions, including the Executive Branch; and three, whether they are able to act on Congress's agenda with competence, representativeness and appropriate dispatch.

In addition, the authors observe that, first, larger committees have more difficulty deliberating; second, the appropriate focus for congressional committees should be on substantive areas of policy; third, committees should be more equal in breadth and workload; four, there is value in consolidating currently divided jurisdictions; five, it is important for committees to be able to identify and pull together important new policy areas; and on and on.

And finally, it says, we should not punish arbitrarily committees that have been assertive and effective.

Mr. Chairman, I believe that each of these objectives and considerations are compelling reasons to maintain the Committee on Indian Affairs as a permanent standing committee of the United States Senate.

Over the past 16 years, the committee has grown from a committee of five to 18 Members. It is now a committee of choice.

As an aside, it may interest you to know that I got on this committee because no one wanted to fill the fifth spot, so they picked someone from the Pacific to serve on the Indian Affairs Committee.

I believe that this growth in membership is a direct reflection of the interests and importance that Members now place on assuring that this Nation deals honorably and effectively with its native people.

While the Committee on Indian Affairs ranks 16th in the amount of funds allocated for the operation of the 19 Senate committees, there are only three other committees that receive less than us. This committee ranks number five in the number of reported bills and resolutions.

We have held more hearings, more meetings, than all but 17 committees of the United States Senate. This has been a very, very busy committee, because the problems, as I tried to point out, are monumental. The responsibilities of the Congress are to Indian governments, not to individual Indian citizens.

This is reflected in the fact that there is a whole title of the United States code that spells out the nature of the government-to-government relationship.

So, Mr. Chairman, and Members of the joint committee, let's balance 30 years of Indian affairs as a subcommittee against 160 years of Indian affairs as a permanent standing committee of the Senate, and I hope that we would opt for the latter.

Our constitutionally mandated responsibilities in the field of Indian affairs should dictate this result. Because I believe, and I am certain all of you believe that this Nation's first Americans deserve no less.

I thank you very much, Mr. Chairman, and Members of the committee. May I request that the statement of the former Senator James Abourezk, Chairman of the Select Committee on Indian Affairs, be made part of the record.

[The prepared statements of Senator Inouye and former Senator James Abourezk are printed in the Appendix.]

Chairman BOREN. Without objection, it will be made part of the record.

Let thank you for the work that you have been doing and the testimony you presented so excellently, the work you have been doing to improve the lives of Native Americans. We certainly have seen the effects of your work, the work of your committee, and your colleagues in our State, and we appreciate very much your personal interest.

I don't know how many times I have gone to visit some of our facilities to find you have already been there. You have been to our State many times, and you have demonstrated a tremendous interest in our people. They sense that.

I don't think any committee has ever had a Chairman that has gone out across the country, seen the effects of the legislative programs with which a committee is dealing more than you have. And we are very, very grateful for that.

I appreciate the history that you have given us. As a person of Cherokee decent, I am fully aware of the history that you described in terms of the forced removal of our people from coastal areas to Oklahoma. And just recently, last week, I was at an exhibit in Oklahoma City at the Western Heritage Center that depicted the Fort Marion imprisonment time in which the tribes from the plains were brought to Florida and held in prison. It brought a

period of great artistic flowering to those tribal leaders. Their records, drawings, writings have been preserved.

But to think about the fact that they were imprisoned for creating no crimes, for really literally just existing, for having complained about the way in which they were being manipulated and mistreated, which was well documented by our own government's authorities at that time, to think about the fact that their children were taken away from them to try, to have their own basic values removed from their own experience, many of them to be taken off to die of smallpox and other diseases in Pennsylvania and elsewhere, you have been most eloquent in what you described, and I appreciate very much the efforts which you have made as Chairman of this committee.

Senator McCain, we very much appreciate your being part of this bipartisan presentation on behalf of the committee today. As I have said earlier, it is a pleasure to work with you on many, many legislative fronts. We would welcome your comments at this time.

**STATEMENT OF HON. JOHN McCAIN, A U.S. SENATOR FROM THE  
STATE OF ARIZONA**

Senator McCAIN. Thank you, Mr. Chairman. I would like to be very brief. Go ahead.

Chairman BOREN. Mr. Domenici?

Senator DOMENICI. Mr. Chairman, let me just say to my two friends, I was sorry that I couldn't be here sooner.

Senator Inouye, I told you I would be here, and I am here, but not quite timely, and I apologize for that.

Mr. Chairman, I just wanted to make an observation. I think the current trend would be to say to the Indian Affairs Committee, we are going to come up with a plan and you are going to be out of business. That is sort of what everybody is kind of thinking.

Let me lay before the committee and on the record, as one Senator who has the largest percentage of Indian people in his voting population of any in the country, and I have 10 percent, now Senator McCain has more Indian people, but I have much more impact in terms of the effect on all of us and my State.

I don't believe the issue is, do we want one less committee and it should be Indian affairs. I think the issue is, if there is a difficult situation and a high sense of responsibility, are we certain that with the diversity of problems spread out over all kinds of committees and departments of government, are we certain when we get finished with this reorganization that we are going to live up to our commitment to the Indian people, or are we once again going to say, catch as catch may among the various committees and agencies. I think that is the issue.

If we genuinely end up saying they can be adequately represented in some big committee, then those of us who are very worried might end up saying you did a good job. But I am very worried that just to say, we will do away with it, when the Indian people's problems are very different from anybody else's in the nation, our relationship is different. As I understand it, there is no trust relationship with other minorities. This is singular, and the problems just don't seem to go away.

So I would be very reluctant to apply the standard rule of doing streamlining to the Indian issues without a lot more thought on how we are going to make sure we do the right thing year by year.

Thank you very much.

Chairman BOREN. As always, Vice Chairman Domenici said it very, very well. I don't think any of us are going to proceed on an artificial basis and look at a number without deciding what makes sense. Our whole purpose is to determine how we can do our jobs most effectively.

While we don't want to close our minds to the possibility of change, neither are we going to adopt changes just for the sake of being able to say we made them unless they made sense.

So we value the testimony you are giving to us today. Senator McCain?

Senator McCAIN. Thank you, Mr. Chairman.

I want to thank this committee for their very hard work. Being a bit of an insomniac, I watch quite often your proceedings on C-SPAN, and I would like to thank you all for your patience.

Chairman BOREN. You are watching those when you are awake, not when you are trying to go to sleep?

Senator McCAIN. I do think that the work you are doing is vital, and I hope that the American people know the incredible number of hours you are putting in in this very herculean effort you are making, in a very difficult situation.

Mr. Chairman, I will be brief. Senator Inouye just demonstrated graphically to you the commitment that he has to Native Americans. I have been very proud to serve with him now for 7 years on the Indian Affairs Committee. He described the situation to you in great detail.

I couldn't help but remember, seeing my friend Pete Domenici, of the story of the famous scout Kit Carson who rounded up 8,000 Navahos in a place called Canyon de Chelly in the northern part of my State, marched them to his State, left them there for several years, and after several years only 3,000 of the 8,000 that were left returned. Our history is replete with those kinds of stories.

I would urge you to take to heart the following words of Peterson Zah, the President of the Navajo Nation, who resides in my State and the State of North Carolina and Utah, and he said, "Indeed, helping the American Indians to help themselves is neither a democratic issue or a Republican issue, not a conservative policy or a liberal policy; it is not even a special interest issue. Rather, it is a human issue that must and deserves to be addressed from a national perspective on a bipartisan basis and with a real sense of urgency warranted by the deplorable conditions existing in Indian country, conditions which truly are a national disgrace."

I am happy to tell you, Mr. Chairman, that our committee, the Indian Affairs Committee, has addressed these issues on a nonpartisan basis.

I needn't remind you of the facts, because they are just numbers, but I would urge all of the Members of this committee, before taking the step of abolishing the Indian Affairs Committee, to make one visit to an Indian reservation. I think you would find there that alcoholism is 438 percent greater than the national aver-

age; tuberculosis, 430 percent greater; diabetes, 130 percent greater; accidents, 130 percent. The numbers go on and on and on.

And the fact is, Mr. Chairman, we do have a constitutional responsibility, Article 1, Section 8, Clause 3, referred to as the Indian Commerce Clause, authorize the Congress to, and I quote, "regulate commerce with foreign nations and among the several States and with the Indian tribes."

The Federal relationship of a government-to-government basis of our relationship with the Indians has been well described by Senator Inouye. And that has been reaffirmed and expressed by the Supreme Court in *Morton v. Mankery*.

Finally, Mr. Chairman, in summary, I would like to remind you of the most important part of our relationship with Native Americans, and that is, we did make solemn treaties. Each of these solemn treaties guaranteed the Native Americans in exchange for their land that we would incur certain obligations. And it serves no useful purpose, very frankly, to go again and review those broken promises, and the terrible treatment that was extended to those America's first citizens for over 200 years.

But what I would say to you is that I would keep in mind the words of the famous jurist Felix Cohen. And his words I am reminded of almost daily when I try to prioritize my schedule and my activities. And he said the following. "Like the miner's canary, the Indian marks the shifts from fresh air to poison gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall of our political faith."

Mr. Chairman, if we do away with this committee, it will send an unmistakable message all over Indian country. Remember that Indian country is larger than New England plus the States of New Jersey and Delaware. The Navajo reservation alone is larger than the State of West Virginia. It will send a message all over Indian country, all over America, that really we don't care as much as we probably should, that we are not truly prepared to fulfill the solemn treaty obligations that we entered into with them, and very frankly, we have shirked our responsibility as United States Senate.

Thank you, Mr. Chairman.

[The prepared statement of Senator McCain is printed in the Appendix.]

Chairman BOREN. Thank you very much, Senator McCain.

I will turn first to our vice chair, Mr. Dreier.

Mr. DREIER. Thank you very much, Mr. Chairman.

Thank you both for your very helpful testimony.

Those of us in the House come to this issue from a slightly different perspective, and I would like to ask first if you could explain your relationship to the House of Representatives, because we don't have an Indian Affairs Committee in the House, and I would like to have both of you comment on that if you would.

Senator INOUE. Up until the creation of the Subcommittee on Indian Affairs in the House Interior and Insular Committee, we dealt directly with the full committee. First, with Mr. Udall, and after that with Mr. Miller.

Our relationship has been a very productive one. I am pleased that the committee has decided and the House has decided to give specific recognition to Indian affairs by creating at least a subcommittee. Because up until now, there was no committee or subcommittee on Indian affairs in the House. But today, you have at least a subcommittee.

I would hope some day that we can go back to what our Founding Fathers in the succeeding 150 years have practiced in the Congress, when both Houses had standing committees on Indian affairs.

Mr. DREIER. John?

Senator McCAIN. I have very little to add, except with Congressman Udall as Chairman of the Indian Affairs Committee, there was great comfort in Indian country that their issues were being addressed.

Thank you.

Mr. DREIER. Can I take advantage of the fact that both of you are here, to talk about a couple of other issues that have been before this committee and will continue to be before it.

Senator Inouye, you are an authorizer and appropriator, yet I understand you are a cosponsor of Senator Kassebaum's proposal dealing with the Appropriations Committee. I wonder if you would care to make any comments on that.

Senator INOUE. As Mrs. Kassebaum told you, you became a cosponsor of that realizing it would not be considered seriously, knowing the facts of life and the realities here, that it would ever become at least in this century a reality.

I felt that the Congress should give this matter serious consideration if the purpose is to expedite consideration of legislation, because right now you have at least eight different steps before it hits the President's desk. So I thought that this matter should be given some serious consideration.

I didn't expect it to be passed or adopted in this session, or for that matter, in any session in this century.

Mr. DREIER. I can assure you it will be given serious consideration, as Mrs. Kassebaum is a Member of this committee and she will insist we give it serious consideration.

Senator McCain?

Senator McCAIN. I will just say, Mr. Vice Chairman, I have been around here not as long as many, I am entering my 11th year, and I had experience in both the House and Senate, but I think clearly it is crucial, or abolish one or the other.

Too often we spend thousands of hours in the authorizing process and hearings and finally come out, especially in the Armed Services Committee, where we decide that a certain program or function is vital to our nation's national security, and that is reversed by the Appropriations Committee. We see that time after time. And I am not faulting the Appropriations Committee for doing so.

The fact is, it is the process that is flawed, because it ends up in a terribly duplicative kind of situation that ends up in the worst case as a waste of everyone's time.

Thank you, Mr. Vice Chairman.

Mr. DREIER. So we assume you are only a Member of the authorization process?

Senator McCAIN. You got it.

Mr. DREIER. Thank you, Mr. Chairman.

Chairman BOREN. Thank you, Mr. Dreier.

I was going to see if we needed to give Senator Inouye as the appropriator in some of these areas a chance to respond.

Senator INOUE. As you know, Mr. Chairman, there are times when the authorizers for reasons of their own are unable to authorize, and we in the appropriating committee have to—

Senator McCAIN. Reluctantly, I am sure.

Senator INOUE. Reluctantly take over.

Chairman BOREN. Ms. Dunn?

Ms. DUNN. Thank you, very much, Mr. Chairman.

May we move you off an uncomfortable topic. I am a Representative from the State of Washington, as you know, a State with a rich cultural heritage among Indian tribes, great contributors to our way of life there in Washington State. In fact, this is a coincidence for me, I plan to spend several hours on Saturday in my home in my district visiting on the reservation with the Muckle-shoot Indians, with whom we do much business, a rehab of the dam on the Green River, a consideration of the delta dredging project on the Cedar River.

Clearly, there are employment and health problems among our Indian nations. I recall serving on a United Way panel 15 years ago when I was shocked to learn that the average life span for Indians in our area was 40 years. Frightening to me.

I think we must all agree we need to find policies that will be helpful to our Indian tribes in helping them live long lives and healthy lives and contribute to their maximum potential. What we are considering now is coalescing some of the committees in Congress. We haven't decided on a plan, but there are some very radical plans here below you.

Plan F, for example, is made up of eight committees per chamber. And I am wondering, Senators, if you feel if we adopted a plan like plan F, if the Indian Affairs Subcommittee could be a subcommittee as part of a human resources committee, for example, could this continue to focus on the problems, the treaty problems and the health problems, all the other problems, and really be effective?

Senator INOUE. If I may, Mr. Chairman, respond to that, it could provided the Congress of the United States, both Houses, by rule would authorize this subcommittee to assume jurisdiction and authority over all of the matters that, for example, the Senate Committee on Indian Affairs exercises at this moment.

But if it is going to be fragmented among the eight committees, the Subcommittee on Housing would go to the banking and housing committee—we should also keep in mind, if I may bring this out, needless to say, Indians are very poor. They are the most impoverished people. And if it is going to be fragmented, you can imagine a tribe having to come to Washington not once, to be heard on several matters, but eight, 10 different times on eight, 10 different issues.

And I am not complaining, for example, but I happen to be the first Chairman of the committee to travel to most of the regions of the United States on this committee's jurisdiction. I have gone from the Arctic circle to Arizona. I don't know how many tribes I

have visited. But I felt it was necessary. These people don't have the wherewithal to travel out here, to have themselves heard.

And so we have decided to go out there. I have been to your State, for example, on just one issue on the Puwelup Indians 10 different times.

Ms. DUNN. My district.

Senator INOUE. We have been able to settle that problem, and it has been one of the great success stories in Indian country.

Senator MCCAIN. Let me just say I think it would be very important that we not fragment the current responsibilities of the Indian Affairs Committee, forfeit the expertise and knowledge developed by this committee on past and present problems, frustrate the gradual improvement that is being made toward the goal of tribal self-governments, and foster a new and uncertain era in Federal Indian relations.

Ms. DUNN. Thank you. I want to thank you both for very compelling testimony. I enjoyed hearing you.

Chairman BOREN. Thank you, Ms. Dunn.

Mr. Allard?

Mr. ALLARD. Thank you very much, Mr. Chairman.

I would like to welcome both the Senators to this committee. I enjoyed your testimony.

There is a strong interest, I think, in reducing the number of committees that we have in the Congress. This committee is looking at realigning the committees so that you have committees that are the same on both the House and the Senate.

Do you think that is a worthy goal of this committee, or do you think that each body is so independent, can deal with those separately without having to worry about aligning those committees?

Both of you have served in the House and the Senate, and that is the reason I am asking you that question.

Senator INOUE. If I may most respectfully respond to that, if the goal is to achieve uniformity, it might be counterproductive. First of all, the two bodies are different. The Constitution itself grants certain powers to the separate bodies. Your Ways and Means, for example, that committee.

Secondly, the membership numbers differ. We have 100, you have 435. And so you have more people to accommodate. So to insist upon limiting it to, say, eight committees, may not be unrealistic. I cannot imagine one committee of the House with 85 Members, 100 Members. That is what you may end up with.

So I would think that the Members of the House and Members of the Senate are intelligent enough to recognize their unique problems and come forth with their own organization. I think it would be wrong to say let's have eight in the House and eight in the Senate.

Mr. ALLARD. Thank you.

Senator?

Senator MCCAIN. Congressman Allard, I think that we are all in agreement, and you wouldn't be here if it weren't for the fact that there are too many committees and subcommittees. I don't envy your task. I do believe it would make for more efficiencies if we had similar committees.



I often see the conferees on a certain bill, it is a list that takes up two or three pages. And clearly all of those people are not conferees. I mean, it is simply a paperwork exercise.

And so I believe that we should achieve the goal that you are seeking, but as Senator Inouye pointed out, there are certain constitutional responsibilities of both bodies that may make it necessary to have certain differentials between the two.

Mr. ALLARD. Thank you.

Thank you, Mr. Chairman.

Chairman BOREN. Thank you very much.

Senator Domenici?

Senator DOMENICI. Mr. Chairman, I just want to congratulate the Senators again for their testimony, and most importantly for their very sincere and dedicated concern about the Indian people.

Frankly, I think that the one of thing the Indian Affairs Committee has been doing is to claim jurisdiction in some areas that have otherwise been determined to be the jurisdiction of committees that have generic responsibility. I think that is what we have to be concerned about as we look at this reorganization.

Indian housing ought to be improved. And it is absolutely incredible that you can't get any Indian housing bill for 5, 6, 7 years, from the time you start, and that it costs twice as much as the housing in the surrounding area. Sooner or later someone has to address the issue, and that is only one, there are hundreds like it.

I believe it won't be addressed if there isn't a committee concerned specifically with it. If you put it in with a multi-billion dollar housing program that will try to reform everything under the sun, the Indian program will get short shrift. We have got to figure out a way to address that issue, not just how to reform the committees.

What do you think about that, Mr. Chairman?

Senator INOUE. I can't find any fault in your assessment of the problem.

Senator DOMENICI. Senator McCain?

Senator MCCAIN. There are places in both Senator Domenici's State and mine where people are living in holes in the ground. I think that is compelling evidence.

Senator DOMENICI. Thank you very much, Mr. Chairman.

Chairman BOREN. Let me again thank you both.

Let me ask, for example, as we have acted on—this has to do with the jurisdiction you now have—as we have acted on this Department of the Environment bill, just completed just a few minutes ago, there was created an Assistant Secretary for—in the Department of Environment responsible for Native American lands, for example. And this is true in other agencies. We have talked about housing and so on and so forth.

How will that position—let's suppose it ends up staying in the law and being signed into law by the President—how will that, the function of that office, which will be part of the Department of the Environment, how will its jurisdiction, how will the jurisdiction be worked out, say, between your committee and the committees usually dealing with environmental policy? Will this office report to the Indian Affairs Committee? How should it be worked out?

Senator INOUE. Well, Mr. Chairman, sitting next to me is the author of the amendment.

Senator McCAIN. Mr. Chairman, it was designed that they would report to the Indian Affairs Committee.

Chairman BOREN. How do you do that now? For example, will they have dual reporting? Would they also report to the committees dealing with environmental policy? Is that the way it works now in, say, housing or something else, tax questions, say, if it is the Finance Committee, if it is a tax matter it would be between Finance and Indian Affairs Committee and so on?

Senator McCAIN. Yes.

Chairman BOREN. Are you able to work that out fairly well without undue delay?

One of the things that has been argued to us is that we should really tighten our rules if we do have—I think, number one, that we have had some examples given to us where the same function or policy area is fragmented among 43 committees. Well, that is disturbing. Obviously nothing will work if that happens.

On the other hand, if we are talking about two committees in each House, perhaps, having jurisdiction over the same issue, that is not nearly so disorderly or insurmountable. But there has been the argument also that there be some kind of time limitation, if there is a joint referral of a bill or a sequential referral of a bill, that there be some kind of time limitations so one committee doesn't prevent another committee from acting.

Senator INOUE. Mr. Chairman, I am pleased to report that in our case, the relationship with other committees has been much more than just being cordial. It has been productive and cooperative.

In many instances, after the initial meeting, we would decide that we would have joint referral or sequential referral, but then one committee would assume the primary responsibility. They will say, you will hold the hearings and we will take the facts that you develop. And so it is worked out well.

And I think one thing should be always kept in mind: No matter how the structure is organized, we should always remember that the Members are people, with egos, with attitudes, personalities and different characters.

You can have the best structure, but if the membership decides not to cooperate, it will not work.

Chairman BOREN. That is true. And we are acutely aware of that.

Someone said, for example, we can't have an organizational chart that will substitute for political courage that is necessary to face certain issues.

Senator McCAIN. Can I just make one comment? Maybe it has to do with the character of the Chairman of the committee and the widely held respect in which all Members view him, but every time it has been, in my experience, where it has been an Indian-specific issue that applies only to Native Americans, Indian housing, environmental problems on Indian land, the other committee of jurisdiction or committees in some rare exceptions basically just accede to us.

Chairman BOREN. They are willing to accede to you?

Senator McCAIN. They have just basically done so. I don't remember a time in 7 years when they haven't. We have assured them on our behalf that we will not go outside of the jurisdiction of Indians.

But frankly, on these committees, and that is what concerns Senator Inouye and I, they simply do not have the talent and expertise to deal with the issues. That is one reason why they so readily accede to us.

Chairman BOREN. I think that is very understandable, and as you say, a lot that willingness to accede is an absence of expertise; it is also a respect for the expertise in your committees, and for the personalities of the leadership.

While we have some deficiencies in the Senate, having many Members of the Senate with inadequately developed egos is not one of our deficiencies. As all of us know.

But—

Mr. DREIER. It is not that way in the House.

Chairman BOREN. It is not that way in the House, I am sure. But I would value your thoughts, as you have said, because of the personalities of the leaders of this committee and the recognized expertise, you have been able to work out an orderly flow.

You might give some thought and might give us some sessions, we would welcome them, because you have a lot of experience on your committee with shared jurisdictions as they relate to umbrella programs where you are asked to carve out a special niche and modify those programs to be appropriate for Indian people.

And I think, because you have so much experience, you might help us in terms of thinking how we could improve a structure, especially to deal with those cases where Members might not be as cordial with each other as the relationships you enjoy with virtually all Members of the Senate. I think that might be helpful, whether there is a time limitation, or should the Parliamentarian, if there is a referral, designate a committee to be the lead committee, with a short time limitation for referral to the other committee? There are some limitations we might deal with.

Does the Indian Affairs Committee have any subcommittees?

Senator INOUE. Mr. Chairman, we have no subcommittees. We are also very proud to advise the joint committee that our committee is unique in the sense that by rule of the committee, we do not have any Ranking Minority Member. Senator McCain is the Vice Chairman, with full power and authority of a vice chairman. When I am not around, he takes over.

Chairman BOREN. We have talked about that, because of course I had the same experience in the Intelligence Committee, where I had served with Senator Cohen, who was Vice Chairman. I am convinced—we talked about it obviously before you came in, Vice Chairman Dreier was presiding, we certainly have that rule in this committee.

Mr. DREIER. In this committee even when the Chairman was in the room, I was presiding.

Chairman BOREN. That is to make up for lack of competence of the Chairman.

But I am convinced that perhaps this is a helpful thing in terms of building a spirit of bipartisanship on a committee, ensuring con-

sultation on staffing and other things. I know that we never—I never took a decision as Chairman of the Intelligence Committee without consulting my Vice Chairman. And we worked together. And I think there may be something to that.

I don't know whether we should look seriously at calling the Ranking Members of committees vice chairs in other areas as well. I think it is something to think about.

And again, I would value your reflections on that because you obviously have a high level of bipartisanship as well in the Indian Affairs Committee. And it certainly helps.

That is one of the things that I think has distressed all of us, is we have seen an increasing amount of partisanship over the last 10, 20 years in the Congress, and there needs to be some way to combat this.

Senator McCAIN. It is also true, Mr. Chairman, that when a special committee is set up, such as the Iran-contra, Watergate, other really vitally important committees, that we do it on that basis.

Chairman BOREN. We do it on that basis, yet we don't apply that same model to our regular standing committees, nor do we establish a structure that really causes the Chair, the Vice Chair to have to work together, sign off jointly on things that come to the committee and so on.

I think we might want—one of the things we should try to do in this committee is look at ways where we can structurally at least encourage or remove some impediments to bipartisanship, anyway.

One last question. I won't hold you. The number of subcommittees. We have talked about trying to reduce the number of committees. One of the themes that has gone through all the testimony, and I would welcome you to reply broadly to this and to name anything else that might be on your minds, because this may be our only chance to hear from you in terms of if you could, with a sweep of the hand, change the Congress in any way you would like to change it, to try to make it better, what would you do.

Some of the people that have come before us, we have had sort of open-ended days on which we have asked Members to come in and tell us what you would change, if you could. Many have mentioned the fragmentation they feel in their own lives as Senate and House Members. At the end of the day they feel pulled in 30 different directions. They can't possibly meet all the responsibilities, and therefore they feel frustrated. They can't do anything else. It is one of the reasons that we can't start out with the artificial assumption that we are having to have a certain number of committees.

If we make the decision that we are going to do the job of managing Indian affairs better, we should just change it. But the average Senator has 12 subcommittee assignments. Some have as many as 23, according to our research. We grant waivers right and left. Some have talked about that, the fact that we need to get back into a reasonable number of committee and subcommittee assignments for each of us, and if we start with that, we will probably find some of the subcommittees, especially, maybe even a few of the committees, but certainly some of the subcommittees are almost totally depopulated because they are not really the things that Members feel are most important.

There is also the feeling that—let's take your committee. You have only so much time to spend in your committee. I found this in the Intelligence Committee. We had subcommittees when I became Chairman and I abolished the subcommittees with support of the Members.

Let's say if the Members on the Intelligence Committee only have eight or 10 hours a week, or Indian Affairs, to devote to the work of that committee. Your staff has only so many hours of the day, unless you are going to add a lot more staff. You can't add another 10 hours on. It is just not there for Members to really have attention.

So if you have a lot of subcommittees out here, it seems to me they fracture the focus of your committee. You have so many hours to spend on Indian Affairs in a week, you probably can do that more effectively by the whole committee deciding to devote its attention and the whole staff to those issues that really should have priority.

If you have a bunch of subcommittees, they are liable to spend the committee's time and staff time on things that are not the top three or four issues of the committee, but maybe the 20th, because somebody wants to demand the time and elevate their interest, and it takes time away from important matters.

Do you feel in terms of doing our job that a reduction in the number of subcommittees and a rule with more teeth in it in terms of trying to limit the committees and subcommittees on which Members can serve, is this something that would help us with this problem of fragmentation that so many of us feel?

And are there any other sort of last words—as they say on some television shows, we are going to give you each the last word—is there anything else from your experience in seeing the institution, perhaps seeing the institution change, not always for the better, that you would have us look at and focus upon that has not been on our agenda today?

Senator INOUE. On your question, sir, if I may respond, I have always felt that the subcommittee organization, like the full committee organization, should be subject to the approval of the caucus or the leadership. If we are going to create a committee, it has to be approved by the full Senate or the full House. In the case of subcommittees, there is no exercise of authority.

Chairman BOREN. No restraint, either.

Senator INOUE. And so if both Houses at the present time have a committee on committees, and we have the same thing on the Senate side, made up of the leadership group, if a committee chairman and the membership wanted to develop and create a new subcommittee, I think they should be required to come before this committee on committees and convince that committee on committees that they are justified in having it.

Because the determination of the number of subcommittees is always left up to the Chairman and the Members, and in some committees it is a political decision. They want every Majority Member to have a subcommittee so everyone is happy. In some other committees, it is made up of issues and topics.

I should tell you honestly that in the matter of Indian affairs, I believe the decision not to have subcommittees in the early days

was on the fact that we had only five Members. How are you going to have a subcommittee with five Members? Now that we have 18 Members, we may seriously consider having subcommittees. But we have not talked about that yet.

Chairman BOREN. I would hope you not add too many, because I think one of the areas we can make progress is to reduce the number of subcommittees.

Senator McCAIN. I agree with your statement, Mr. Chairman, and I think that there is a theoretical argument that there are certain areas that are so technical in nature that they require a subcommittee. But I think it also important for us to point out what really is practice, and what practice is, even if our constituents may be shocked to find this out, the average subcommittee hearing has the subcommittee Chairman and the Ranking Member, period. So although I may be a Member of four subcommittees in the Armed Services Committee, three on the Commerce Committee, four in Government Operations, the fact is I generally go to those I am the Ranking Member of. So you are a Member of that subcommittee in name only. So we are not really doing what in theory we are supposed to be doing.

It argues very strongly to me, Mr. Chairman, for a drastic reduction in subcommittees, even maybe an experiment for a year or two of doing away with all of them, as opposed to the practice now, which frankly is a charade.

Chairman BOREN. I think you are right. One of the things that unfortunately does happen is when these hearings are held, we often get hearings that probably shouldn't be held in some cases. They are not of sufficient interest to attract many Members. Then do you have to dispatch your staff members, usually, in order to cover, it to make sure that nothing mischievous goes on.

So out of self-defense, very often, we are generating work in subcommittees, not only for Members of the subcommittee but for everybody else in the Senate, because you get mail on the subject of a bill that never should have been introduced on a subcommittee that shouldn't exist, and on and on. We create this work for ourselves.

I want to thank both of you for appearing and for very informative and well-researched and scholarly testimony. You know, having grown up in a part of the country with a very significant Native American population, and I didn't get my statistics, we actually have I think the largest numbers that have some quantum of Native American ancestry in our State in terms of actual numbers, and we are very different, again, it shows the difference of problems, because we are a non-reservation state. We have no reservation at all.

So very often we have to come to both of you and the Members of your committee to appeal that not only do we not fit necessarily in the housing program, the broader program that needs to be looked at from the needs of Native Americans, we don't even fit the usual Native American model because we are a non-reservation State and our population often gets overlooked. You have been very sensitive to that and very helpful.

You know, the more I learn about it all, the more I study, and I was just in Canyon de Chelly, which Senator McCain mentioned a

few moments ago, and studying the history of what happened there, the very tragic events that happened there.

You know, it just strikes me, and as one that has grown up in the State of Oklahoma, how really ignorant we have been about the history of our own native peoples and their culture and their values, and how we have so erred. Our earlier policies not only were tragic in terms of the barbarism of the policy of our own government, which was really aimed at stamping out something just because it was a different culture, but the arrogance of it, the paternalism of it, how now we are coming back around to learn so much.

For example, we probably would not have many of the environmental problems that we have in our country today had we understood earlier the value which our Native American people have never given up of real reverence for the earth and for natural creation.

So in so many ways as our total American culture comes of age, we realize even more the tremendous value of the part of our culture that has been contributed to by Native Americans. And I think instead of now assuming with arrogance that we are in a position to be paternal, in many cases the broader American society has now become the students of culture and values of many of our Native American people.

So it indicates the importance of nourishing continued cultural vitality and the quality of life of this very important segment of our population, that is really the beginnings of the heritage of all of us as Americans.

I really—you have both been not only dedicated to the work of your committee, but you have both been important spokesmen. You have used the moral authority of your positions as Chair and Vice Chair of this committee to speak out on some of these issues, and to serve as educators of the broader population. I appreciate that very, very much, and appreciate what you both are contributing.

So again, I want to thank you for being here, and joining us, and hope that you will tune in again on late nights when you have not gone to sleep.

Let me say, you know, I was asked yesterday by a reporter, What do you think the chances of this committee getting something done are? And I said, I am still an optimist. I think we have got a good chance to get something done, because more than anything else, I am absolutely amazed at the number of people that have been watching these hearings. They are already students of the Congress, but they are even more students of the Congress. And I think those of us who sit here in the Congress, thinking that the American people don't know an awful lot about the strengths and perhaps at this point in time, more importantly, the weaknesses of the institution and how it needs to be improved, they are fooling themselves. American people are paying a lot of attention to what we are trying to do. They understand more than we think about the shortcomings of the institution and what needs to be done.

And I think what they have tried to say about Congress in the last election in various ways, whether we are talking about term

limitations or other sort of protest movements, this is not something that is going to go away.

I think our challenge is to help, working with the people, to challenge us in a constructive way so that the institution is not damaged but is improved as it should be by the process.

So we thank you for being a part of it. We will stand in recess.  
[Whereupon, at 5:50 p.m., the joint committee was adjourned.]



## COMMITTEE STRUCTURE

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THURSDAY, MAY 6, 1993

UNITED STATES CONGRESS,  
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS,  
*Washington, DC.*

The committee met, pursuant to notice, at 9:30 a.m. in room SC-05 of the Capitol, Hon. Lee H. Hamilton (co-chairman of the committee) presiding.

Chairman HAMILTON. The Joint Committee on the Organization of Congress will come to order.

### OPENING STATEMENT OF HON. LEE H. HAMILTON, A U.S. REPRESENTATIVE FROM THE STATE OF INDIANA

Chairman HAMILTON. Today we continue the series of hearings about the House and Senate Committee systems. In the end, approximately 40 committee chairmen and ranking minority members will offer testimony about committee reform and related issues.

This morning, of course, we hear from a panel, but we begin with a distinguished group:

First, Pat Schroeder, Representative Pat Schroeder, will testify about the need to consolidate jurisdiction over children and family issues. She will be joined by Representatives Carrie Meek, Carolyn Maloney, and Cynthia McKinney.

After them, we'll hear from Chairman Sonny Montgomery of the Veteran's Affairs Committee;

And Congressman Charlie Rose, the Chairman of the House Administration Committee;

Then, Congressman Norman Mineta and Congressman Bud Shusters, Chairman and ranking minority member of the Public Works Committee;

Then, Congressman Henry Hyde who will discuss proposals for a Joint Intelligence Committee;

And he will be followed by Congressman Pat Roberts, the ranking minority member of the Agriculture Committee.

We are very pleased to have this very distinguished group before us.

The first witness this morning is Congresswoman Pat Schroeder. She's the former Chair of the Select Committee on Children, Youth, and Families. She's been a member of the House since 1972. She serves on the Armed Services Judiciary and Post Office and Civil Service Committees.

And, as I mentioned, she will be joined by Representatives Meek, Maloney, and McKinney, who, as I understand it, will also have brief statements.

Well, we welcome all of you before the committee this morning. Representative Schroeder, you may proceed.

**STATEMENT OF HON. PAT SCHROEDER, A U.S. REPRESENTATIVE FROM THE STATE OF COLORADO; ACCOMPANIED BY: HON. EVA CLAYTON, A U.S. REPRESENTATIVE FROM THE STATE OF NORTH CAROLINA; HON. CAROLYN MALONEY, A U.S. REPRESENTATIVE FROM THE STATE OF NEW YORK; HON. CYNTHIA MCKINNEY, A U.S. REPRESENTATIVE FROM THE STATE OF GEORGIA**

Ms. SCHROEDER. Well, Mr. Chairman, first let me say Congresswoman Meek couldn't be here, but we have the distinguished president of the freshman class, Eva Clayton, who we couldn't do any better than.

And I am so pleased to have this new freshman class because focusing on children and families has been one of their main things, so we're really pleased.

And, Mr. Chairman, if you don't mind, I will ask unanimous consent to put my statement in the record.

Chairman HAMILTON. Without objection, that will be done.

Ms. SCHROEDER. And I just want to say that we're hear to shake things up a bit and hope that when we get done and we have reorganized, kids are going to have a lot better deal in this Congress.

When I last appeared in front of this committee, the Select Committee was still operating. Normally, you expect them to do away with a committee when things are better and you don't need it.

Unfortunately, the status of America's children, America's youth, and America's families are worst than ever before. Meanwhile, we did away with the Select Committee.

That's why I think it is so critically important that this committee come up with something where this Congress is got a way to focus on this much better.

I brought this chart just to try and show you how scattered the jurisdiction is for children. Now if you're a banker and you come here, you can look and figure out which committee to go to; if you're in the military, you know which committee to go to; if you're a farmer, you know where to go.

If you come and you're concerned about family issues, children's issues, youth issues, there is not a committee or a subcommittee on the Hill with that in its name. And trying to find your way through this maze is absolutely a nightmare.

I really hope if we can have a committee on natural resources, I would hope we could have one on human resources. It would be a great place to put an often lot of this jurisdiction, and I would hope that—I guess this is my Mother's Day wish—is that we do something real, something real around here to finally put kids' issues front and center.

The Congresswoman's Caucus has been very concerned about this, and we have appointed Cynthia McKinney as the Chair of our Task Force on children because with the Select Committee's

demise, we fear that it's just going to fall off the chart. And we honestly think that the worst case scenario is the status quo.

So we really hope that this can be done.

I also think the climate is going to be easier to do this in because with congressional campaign reform coming, we can finally do something on this order I think.

One of the biggest problems of focusing on children and youth, families, is they don't have political action committees; they don't have Gucci-shoed lawyers; and they don't have—they don't even vote.

So, as a consequence, they're the first things usually to get dropped. Everyone tends to talk about them in campaign rhetoric, but when it comes down to really doing something, we've left the jurisdiction scattered among 13 committees. And when you look at how it's set out, and when we saw the history of what happened with the child care issue in this Congress, we understand how that scattered jurisdiction doesn't do anyone any good.

We ended up passing both committee's bills that had jurisdiction over this, and, as a consequence, it sent a very confusing message.

So I would hope that if we do a major overhaul, we could look at something like a committee on human resources that would deal with aging, and it deal from birth to aging, and everything in between dealing with those kinds of issues.

If we can't, at least we ought to have some subcommittees on children in some of these major committees that have this jurisdiction and youths so that people at least can find a committee with that name in it so they would know where to go. And no matter what, whether we do the major reform or the minor reform, I would certainly hope that we could come up with a congressional council on family.

We have a new proposal for this, and that is basically staffing it with the different committees that have jurisdiction over these issues. But this has not been a family friendly Congress, never has been. It's not a family friendly city, we don't have family friendly work places, family friendly tax codes, or anything else. And I would think that if we had some way to do this with this council on families coordinating the different committees, maybe we could make it much better.

I must admit I got part of that idea from Congressman Dreier because he was here when I testified the last time and suggested that we do a comprehensive overview. So I would certainly hope that could be done. It would be something new and something we have not tried before, but I think it would help. You don't need a lot of staffing, but you would have a lot of coordination—what an unbelievable idea for the Congress.

Let me stop and yield to the gentlewoman from New York. We're happy to have with us since she's getting ready to do markup on the RTC, so we need to get her in and get her out. But we're very honored to have her, and let me turn it over to Carolyn Maloney.

[The prepared statement of Ms. Schroeder is printed in the Appendix.]

Chairman HAMILTON. Ms. Maloney.

Ms. MALONEY. Thank you, Pat. Thank you, Mr. Chairman.

Mr. Chairman—

Chairman HAMILTON. May I interrupt you. I can't see your chart because I've got bright light right behind it. I wonder if we can move that chart a little closer in so we can get a good look at it here. I apologize for interrupting you here.

Ms. SCHROEDER. Well, it's a winner. You can imagine if you came here to talk about those issues, I'm sure you could figure immediately where to go.

[Laughter.]

Chairman HAMILTON. OK, thank you very much.  
Representative Maloney?

**STATEMENT OF HON. CAROLYN MALONEY, A U.S.  
REPRESENTATIVE FROM THE STATE OF NEW YORK**

Ms. MALONEY. Thank you, Mr. Chairman. I am delighted to join Congresswoman Schroeder and Eva Clayton, president of our class, in appearing before this committee today.

I am here this morning because America's children are our most precious resource and because they are in serious trouble. Children are our poorest Americans. More than one in five live below poverty. Yet, when you look at the House Committee structure, children do not appear to enjoy the same status or level of concern in Congress as the merchant marine or the post office.

Clearly, we need to set new priorities and reform our committee structure to reflect the growing needs of children and families—not just in campaign literature, not just in rhetoric, but in the organization of Congress.

As a freshman member of Congress, I was appalled earlier this year, I would say startled, when I tried to explain to children advocates visiting my office the crazy quilt of congressional committees assigned to children's issues. This chart that Pat brought shows where it is all over Congress, and it's very difficult to focus attention and resources with so many of the children's concerns in so many different committees.

On foster care, you go to Ways and Means Committee; on juvenile crime, you to go Judiciary; on child care, I discovered it's not clear where you go. I am still looking.

As Congresswoman Schroeder has pointed out, two separate committees last year drew up two separate bills on child care support. It was the epitome of waste and duplication of effort. It hinges on the ridiculous. Even worst, it is still not clear which committee has oversight authority of child care funds being spent in our cities.

Day care advocates recently informed me that New York State received \$54 million in Federal funds for day care slated for New York City, but created only 212 new day care slots in New York City with that money.

Clearly, this is an issue that is worthy of oversight; it is worthy of follow up, but which committee in the House should do it? I am still looking, I am still working on trying to find the jurisdiction to look at where this money is being spent on what was considered by many women in this country one of the most important initiatives that Congress passed—the Act for Better Child Care. And we certainly not only want to pass important legislation, but make sure that it's implemented appropriately.

I urge this committee to help reset our priorities and seriously consider the options which Congresswoman Schroeder has offered. At the very least, we need to make certain that the House committee structure reflects not only the needs of Congress but also the needs of the people that we represent, including our children.

Thank you very much.

[The prepared statement of Ms. Maloney is printed in the Appendix.]

Chairman HAMILTON. Well, thank you very much, Representative Maloney.

Representative Clayton?

**STATEMENT OF HON. EVA CLAYTON, A U.S. REPRESENTATIVE  
FROM THE STATE OF NORTH CAROLINA**

Ms. CLAYTON. Thank you, Mr. Chairman.

I appreciate the opportunity to join my colleagues in offering support for re-organizing our committee's structure so that children and family issues can be more coordinated in a way that would allow maximum benefit to those of whom they are intended.

For years now we have had a system that distributes the responsibility for the welfare of families and children to a wide range of unrelated agencies, as the chart demonstrates. Following the abolition of the Select Committee for Children, Youth, and Families, we lost the ability to track the progress of governments initiatives that are supposed to protect and ensure the welfare of these vulnerable groups of citizens.

Meanwhile, social and economic indicators that indicate the well-being of families and children continue to paint a picture of neglect and inequality. Over the past 12 years, we have seen more families than ever fall below the poverty line. This, even though many of the heads of household are working 40 hours or more per week.

We have experienced the enormous growth in homelessness with women with children making up an alarming number of that population.

Child abuse and neglect are at their highest level in 20 years, and hunger is still a serious problem of families in this richest nation on the earth.

In addition, we still have infant mortality rate higher than ever before any other industrial nation in the world.

These conditions exist despite the many Federal, state, and local programs already in place to combat and correct these problems. There are committees in Congress that will have the resources to develop the clear cut solution and to get immediate results. The option to re-organize is clearly available to us if we choose to seize this opportunity, and I encourage you to do that.

I fully support the creation of a human resource committee that Congresswoman Schroeder has advocated that would serve as a clearinghouse for all the activities dedicated to the preservation of children and families.

It is not only the doable, but it is also viable. We need only or organize ourselves in a manner that is left—in this atmosphere of change, it is time to take up the challenge of refining this system

that looks out for the most precious resources we have in America—our families and children.

It is not only easy to do. Many people will stand guard over what they consider to be their turf and will wage a fierce battles to protect whatever powers they image comes in their territory.

To those people, I say, think not only of yourselves or what you will lose in the process; think rather of the children and the families who will gain from the willingness of you to change and make things better.

I thank you, Mr. Chairman.

[The prepared statement of Ms. Clayton is printed in the Appendix.]

Chairman HAMILTON. Well, we thank you. The three of you make a very, very strong case.

We'll proceed with questions and begin with Mr. Emerson. We'll call members by order of arrival.

Mr. EMERSON.

Mr. EMERSON. I defer to Mrs. Norton.

Chairman HAMILTON. Mrs. Holmes-Norton.

Ms. NORTON. Thank you very much, and I very much appreciate this testimony, which focuses on an issue that has a rising concern in the country but has been elusive as you indicate.

First, Representative Clayton, as an issue of the freshmen class, does your testimony mean that the freshmen class supports the notions that were in Representative Schroeder's testimony.

Ms. CLAYTON. Yes, it does. Now they have not indicated the specifics of it. They feel very strongly that Congress is not family friendly, and has encouraged the consideration of this committee to find an appropriate place for those issues.

Ms. NORTON. Congresswoman Schroeder, the idea of this creative idea of a council kind of Lords of the Children, the members, the Chairs of these committees—I'd to ask you, however, whether you think that because they sit in the same room and regard themselves—at least at the level of the council—as a coherent group, that that will necessarily mean that there will be less competition among them for multiple referrals for primary jurisdiction?

Ms. SCHROEDER. I would hope so. I hope that an awful lot of our problems on this issue has been we haven't found a place to focus it.

Let me just give you an example of this:

As I say, first I hope we streamline the jurisdiction so there won't be as much overhanging jurisdiction, and, hopefully, it never comes out as confusing as this chart. But if you then have this council of the chairman and the ranking members and their staff all sitting together, and let's say you're taking on child support enforcement, one of the areas that we found out there's problems is in bankruptcy. But if you're going to do bankruptcy reform, probably the last group that's going to come are families talking about people getting out of child support and bankruptcy.

What happens is corporate America comes in with their viewpoint, consumer America comes in with their viewpoint, and you have this huge thing.

What we find, or what the Select Committee found, is if you can tell the committee members what the issue is, then they're very

sympathetic and they're very apt to incorporate it. But somehow because families have not been able to afford the lobbyists or to have the professional folks here helping them get through that, they need one place that's kind of a one-stop-shop to talk about those problems. And then I really find most members are very sympathetic and would like to do something about it if they can be directed.

Ms. NORTON. So you see it at least as a way to get the family into some jurisdictions that would not ordinarily consider family issues?

Ms. SCHROEDER. Well, and look at the tax code. I mean, we've still got the marriage penalty there, we've still got all sorts of problems there. But, you know, when we rewrite the tax code, families aren't probably going to get in front of Ways and Means.

Ms. NORTON. If you had your first choice, a committee, how would you deal with very specialized issues? I mean, if, some of the issues involving children, for example, resonate with tax consequences, would you really expect Ways and Means to defer to this new children's committee when it came to tax issues affecting families and children?

Ms. SCHROEDER. No, but I would hope—obviously, what our hope would be is you would take this human resource committee and it would start with the core jurisdiction pretty much of Education and Labor, and then add on some of the jurisdictions scattered all over.

Clearly, you're not going to be able to take tax jurisdiction away from Ways and Means, and there will clearly be other things that will impact on families. But the hope would be is if you have the chairman and ranking member of Ways and Means on this council on families, and you try not to make it burdensome. In other ways, we would say you can never have more than one hearing a month, and it's staffed by the staffers except for a core staff of five that kind of coordinates it.

I think when people got together and said, well, let's have a joint hearing on how tax policies are impacting on families or whatever, I think that that would be a way to get in to educate, to have a forum, to explain it. And it's very difficult to get in otherwise or to have a place to go otherwise.

One of the positive things the Select Committee found is we kind of served that function, and most people were very willing to listen once you got the data to them. But it's just a very hard process in these crowded hearing schedules with so people competing for time. Families have no idea or children's advocates have no idea where to go, and, I mean, this is going affirmative in saying that if we're educated and we understand, we'll change our behavior. I think we will. I think we will be more family friendly if we hear from them.

Ms. NORTON. Finally, the example you gave of the two—was it two child support bills?

Ms. SCHROEDER. Two child care.

Ms. NORTON. Two child care bills.

Ms. SCHROEDER. The ABC bill.

Ms. NORTON. What is there or what was there that would keep these two committees right now from working together having joined hearings and putting their staffs together? And why—you know, assuming that this committee might have some difficulty

with more radical proposals in the sense that we got to get them accepted by the House and the Senate, is there a way in a situation such as you describe simply to get committees to work together, preserve and husband their own person power, and get the job done?

Ms. SCHROEDER. That was one of the most frustrating periods for me when we went through that whole child care thing, and you do ask the question you asked—why didn't they just get together?

I think at that time when you split the jurisdiction over child care between two full committees, it becomes a massive turf war. And that's why I hope when we end up with this, we won't be split between two committees. We would have child care all in one, and we don't split those kind of jurisdictions because it's so essential that only one have authority.

Otherwise, unfortunately, I think it's the nature of the beast here that people get into the fight for turf and never want to yield the jurisdiction. But my hope would be with a council on families, clearly you have a committee that's fully in charge of taxes, and a committee that's fully in charge of human resources, and a committee that's fully in charge—if they're all meeting, they're not quite challenging each other's turf in the same way, if I'm being clear. It's not like you're splitting the jurisdiction, but you're trying to coordinate the jurisdiction. And, hopefully, that's a distinction with a difference.

Ms. NORTON. Thank you very much, Pat Schroeder, and thank you, Mr. Chairman.

Chairman HAMILTON. Mr. Emerson.

Mr. EMERSON. Thank you, Mr. Chairman.

Pat, I would like to ask you a question based on perspective. You've been around here a long time. Were you elected in 1972 or 1974?

Ms. SCHROEDER. 1972.

Mr. EMERSON. 1972.

Just prior then to the sweeping changes in the House that precipitated a lot of the issues that we are in this committee now trying to address, and I'm wondering what from your perspective of two decades in the House were the principle mistakes of prior reforms?

That's a big question, and our time is limited but give me a couple of ideas.

Ms. SCHROEDER. Well, I can't help but think in looking at prior reforms that how we raise money didn't have a lot to do with how we reformed the place.

In other words, I've always thought that part of the reason families and children are spread all over the map is that when you go to get re-elected, you don't really want to talk about some of the things that maybe you did, that you raised the most money. But you can always talk about what you did for kids, so everybody would like a nice little piece of what they could for kids, or what they could for families, or whatever.

But nobody wants to talk about how hard they worked to get a special tax break for someone, or how hard they worked to get, you know, some special legislation through.

So people kind of like to have jurisdiction that was a little more fuzzy I think so that you could have things that they could get



pacts to pay for, and you could have things that you could talk to the voters about. And sometimes they weren't the same thing, unfortunately.

All you have to do is look at—I have one of these reports of the open secrets, the Encyclopedia of Money and Politics, and, if you don't have this, I'd be happy to share it with you. But it really fairly awesome of how the money came out.

That's why I say with campaign reform, hopefully, coming down the same track, we no longer have to be worried about are we on a committee that would have a lot of pact help. And we can be worried about are we on a committee that has a core of interest we're really concerned about, and those interest comes together and make sense, if I'm being clear.

Mr. EMERSON. Well, you know, I would ask further, do you think that the proliferation of subcommittee government and the dispersal of broad power throughout our institution has been as beneficial to the legislative process as some of the earlier reforms might have hoped for?

I'm thinking about the great proliferation of subcommittees, which has occurred over the course of the past—well, it really happened in the 1970s but until just this past January, I don't know that there's been any effort to restrain it. I think that the proliferation of subcommittees, would that not operate in favor of your ideas about the dispersal of power?

Ms. SCHROEDER. Well, interestingly enough, we've had the proliferation so that there's now about a hundred committees and subcommittees in the House, but still none of them say anything about children, youth, or families. There's not that in one title.

So, for all this proliferation, isn't it interesting that never became a core interest of any of these? So that's troubling.

But, secondly, as you know, we luckily have done something about the proliferation by limiting committees now to six, and I assume that this great committee is going to look at that issue and try and bring it back.

I must say, though, there also has been some of the reforms that have been very positive. When the now Chairman of the Armed Services Committee and I got on Armed Services—we got on in the same year, 1973—the full committee chairman wanted neither of us. He had never had an African-American or a woman. All of the hearings were closed at that time, so we've now opened those up, and he would not allow more than one chair for the two of us to share. We literally shared a chair and close session for 2 solid years because he didn't think either one of us was worth being a full member.

So there's been some reforms that people like Congressman Hamilton worked on very hard to get through for some of us, and those I've appreciated very much. It was a very tough 2 years.

Chairman HAMILTON. We've got a chair for you, Pat.

[Laughter.]

Ms. SCHROEDER. Thank you, I get a whole chair now.

Mr. EMERSON. I see my time has expired. Thank you, Mr. Chairman.

Chairman HAMILTON. Mr. Allard.

Mr. ALLARD. Thank you, Mr. Chairman.

It's a pleasure for me to welcome my colleague from Colorado to this committee, and I appreciate hearing your comments.

One of the things that I'm particularly concerned about is streamlining the process. I really think we have too many committees, I think we have overlapping jurisdictions, and I think we have proliferation of too much staff on the Capitol. So we have plans before us that are consolidating these committees, and those have a special appeal to me because of where I'm coming from.

Your comment that you made—and I hope I took this down correctly—you said if we could have a committee on natural resources, I would hope we could have a committee on human resources.

One of the proposals that we have before us that brings us down to eight committees has a committee on natural resources and has a committee on human resources. The problem with too much consolidation, and then you get consolidation of power and people are concerned about that. But we are meeting your request for a human resource committee.

I'm wondering if you would respond to that.

Ms. SCHROEDER. Well, Congressman Allard, I'm really pleased that you talked about that because I think when you look at this chart and when you look at the hundred committees and subcommittees we do have, it's interesting with all this dispersal and all this proliferation, we still haven't focused on probably the most important natural resource this country this has—it's human resources.

And so that's my real plea is that, yes, I think we should consolidate and we have a lot of jurisdiction affecting them, but it's spread all over the map. You know when people here from Colorado come and you show them that, they kind of throw up their hands and have no idea where to go.

So I think that if we could consolidate and make it clearer where the jurisdiction is—it's really like opening up government; it's almost like opening up the Armed Service Committee and allowing public hearings; the chairman could no longer do those kind of things. This kind of opens it up so people know exactly where to target their request or their issues of oversight, as Congresswoman Maloney talked about.

Mr. ALLARD. And you would be comfortable with bringing it down to eight committees with your human resource committee?

Ms. SCHROEDER. Well, I think the human resource committee becomes very important. I have not seen the plan for the eight committees, but I do think consolidation is a good idea and concentration of issues is also a good idea so that it's user friendly by the public.

This is not user friendly at all.

Mr. ALLARD. And with the—well, my time has run out. I had another question, Mr. Chairman, so go ahead. I'll pass back to the Chairman.

Chairman HAMILTON. Mr. Dreier.

Mr. DREIER. Thank you very much, Mr. Chairman, and thank you again, Ms. Schroeder for your very helpful testimony. And I want to, as I did last time, congratulate you for having handled the transition of your committee so extraordinarily well. I know it's

been a difficult time and a challenge for you, but I do congratulate you for having handled it as well as you have.

Let me just tell you a little bit about this plan to which Mr. Allard referred a few moments ago, and it is the plan of the 14 that have been submitted to us by the Congressional Research Service that deals with this human resources question.

By the way, I should say parenthetically that as I look at the 13 committees that have jurisdiction over this, we have not taken it on to the Rules Committee. I just want you to know that, Pat.

Ms. SCHROEDER. You're one of the few.

Mr. DREIER. Although some would argue that we have jurisdiction over everything there.

But I think that the plan that has been submitted is one which does deal with this question of human resources. What other committees that we presently have—you mentioned Education and Labor—would fall under the rubric of your human resources committee?

Ms. SCHROEDER. Well, basically, we're talking about pulling some of these things down. Obviously, we would hope that the social services issues would come in.

In other words, foster care is now under Ways and Means. That's an interesting place for it to be, but if you're caring about child abuse, child abuse is under Education and Labor, and foster care is under Ways and Means.

Now those two things are very interconnected because if you find a child being abused, you tend to want—you know, foster care is where they go.

So that kind of diffusion—we have got it much more specifically laid out, and I will give you a copy of all of that. But we also talk about putting the child and family nutrition programs in, if possible. That seems to make sense.

We would put juvenile justice in there, which is now in the Judiciary Committee, but it's a very important part.

Mr. DREIER. I guess what I'm asking is if we were to do this and the Education and Labor Committee were to be folded under the Human Resources Committee, what other standing committees would we be able to basically put totally under the Human Resources Committee, rather than simply taking individual items from those?

Ms. SCHROEDER. Oh, I see what you mean. I'm not sure that there's—we don't fold any full standing committee. We could put Ways and Means in there. That would be very interesting, but I have a feeling—no, I'm being facetious.

I don't think there's a full committee that you could put in, but you could certainly clarify the jurisdiction of the remaining seven or however many you have so that there wouldn't be the overlap.

You would be obviously streamlining and cutting down a lot of these, and I don't know how you would be organizing some of the other issues. I'm sure there's a lot of other issues that cut across all.

But I must tell you, the Select Committee has been out of business, obviously, since the end of April. And this morning we just looked at the mail; boxes of mail are coming to my office now. You

can imagine what a thrill that is to get your regular mail plus all the mail for the Select Committee.

But it does tell you that people don't know where else to go to figure out this thing.

Mr. DREIER. As we look at—there are several other plans, by the way, that have the idea of a human resource committee. And the one thing that I would say is since you last testified, we have had these 14 plans put before us, and I would like to ask you to take a look at those proposals.

Ms. SCHROEDER. I would be happy to.

Mr. DREIER. You're ranking member of the Armed Services Committee and one of the proposals that have come before us is the concept of elimination of the Appropriations Committee, and there are many people who are authorizers who have advocated that. I know that we have witnesses who will be coming forward later today who are strong proponents of it. I found that out from private conversations I have had with them.

What are your thoughts as an authorizer about the prospects of eliminating the Appropriations Committee? And this will be just between us. I won't let any of my friends in the Appropriations Committee hear your answer.

[Laughter.]

Ms. SCHROEDER. Well, I do think one of the great challenges that we've all had, the frustrating experience that we keep adding a layer. Because we haven't been able to get the budget under control, we add in the Budget Committee. So you go to the Budget Committee, then you go to the Authorizing Committee, then you go to the Appropriations Committee. And we have the same year; we weren't able to add another third on to the end of the year.

So all we do is compress what we used to do in two steps, and now we got three steps compressed into the same time. And my question is, do we produce a more thoughtful product? I don't think so. I think you do better to have two steps.

Now whether you opt for the budget and authorizing, or the authorizing and appropriation, is a very good question.

Mr. DREIER. So you're going to leave that decision to us?

Ms. SCHROEDER. Well, no, I mean, I would like to study the different plans and see what happens. But I certainly understand why that's a very important decision because I don't think—you know what will happen. Somebody will come in and try to put another one on, let's have another one, and you just can't keep doing that.

So if you could in this process eliminate one of those steps and get it down to two steps, I think it would be very important. And whether you look at the top budget one or the bottom appropriations, I don't know.

I must say on Armed Services, I will be very candid—we have been very frustrated sometimes by the Appropriations Committee and have been in the Speaker's office many times because what we've done in authorization, they very often want a line item and change. And you kind of think, well, why did we bother? What was the point? And I think we've got to find some way that we're all singing from the same book.

Mr. DREIER. Thank you very much. I appreciate it, and one idea is that we could move from three down to one step too.

Ms. SCHROEDER. That's true too, and maybe—that would really streamline it. I also thank you for the idea of the council on families. I think that might work.

Chairman HAMILTON. Pat, I've been told that the various proposals on committee jurisdiction are close to you there. You might take a look at them, and give us your reaction in the future some time and how it fits in with your testimony.

Ms. SCHROEDER. I'd be happy to.

Chairman HAMILTON. I see that Chairman Montgomery has arrived. We'll go to Mr. Spratt and then conclude.

Mr. Spratt.

Mr. SPRATT. Just to thank Pat for testimony that I think is timely and we need to take it to heart as we look at committee restructuring, and, particularly, with these joint committees. If we abolish them, we've got to find a place to assign these responsibilities, and this is an opportunity to concentrate to give them logically to one committee that has primary focus for it.

Ms. SCHROEDER. Thank you.

Chairman HAMILTON. Pat, I want to just make one comment.

The dividing line on the witnesses is on the question of—on this committee jurisdiction question is those who want us to be bold, as you say in your statement—that's the word that stood out to me in your statement—and those who want us to keep basically the same structure.

Your saying to us today that you would like to see this committee make major change in committee jurisdictions.

Ms. SCHROEDER. We're for bold.

Chairman HAMILTON. You're for bold.

[Laughter.]

Chairman HAMILTON. Thank you very much. We appreciate it.

Ms. SCHROEDER. Thank you.

Chairman HAMILTON. The next witness is the Chairman of the Veterans' Affairs Committee, our friend, Sonny Montgomery.

Sonny, we're delighted to have you here. We appreciate your willingness to join us for a few minutes this morning to testify, and you may proceed, sir.

**STATEMENT OF HON. G.V. (SONNY) MONTGOMERY, A U.S.  
REPRESENTATIVE FROM THE STATE OF MISSISSIPPI**

Mr. MONTGOMERY. Thank you very much, Mr. Chairman, and members of this great Select Committee.

I think my remarks are about seven or eight minutes, and I'll try to move right along. Mr. Chairman, I'm glad to see some of our veteran organizations are here today representing all the veteran organizations which generally support the testimony that I will give.

Chairman HAMILTON. We welcome them too, and thank you for your comment observing that they are here.

Mr. MONTGOMERY. You indicated your focus at this series of hearings would be committee structure. I will, as I said, summarize my remarks and ask that my full statement be put in the record—

Chairman HAMILTON. Without objection, so ordered.

Mr. MONTGOMERY. —including copies of three letters.

Chairman HAMILTON. Without objection.

Mr. MONTGOMERY. Some members of the House and Senate as well as a large part of the general public believe there should be comprehensive changes in the way we conduct our business. Numerous proposals have been discussed, and I agree that there should be some change in the make up of committees.

However, Mr. Chairman, I am not one among those who believe that radical changes are needed. Although many of us sometimes are frustrated with the way the House conducts its business, I believe the system works. I'm satisfied with the system we have now.

I think the leadership does a good job of scheduling, and I probably stay as much time as any member on the House floor, as several others here do too.

Having one week off and working long hours during the other weeks of the month really, in my opinion, doesn't help members. It doesn't work very well in the United States Senate.

Facing the complex issues we must deal with, I believe the House is quite efficient. With limited debate and specific rules governing debate, committee leaders and the House leadership move a significant number of bills through the Congress.

For instance, the 102d Congress was very productive for veterans. The House considered more than 30 veteran's bills which resulted in 24 new public laws affecting veterans' benefits and services.

And there is great cooperation among the committees. A couple of years ago we moved a comprehensive crime bill through the House which involved six or seven committees. We enacted the Desert Storm benefits package in 1991. It involved several committees, and last year we enacted the Economic Conversion package that required input and cooperation from several committees.

This year we have adopted the budget and are now working on the reconciliation bill. The House quickly moved the economic stimulus package submitted by the president. We moved it through the House.

So I am not really among those who think the House structure needs major work or that efficiency is solely lacking.

Mr. Chairman, I am especially concerned about prior testimony before this committee proposing consolidation of committees—and I guess I'm like other chairmen—and elimination of several minor committees, including the Veterans' Affairs Committee.

One of the CRS options presented to the Joint Committee would place veteran's programs under a massive human resources committee; another would split and distribute the jurisdiction of Veterans' Affairs among several other committees.

In roll call last week someone suggested that all veteran's programs be placed under the Armed Service Committee. Armed Services already oversees the largest budget in the government. It would make sense—would it make sense to place the second largest department, which we are, with 260,000 employees under Armed Services as a large subcommittee? Would veteran's programs be given the same attention? Would a single subcommittee be able to provide proper legislative and oversight attention to all V.A. programs including—we handle housing, employment, education, compensation, pension, insurance, and medical systems, which is com-

prised of 171 medical centers and hospitals, more than 350 outpatients into clinics, nearly 200 psychological counseling centers, and we have numerous nursing homes.

Our budget for medical care is \$15 billion for this next fiscal year, we have 59 regional offices that administrate benefit programs at \$16 billion, and we have one of the largest educational programs. We do all of the education for the military—most of it anyway.

We operate 114 cemeteries across the nation, and we administer one of the largest home loan programs, and we have the largest insurance program in the country.

To advocate that veteran's programs as a whole be demoted entirely to a subcommittee and represent 27 million veterans, it just won't work. So I know this committee; I have confidence in it that you will not overreact in this area.

Part of the problem with the current system could be that some committees may be too large. Rather than increasing the size of committees, the Joint Committee might want to give some thought to making them smaller. Committees should be limited to five subcommittees. I also believe that members should serve on no more than two committees and no more than five subcommittees.

This might surprise you a little, but I would have no problem with prohibiting full committee chairpersons from chairing a subcommittee. These kinds of reforms will allow new members to become more actively involved in debate on the issues and would allow them to gain leadership positions more quickly.

I really don't have a major problem with the matter of jurisdiction. I have worked closely with other committee chairpersons, and seldom do we have any difficulties resolving our differences. We talk it through. About the only problems is raising points of order on the appropriation bills. It seems the problem involves conference reports with the other body.

On many occasions the Senate will incorporate legislative language in its appropriation bills. Too often this language remains in the conference reports when it's sent back to the House.

Many of the standing committee chairmen feel the same way I do, and this is a concern we have.

Rather than restructuring committees, I would hope this committee would ask for an explanation—and this is just a suggestion—why does the House and Senate need two fare employment offices? Why do we need two payroll offices? Why do we need two computer centers, two purchasing offices, and two page schools?

There certainly could be improved cooperation and coordination between the two bodies for more efficiency and save some money.

If some of these recommendations are pursued, I believe the House and Senate would be more efficient and the tax paying public would be better served.

Finally, Mr. Chairman, I want to associate my remarks with Senator Jay Rockefeller who testified before this committee last week. He mentioned bipartisanship, he mentioned that our committees work well together, we have the same jurisdiction in the Senate and the House so that we don't have any problems on that.

You have a tough task ahead of you, and thank you for giving me this opportunity.

[The prepared statement of Mr. Montgomery is printed in the Appendix.]

Mr. DREIER [assuming Chair]. Thank you very much, Mr. Montgomery. Your testimony has been very helpful, and I appreciate your ideas on consolidation of some of the areas of duplication that we see between the House and the Senate. That's very helpful advice.

I also want to say to you that we very much appreciate the commitment that you have made to the cause of fellow veterans of yours throughout this country, and your work is obviously well recognized, demonstrated by the presence of so many people here today.

Mr. EMERSON.

Mr. EMERSON. Thank you, Mr. Chairman.

Chairman Montgomery, you've given a very excellent statement here, and you've referred to some matters that I would like to pursue because you run a really good committee. Everybody knows that. This committee might not have even been created if all of the committees of the Congress functioned as well as the committee that you run does. It's a tight committee, nobody hears of any profligacy there, any waste.

One of the innovations in the committee system that's been raised during the hearings of this committee is the practice of the Veterans' Affairs Committees, the House and the Senate, holding joint hearings.

Do you do a lot of that, and how do you determine what subjects should be considered in joint hearings? How do you make those determinations, and what would your advice be to other committees of the Congress on the holding joint hearings?

Mr. MONTGOMERY. It works well. We either meet one year on the Senate side and the other year on the House side—mainly when the veteran's organizations come into testify. And we'll have joint committee hearings on that. But actually getting into the legislative programs or how we might vote on bills—we don't have joint hearings on that.

But working with the Senate, it saved a lot of time for not only the veteran's organizations having to testify in both Houses, but it helps us a lot. And the Senators come over, or we go over there, and we get to know them better.

Mr. EMERSON. So in the big picture subjects you hold joint hearings, and I think an added benefit of that is that Senators and Representatives can then come from the same common base of understanding because obviously if you're holding joint hearings, you've got the same witnesses and you don't have conflict in testimony.

Mr. MONTGOMERY. That's a good point, and then we see really where the Senators might be coming from. And if we didn't have the joint hearings, some of the problems they have with some of the legislation that the veteran organizations are asking to be implemented—it works well, and I've really enjoyed working with Senator Rockefeller. He's been very cooperative, he's taken a great interest in it. We've had some problems over the years in that the Senate hadn't shown that much interest in the Senate Veteran's Affairs, but it's been a pleasure working with Senator Rockefeller and also Senator Murkowski from Alaska.



Mr. EMERSON. You know, another subject area for which I think your committee is unique, it's my understanding that you have no proxy voting in the Veterans' Affairs Committee, and I think that's admirable. This is a subject that is being raised quite a bit here as to whether there should or should not be proxy voting.

The chairman of the Small Business Committee in testimony here earlier this week said that his committee couldn't get along without proxy voting. Yet, you get along without proxy voting.

How do you do that?

Mr. MONTGOMERY. Well, first thing, we start on time. You know, I put the clock—it's on me now—and when 5 minutes is up, that's it. Some of them don't like it, but they get there on time. No matter what type of meeting it is, they get there on time, and we probably—when we call the roll, we probably have 85 to 90 percent of the members. Of the 35 members we have, I would say—they come because they know we don't have proxies.

I would hope—I don't know why I didn't put this in my remarks—I would hope this committee would consider no proxies.

We don't have any problems with it. It makes members come.

Mr. EMERSON. I think it's very admirable. I think it's a good way to function.

I see my 5 minutes has expired, Mr. Chairman, and I want to abide your rules.

[Laughter.]

Mr. DREIER. Well, thank you very much, Mr. Emerson.

Let me say that this committee has a degree of latitude, and the time frame here has actually been 3 minutes, Mr. Chairman. So we're extending a little latitude.

Mr. EMERSON. Oh, well, then I have some more questions.

Mr. DREIER. Right.

Mr. Spratt?

Mr. SPRATT. Sonny, I know you don't even want to entertain the thought, but let me just pose a hypothetical to you.

Suppose the committee decided that we were going to radically reorganize the committees of the House and downsize the number of standing committees considerably, and consolidate your committee somewhere else. Now I'm not proposing it—don't get me wrong—I'm not even supporting it, but just to get your input.

I take it you would—well, would you prefer to see your committee, all of its jurisdiction, placed one place like the Armed Services Committee as opposed to having health care one place, and educational programs one place, and housing another place. Do you think if it is to be consolidated at all, it ought to be consolidated as a whole as opposed to being broken up into pieces?

Mr. MONTGOMERY. Oh, I certainly do. I think you'd have to make a subcommittee and let it handle all the jurisdiction. We don't have any problems, as I said earlier, with other committees. I hadn't thought it through that far—

Mr. SPRATT. You don't even want to fact it. I understand.

Mr. MONTGOMERY. I think you just have to have one big subcommittee.

I would like to point out though if you would do this—sometimes these veteran organizations can really stir up a lot of folks, and,

you know, you've got to consider that; of getting your whole program through.

So I hope that would be consideration too that if you make it a subcommittee, a lot of subcommittees floating around, you're probably going to have some problems, John, even getting this legislation through.

I could be wrong. I've missed it a lot of times up here before.

Mr. SPRATT. You're usually right, though.

Thank you very much for your testimony.

Mr. DREIER. Thank you very much, Mr. Spratt.

Sonny, you have talked about the success with which you have dealt with the issue of Veteran's Affairs. Parallelism is something that's being discussed here. You've worked—you said you had some problems in the past with the Senate, but you've had a very good working relationship with Senator Rockefeller.

You also serve on the Armed Services Committee. There are other committees that have some real conflicts with the Senate when it comes to legislative jurisdiction.

I wonder if you have any thoughts about the prospect of this committee putting into place a proposal that would establish parallelism all the way across the board between the House and the Senate?

Mr. MONTGOMERY. I think, you know, from having these joint hearings and, of course, another thing, we are both small committees and we can all get in one room and work together—

Mr. DREIER. You said you have 35 members and how many senators are there?

Mr. MONTGOMERY. Yes, about that. There are about eight or nine.

And so we can get together. I can see on the larger committees of the House—I don't know whether you could have parallel or could have joint hearings or not, but I've always been since the twenty seven and a half years I've been up here—and I learned this in the state legislature—down in the Mississippi legislature, we would walk across the capitol maybe once or twice a day and talk to the House members or the Senate members.

We don't do that up here. We never—I've never seen any House members on the Senate floor watching legislature over there. It's kind of like they're in another town or something, and it's kind of partly both Houses fault. We don't really get together, we don't—

Mr. DREIER. Some members of both Houses prefer it that way.

Mr. MONTGOMERY. Well, maybe so, but I believe it would help solve the problem that you were talking about of working together.

Mr. DREIER. Actually, what I'm talking about is basic legislative jurisdiction, not necessarily the idea of joint hearings but having the exact same areas of responsibilities under each.

Mr. MONTGOMERY. I follow you. I'm sorry.

I think that's important. As Senator Rockefeller testified in his testimony, we have the jurisdiction the same in the Senate and the House, and it works very well. We know where we belong and—

Mr. DREIER. Do you think that could work with other committees?

Mr. MONTGOMERY. I think it could. I think it's very important. I would think that should be one of your main thrust.

We serve on the—John Spratt and I serve on the House Armed Services Committee, and we've almost done away with conferences with the Senate Armed Services Committee because you have so many other committees that come in there that a part of the conference report, we don't get much done. In fact, we have three or four on the House side, and three or four on the Senate side. They sit down together, in a conference, in a private room, and they work it all out. That's the only way we can get a conference report out in Armed Services.

It's too much overlapping in jurisdiction, especially in the Armed Service Committee.

Mr. EMERSON. I don't want to interrupt your train of thought, but I think it's an important point. Where the House and the Senate Veteran's Committees have identical jurisdiction, is it not also true that you relate very precisely with the mission of the Veteran's Administration? And the only other entity of the government that you would likely relate to all would be the Department of Defense. Is that not correct?

Mr. MONTGOMERY. That's correct, and about half of our members of the Veteran's Committee are on the Armed Service Committee, and it works well. Sometimes our bills are jointly referred, but not very much.

Like on the educational bill, the Armed Service pays for part of it, and the Veteran's Department pays for part of it. And so we overlap there, but other than that, we're working on a good arrangement with the Armed Service Committee.

Mr. EMERSON. My point here is that this may be a model that this committee should look to because one of the things we are trying to address is the disparate jurisdiction between House and Senate Committees of the same name but not necessarily the same jurisdiction, and the lack almost of any kind of a structure as to how most committees of the Congress relate to the executive agencies of the government. And I think you've got a tight ship there that we need to take a closer look at.

Mr. MONTGOMERY. That's why we don't want much changes, as I testified earlier.

Mr. DREIER. I'd like to ask you, Sonny, the same question that I had posed to Pat Schroeder a few minutes ago.

I know there are a number of proposals that have come forward calling for the elimination of the Appropriations Committee, and there's been a high level of frustration on the part of those who authorize, who see a bill that they could work on for a great deal of time, not pass, and then the Appropriations Committee will basically take on the process of legislating. And it maybe slightly different, or a lot different, than the way the authorizers had seen fit.

So there are more than a few authorizers who have come to me, and I know other members of this committee, and proposed elimination of the Appropriations Committee.

What are your thoughts on that?

Mr. MONTGOMERY. Thanks a lot.

[Laughter.]

Mr. MONTGOMERY. I would prefer that we keep the Appropriations Committee. I would not want to eliminate them. Off the record, I eat breakfast with Mr. Natcher every morning, and that would be the end of that.

[Laughter.]

Mr. MONTGOMERY. But I would not want to eliminate it, and we've had some problems with the Appropriations Committee.

I guess our best trait when we do have some—we go and sit down with these people that we are dealing with in the Appropriations Committee, and, if the staff can't work it out, then I go see that member on the Appropriations Committee that we're having a problem with.

And, as I mentioned earlier, this authorization on the appropriation bills, that ought to stop. But I guess the House Appropriations Committee does the best they can and sometimes they're up against the wall on the Senate, and they do authorize.

Well, they authorize and took \$400 million away from us last year and put it in the space program, and the lady in the Senate did it over there.

You know, that just wasn't right, but it was authorization on the appropriation bill that took \$400 million appropriation and authorization funds from the Veteran's Department and put it on the space station.

Mr. DREIER. Well, I will tell you that a number of us up in the Rules Committee regularly stand up to fight against these attempts to legislate on appropriation bills, and I appreciate your position on that.

Ms. Dunn.

Ms. DUNN. Thank you, Mr. Chairman.

I would simply like to apologize to you, Mr. Montgomery, for coming in in the middle of your testimony. I was, as you well know, detained at an earlier meeting.

And, Mr. Chairman, I would like to ask you if I may enter for the record some of my opening comments, please.

Mr. DREIER. Without objection, so ordered.

Ms. DUNN. Thank you.

[The prepared statement of Ms. Dunn is printed in the Appendix.]

Chairman HAMILTON [resuming Chair]. You get into trouble when you split authority.

[Laughter.]

Mr. DREIER. Do you object, Mr. Chairman.

Chairman HAMILTON. He handled it very well.

Mr. MONTGOMERY. Well, I'm ready to go.

Mr. DREIER. Well, thank you very much, Mr. Hamilton.

Chairman HAMILTON. Sonny, we just want to thank you for your leadership of the Veterans' Affairs Committee. You're a great addition to this Congress. It's always a pleasure to work with you, and we thank you for your excellent testimony.

Mr. MONTGOMERY. Well, thank you, and I hope we were of help to this committee, and I thought the comments and questions were very helpful that were brought up here today.

Chairman HAMILTON. Well, we'll keep in touch with you here as we get down to the serious business of trying to make recommendations.

Mr. MONTGOMERY. My close friend is your staff director, Kim Wincup. He heard I was going to testify today, and he went out of town.

[Laughter.]

Chairman HAMILTON. Thank you very much.

I'm informed that Chairman Rose will be here momentarily, so we'll have just a brief recess until he arrives.

[Recess.]

Chairman HAMILTON. We're very pleased to welcome Chairman Rose of the House Administration Committee before the Joint Committee on the Organization of Congress.

Charlie, we're delighted to have you, and, if you're ready to go, we're prepared to hear you.

#### STATEMENT OF HON. CHARLIE ROSE, A U.S. REPRESENTATIVE FROM THE STATE OF NORTH CAROLINA

Mr. ROSE. Thank you, Mr. Chairman, Mr. Dreier, and other members of the Joint Committee on the Organization of Congress.

I want to thank you for the opportunity to appear before your committee. My comments will pertain only to the House, and I'll mercifully brief.

I've been on the committee, on House Administration, since 1974 and Chairman for the last 2 and a half years. The 102d Congress saw many committee-initiated improvements in the House, and although the Committee on House Administration has been buffeted in recent months by reform enthusiasm and a dose of partisanship, I expect we will soon be on an even keel. All of this experience leads me to a few simple conclusions, and the conclusion is really drawn from the sum total of my service on House Administration.

My first conclusion is, Mr. Chairman, if members want to control their institutions, stable administrative committees are essential.

Why would members need to control their institutions? After all, floor and committee procedures have evolved over the last 200 years. You would think they would be perfect by now.

But they aren't. When they were first adopted and as they have been amended, each chamber's intention was to perfect its operating rules. So why is changing these rules a part of your mandate?

It's because time has a way of distorting things. A tire with a flat spot doesn't drive smoothly. It becomes more out of round with time.

Members and each chamber must have all the tools necessary to carry out their constitutional functions, even in times of limited resources. These tools are not provided through floor or committee procedures and rules. They're provided through laws, and rules, and regulations—all of which are exercises of constitutional rule making, which give members the leadership and each chamber the wherewithal to function.

The tools are made up of staff, and office equipment, and telephones, and the ability to travel, and the use of mailing privileges, and many other resources. And determining what those resources

are, and the proper mix, and how they may be used is not a static matter.

Fax machines didn't exist a few years ago, but today we use them constantly. Video conferencing for committee hearings is here, although in its infancy, it will probably lead to cost savings for the hearing process in the very near future.

What rules should apply? Who should pay? Are there any limitations, or should there be, and so forth?

An administrative committee can respond rapidly to such changes generally through administrative action and legislation where necessary. A flat tire on the legislative vehicle can be easily fixed, and where limited resources are involved, it's members who decide on when and how to fix it.

Last year's House reform gave us a director of non-legislative and financial services who is in place and is working well, and an inspector general, who has not been appointed or even identified at this point. Both were created to carry out policy. But who makes the policy? Who interrupts the policy when questions arise? Can there be exceptions when justified? Who decides on the exceptions? To whom do these employees report?

My answer is that members must decide. I have the responsibility for OKing between two and six thousand voucher entries per week. Most are routine, but there are always a few requiring discretion on behalf of the committee, and that is a member's responsibility—not staff.

Should there be consistency over the years in the way this responsibility is carried out? Would a rotating membership on the committee contribute to consistency?

My experience suggests otherwise, leading me to my next conclusion:

Re-inventing the wheel won't improve it. You must capitalize on the experience of the past. Rotating membership means that less collective experience will be brought to bear on internal administrative needs and problems, many of which are recurring.

For example, every 10 years we have a redistricting cycle. Only someone who was on the committee during the previous redistricting cycle will know how best to deal with allowance problems during the current cycle. Otherwise, you must re-invent the wheel.

A rotating membership means that members become captive to the staff who may not rotate, who carry the committee's institutional memory. And there are fewer and fewer people around this operation today that have a good sense of institutional memory.

Then who is in control? Members or staff? There's a very real benefit to tenure or seniority and experience that brings to the administration of the chambers.

Don't engage change for change sake or simply to address current incumbents. If a leader isn't up to the job, procedural changes won't help, and they're sure to have unintended consequences.

Rotating membership in the business of overseeing the bureaucracy could have another negative impact. My committee has undertaken many internal administrative functions essential to the operations of the House. We reported on the House Bank and conducted the investigation of the House Post Office. We have improved everything from food service, to communications, and computer

services, and we are currently transferring functions to the director of non-legislative and financial services.

And I would add, Mr. Chairman, to this point Mr. Thomas and I have transferred to General Wishart, at the time he requested it, every single function that he asked for. Lately, there may have been one or two things that we held back, but 95 percent of what the General said he wanted assigned to him, that he was ready to handle on his schedule, has been done.

So, in addition to originating internal change, we are responsible for overseeing the legislative bureaucracy day to day. The General is responsible for the non-legislative bureaucracy, and when he needs advice on policy questions, he comes to the Oversight Committee, which is composed of Mr. Thomas, another member on his side, myself, and another member on our side. And if we are not unanimous, nothing happens.

We act as a traffic cop, a brake, and as an originator of ideas and policy, which the bureaucracy then implements.

Your own experience with bureaucracy surely verifies the need for an overseer; administrative committees serve that need. Shouldn't they be comprised of the most experienced individuals in the chamber? Shouldn't those individuals continue to serve and build up institutional experience?

My committee's administrative and legislation jurisdiction is chamber focused. We audit and settle all House accounts, and ensure the proper enrolling of bills. We handle election contests and Library of Congress legislation, and what isn't chamber-based is focused on our Nation's capitol, such as authorizing memorials and overseeing the Smithsonian in its many functions.

Over the last 200 years, this committee has evolved from the jurisdictions of dozens of other committees—the Committee on Accounts, which goes back what the first Congress, the Committee on Enrolled Bills, the Committee on the Restaurant, the Elections Committee—just to name a few. If the House didn't already have a House Administration Committee, it would have to invent one, and, presumably, a stable one to ensure consistent administration of the utilities which support the House and its members.

Bipartisan experiment, my next subject. But I'm not enamored with the status quo, so when the House provided an opportunity to experiment with bipartisan administrative oversight, my ranking minority member and I decided to give it a try. We call it that we are trying to establish an arms free zone in the middle of Bosnia-Herzegovina.

The bipartisan subcommittee on Administrative Oversight has just gotten off the ground. It will take some time to see if we can make it fly, but we're making every effort to keep it in the air. And I'm sure you can appreciate everyone's sensitivity in straying from strict majoritarian principles in the administration of the chamber, and how easily this experiment could fall apart with changes in committee membership and leadership.

But bipartisan does not mean bicameral. I want to make clear that each chamber should continue to control its own resources, administrative and legislative. We really don't have the engineering know-how to build that bridge yet, or, I might add, the political wisdom that would be needed to go along with it.

As you proceed in your analysis, I urge you to remember that reform can't replace leadership deficiencies. Reform isn't a substitute for substance; reform can't compensate for institutional culture, which is constantly changing.

So if you're going to recommend changes to the committee system, particularly the administrative committees, please be careful. Wholesale change is simply unnecessary and unwise.

And let me close by saying that there's no praise—and I don't get paid extra—for ensuring that the members and the chamber are functional. That's certainly true of your Joint Committee's job, and Senator Ford knows that with respect to this job in the Senate.

I would only restate my opening remark that members should control the administrative resources of their own chambers, and there should be consistency so you don't have to reinvest the wheel each time a new Congress is elected.

That is true, if for no other reason, because what you do as a member and how you do it is affected by the administrative resources at your disposal, and that in turn directly affects the legislative process.

Thank you very much.

[The prepared statement of Mr. Rose is printed in the Appendix.]

Mr. DREIER [assuming Chair]. Thank you very much, Mr. Rose. We appreciate your testimony. It's very helpful.

Let me first extend an apology for Chairman Hamilton. As you know, we're having a closed briefing on Bosnia with General Powell in just a few minutes, and it's being held in the Foreign Affairs Committee room, and he is Chairing that meeting.

So he had to leave and asked me to extend his apology, but we appreciate your testimony.

There are a number of proposals that have come forward to deal with your committee that have been offered in testimony before this committee, and, as you know, in many other conversations that we have had.

One of the things that Mr. Montgomery raised just a few minutes ago when he was praising the fact that as a member of the Veteran's Affairs Committee, he's able to work in sync with the Senate. And he went on to say that he finds it very frustrating that we have such an incredible duplication between the House and the Senate in a wide range of areas, and some of those are included here that you have jurisdiction over that I guess are handled separately—equipment and supply operations, telephone operations, computer centers, details for the Capitol Police.

Is there any way as we look toward trying to consolidate this place and cut back on the size of the staff here on Capitol Hill that we could deal with that challenge of the House and Senate?

Mr. ROSE. Yes, I think we should.

One of the things you mentioned, the police. I wish you take a close look at oversight of the Capitol Police. In my humble opinion, it's woefully deficient. There are only three people who are in charge of overseeing the Capitol Police—one is the House Sergeant at Arms, the other is the Senate Sergeant at Arms, and the third person is the architect of the Capitol who has told me very candidly, he ain't about to get between the House and the Senate and that if they can't work it out among themselves, nothing happens.



Mr. DREIER. What would you like to see us do?

Mr. ROSE. Mr. Thomas and I have brought forth a proposal that says the ranking member and the Chair of the House Administration Committee and the ranking member and the Chair of the Senate Rules Committee should be also members of the Police Board.

We've had too much bad publicity about the police department. Lord only knows what they're doing—I certainly don't. I don't, for example, know the full extent of the police department's ability to do wire taps, or eavesdropping, on members or committees around here.

I don't know the extent—the House Sergeant at Arms certainly can't tell me the extent to which the Senate has electronic equipment, for what use, who runs it, what are the backgrounds of the people who are it, are they former CIA employees who are working for the Administration or are they really working for us?

This is a vital area that I urge you to look at very closely.

Mr. DREIER. What's been the response to your proposal?

Mr. ROSE. Absolute rejection by Senator Mitchell.

Mr. DREIER. Really.

How has the Senate Rules Committee responded to it.

Mr. ROSE. I think we heard from them through Senator Mitchell.

Mr. DREIER. So have you not had a conversation with Senator Ford about this?

Mr. ROSE. No, I've had a conversation with my leader, the Speaker of the House, and he informed me of Senator's Mitchell objections.

Mr. DREIER. Well, obviously, it is something that we should address, and I think it's going to be a tough issue.

One of the other proposals that have come before us is the idea of merging the House Administration Committee, the Committee on Standards of Official Conduct, known as the Ethics Committee, and the Franking Commission.

What's your thought about that proposal?

Mr. ROSE. I haven't really thought those through. I think you would find a confidentiality concern about combining the Ethics Committees. Would Senators be sitting in judgment of House Members and House Members sitting in judgment of Senators? Those are—

Mr. DREIER. Well, I'm talking about just merging it on the House side. I mean, merging the Ethic Committee, the Franking Commission, and the House Administration Committee.

Mr. ROSE. Well, I think the House Administration Committee, as I said in my testimony, serves an entirely different type of function than the Ethics Committee does. I don't really care where you keep this institutional memory.

And, you know, I think Mr. Ornstein said in one of his presentations before you that there was the possibility of a tyrant running the House Administration Committee, and he may have alluded to some of its previous chairmen directly or indirectly.

But I assure you that in the new business of the Administrative Oversight Committee, we are sharing everything. We have—Mr. Thomas and I—everything that will come from General Wishart that he wants for his non-legislative operations will be sent to the

subcommittee and our full committee that has jurisdiction over the matter.

And if they unanimously agree—Ms. Dunn sits on the P4 Committee—the Printing, Procurement, Police, and Personnel. It shouldn't be just named Police and Personnel. I think we need a new name, but she's the ranking member. Her committee will get all of General Wishart's recommendations, and if they can't totally agree on his recommendations, they will be sent to me and Mr. Thomas to have a discussion with the General.

If they are unanimous, we will rubber stamp his request and notify the full committee.

That's a tremendous sharing in a totally bipartisan way of the power for overseeing what General Wishart does, and if a member of Congress—if you, Mr. Dreier, need an exception because you lost your airline ticket and only have a receipt, the original receipt, and want to tell us as members that you didn't change—

Mr. DREIER. Have you talked to somebody in my office?

[Laughter.]

Mr. ROSE. No, no. You or some other member didn't change the face of the ticket and actually go somewhere else with the ticket—we've never had anybody to do that—but that's the concern, you understand. We want not to let people make mistakes. That's why we want to see the final ticket.

But if you need an exception to that, Mr. Thomas gets the Republican requests for exceptions, I get the Democratic requests. And that's never been done before.

So I assure you the ability to be a tyrant in the House Administration Committee has gone out pretty much with patronage.

Mr. DREIER. Let the record show that I always travel exclusively to Southern California.

[Laughter.]

Mr. DREIER. Mr. Emerson.

Mr. EMERSON. Can we still appeal to you if we don't like what Thomas does to us?

[Laughter.]

Mr. ROSE. Well, we'll work that out. Members of the Agriculture Committee are treated very carefully.

Mr. EMERSON. Charlie, you know one of the issues that's of great concern in the minority in the House is the division of committee resources.

A number of years ago—I think it was back about 1977—the Stevenson-Brock Committee in the Senate did reform the Senate in that regard, and they've got a split of committee resources over there that's very evenly divided between the majority and the minority. And the recommendations at the time this came about was that they should be phased in over 4 years, but in practice, I gather, based on what we've been told, that once the tone was set, then the implementation occurred a lot faster than that.

Would you support such staffing reform in the House, and, if so, how would you prefer to implement it? Do you think it can be done?

Mr. ROSE. I think there's always the possibility of improving the way that we handle our staff, and I would not necessarily suggest this as the model, but I would point to the Ways and Means Com-

mittee and the fact that that staff is—even the subcommittee people are hired by the chairman or with the approval of the chairman and that everybody does the work.

Now that's the problem. If the chairman and the ranking member can have an agreement that the work of the committee will be totally shared by actual hands-on working of the minority along with the majority staff, then I think it's easier to move toward what you've just suggested.

Would you support additional appropriations to increase minority staffs? I mean, we have a problem—one-third of statutory and the other two-thirds of the statutory go to the majority so there's already a one to two split there.

What we frequently argue about is the investigative staff, but Mr. Thomas and I—you know, I've almost got him beat, you understand, working this way with him and I regret that—I'm going to hire him a publicity director—but we're worked very well together, and we are trying to—he's trying to bring the new members and everybody into a comfort level.

The problem is I have to be up there just about all the time. He's over in the Ways and Means Committee most of the time.

Yes, I think chairmen and ranking members can learn to work closer together, and should work closer together, and should share responsibility, and everybody should pay their bills and love their mother and their wife.

But we're not in a perfect world. I'm not sure you can force any of these things that I've mentioned, but it's my goal to do it.

Mr. EMERSON. I think when this committee gets into the deliberative stage, it will get into this issue, which is why I asked you the question because I think your commentary is valuable because you are the person who has the most to do with it.

I serve on a couple of committees that are really not very partisan in nature—Agriculture and Public Works and Transportation. We've got in both of those committees a vast body of people who serve everybody with whatever. But there has to be—you know, one, you get ideological.

That's when the difficulties occur, and so I think there has to be for the majority and the minority some set people who are just their people. But it would seem to me that on most committees that, you know, this professional staff should serve everyone in an unbiased way.

Mr. ROSE. I think you're absolutely correct in that, and I hope we can make some improvement in that area.

Mr. EMERSON. Thank you.

Thank you, Mr. Chairman.

Mr. DREIER. Thank you very much, Mr. Emerson.

Ms. Dunn.

Ms. DUNN. Thank you, Mr. Chairman.

Mr. Rose mentioned that I serve on his committee, and I must tell you that it's a very enjoyable experience, and I've learned a lot. And I do hope that even though Mr. Rose commented on how important it is to have institutional memory on that committee that he can also appreciate that the new blood brings something, I think, to the mix. And, perhaps, as I serve on your committee, I'll

pick up some of this information that will make me more valuable in the long run, and I certainly so.

Mr. ROSE. I certainly agree with that comment, yes.

Ms. DUNN. Thanks, Charlie.

As the ranking Republican on Police and Personnel, I would be glad—I'm a little nervous now that you say you're not overseeing what they're really doing in the Police Department—I would be very happy to go with you as part of your entourage to leadership to talk about this. It makes me uncomfortable too, and I think oversight is terribly important in this area.

So we really must be watching out for this.

I will just remind Mr. Rose that, as we discussed, that proposal bill that you asked about the staffing on the investigatory side, the ratio 2 to 1—which is really what the Republicans in the House would like to achieve—certainly, it's a fairness position from our point of view. We control 40 percent of the House, and we would like to control at least one-third of the staffing.

I think there are some committees who are coming very close to this. Public Works is very, very close to this ratio. I think it can be done, and the way we approached it is actually by lowering the number of majority staff so that it would be twice as large as the number of minority. And, that way, you don't need an extra appropriation.

In fact, we proposed an amendment—I certainly expect that we will discuss that as we move through our deliberations.

I'd like to ask you, Charlie, what you think about allowing your—everyone of the committee chairmen allowing their ranking members the opportunity to control one-third of the committee budget?

Mr. ROSE. Well, I think that has to be very carefully worked out with each committee chairman and some—you know, you're talking about totally new ground that, as you point, some chairmen have moved to that point; some have not.

I would restate that the minority, the ranking member, already has control over one-third of the statutory positions. You're talking about one-third of the investigatory positions as well, and, I would say if they—that's really something that my leadership on my side of the aisle and your leadership have got to get together and discuss. And I would not attempt to pre-guess what they might decide, but I'll tell you this: I'm very happy when committees do work this out among themselves and are able to do the work of the committee and still have the kind of ratio that you just mentioned.

Ms. DUNN. Well, I do think it's a step toward fairness, and I do hope that we'll spend a lot of time discussing this, Mr. Chairman, because I think that it's imperative. And, as you give ranking members control of one-third of the budget, they can implement the same fair ratio that we have on the statutory but does not now exist on the investigatory side.

Thank you, Mr. Chairman.

Mr. DREIER. Thank you, Ms. Dunn.

Mr. Swift.

Mr. SWIFT. Thank you, Mr. Chairman.

And, Charlie, I apologize for not being here for your basic presentation, serving as I do on your committee on House Administration. There are a couple of points I'd like to discuss with you.

One is it seems to me that the function of House Administration in determining the other committees budgets for each year is a very important function and one that is properly placed in the House Administration Committee.

The alternative would be, it seems to me, to give it to either one of the committees who are more powerful, very frankly, and who are more likely to be in jurisdictional conflict; hence, an invitation rather to perhaps get up to more mischief in the allocation of the funds, or to give it to the committee that does not have—on which we do not currently vote—the Appropriations Committee, which would really be to take one of the most powerful committees of the House and give it additional power over all the other committees—both of which seem to me to be very bad ideas.

I'm just wondering if your experience around this institution would draw you to the same conclusion, or what other observations you might have on that?

Mr. ROSE. I think the gentleman is absolutely correct. If you gave it to the Appropriations Committee, they might consider following the rule that all the other committees of the House follow, which is 30 statutory positions.

The Appropriations Committee, as you know, has exempted themselves from the number of statutory positions that they can have, and they have upward of a hundred. And nobody in the House Administration Committee approves their operating budget, and I personally don't know what it is. I assume God in his infinite wisdom works it out.

So, no, I would be very much opposed to either one of those, and one suggestion has probably drifted by and that would be to give the Elections Subcommittee to the Judiciary Committee. And, I'm sure if you have time, you'll look at my formal statement.

But election laws and contested elections are not matters to be handed to committees who don't have a total institutional memory or not fairly closely—who's membership is not fairly closely picked by the leadership themselves on both sides of the aisle. And I don't know what good—your opinion on that will be expressed, but I certainly think that reassigning the duties of the subcommittee that you've ably chaired for so many years should be done with the very greatest of caution.

Mr. SWIFT. I thank you for your comments. I would also like to reinforce something that was in your prepared statement, and I am paraphrasing.

But now that we have moved toward professional experience, the House Administration really takes on the role of the board of directors that sets the policy, and it's very, very key. Somebody has got to do it, this is the logical committee to do it, and I wholeheartedly agree with that point of view.

I thank you.

Mr. ROSE. Thank you, I might add just one other thing in closing, and that is that while I was not sure it was a good idea when we started, I think the House administrator was a very good idea. And we are breaking new ground, we have created a relative war free

zone in the middle of a lot of partisan bickering that normally takes place around here, and I think that's good for the America people and good for the Congress.

I wish Ross Perot knew more about General Wishart and how his role is ever-expanding to be a non-partisan administrator. He might put some new lines in some of his TV clips.

[Laughter.]

Mr. ROSE. Thank you, Mr. Chairman.

Mr. DREIER. Thank you very much, Mr. Swift and Mr. Rose, two very prominent members of the Administration Committee.

Let me thank you for your very helpful testimony, and to again apologize for the fact that a number of members have gone to this emergency briefing, and it is due to that briefing that we're going to recess at this time—the briefing on the situation in Bosnia-Herzegovina. And we will reconvene at 11:45, at which time we'll hear from Chairman Mineta and Mr. Shusters, and then we'll proceed with our closing two witnesses.

Thank you very much, Mr. Rose. We'll reconvene at around 11:45.

[Recess.]

#### AFTERNOON SESSION

Mr. SWIFT [presiding]. In the interest of time, I've been asked to crank up the committee, and we are extremely pleased to welcome two of our colleagues from the Public Works Committee, Representative Norman Mineta, the Chairman, and Representative Bud Shuster, who is the ranking Republican on that committee.

I ask unanimous consent that prepared statements be made a part of the record.

Without object, so ordered.

And I'm happy to recognize you first, Norm, to proceed in any way you wish.

#### STATEMENT OF HON. NORMAN MINETA, A U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA; ACCOMPANIED BY: HON. BUD SHUSTER, A U.S. REPRESENTATIVE FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. MINETA. Mr. Chairman, it really is a great deal of pleasure to have this opportunity to be before the Joint Committee on the Organization of Congress.

I have now the privilege of Chairing the House Committee on Public Works and Transportation, and seeing you now in the chair, Mr. Chairman, I do not know the difference between an upset and a set up.

[Laughter.]

Mr. MINETA. It really is an honor for me to appear before you as Chair of the House Committee on Public Works and Transportation, and I'm proud to be joined this morning by our colleague, the very fine distinguished member from Pennsylvania, Mr. Shuster, who is our ranking Republican on the full committee.

Together we are here to offer assistance not only on the immediate questions of committee structure and jurisdiction, but also on

other issues, which we believe determine how well this institution does the public's business.

Our formal testimony addresses four issues: the committee system, the authorization and appropriations process, the congressional budget process, and, fourth, committee budgets and personnel.

It's a very lengthy and comprehensive statement which, as you have noted, you have entered into the record.

My comments before your questions will focus on the first of these two issues; first, about the committee system.

The most important task I believe this committee can achieve would be to realign committee jurisdictions to avoid multi-overlapping and just plain confusing consideration of bills. The last major reorganization of committee jurisdictions was nearly 50 years ago.

We did not then have major environmental issues before us, or a space program, or a strongly interdependent world economy. In fact, we did not have serious economic competitors anywhere in the world.

So is common sense to conclude that the committee structure that was right in 1946 for the post-Second World War years cannot possibly be right for the post-Cold War years of the 1990s, as we get prepared for the 21st Century.

In our view, Norman Ornstein and Thomas Mann were correct when they urged you to, and, I quote, "consolidate and partially realign committee jurisdictions to highlight important emerging policy areas and to create a better balance in the workload and attractiveness among standing committees," unquote.

They also stated, and again correctly, and, I quote, "jurisdictional changes should make substantive sense by consolidating currently divided jurisdiction in important comprehensive policy areas," unquote.

Reform is simply long, long overdue. Even moderate jurisdictional reforms 20 years ago was less a statement about the realities of the 1970s than it was a refinement of a 1946 existing system. And, as such, those reforms missed a greater opportunity that I hope will not now be missed.

In other words, the committee system has been building on the past. Today what we should be doing is planning for the future.

For example, multiple referrals of legislation, a practice instituted in 1974, have become a significant part of the legislative workload and have increasingly weighed down the speed with which legislation is considered at a time when it is speed, accuracy, and innovation which our nation needs.

As our chart indicates, of all the measures introduced in the last Congress, 17.9 percent were referred to more than a single committee. That is nearly triple of what it was 20 years ago, and if this trend continues in the 103d Congress, it will involve more than 20 percent in terms of the committees. And it seems to me that the drain of time and human resources in this process has become enormous.

As you are very well aware, Mr. Chairman, introduced bills are reviewed to make sure initial referral jurisdiction is protected. Bills are monitored through the committee hearing and markup process, reported bills are reviewed to make sure one committee action has

not intruded upon the jurisdiction of another, suspension bills are reviewed since often these do not go through the committee process.

Senate action is monitored because of its liberal application of germaneness, conference issues are screened because of Senate action and the ever-increasing phenomenon of omnibus bills that invariably affect a number of committees, conference appointments are reviewed since the recent designation of equal versus lesser conferees has taken on jurisdictional significance of its own.

All of this translates into a never-ending paper flow of memorandums and letters to the Speaker from members, staff, and committees. And the bottom line becomes spending a great deal of our time watching what other committees do and looking over our shoulders.

The answer to all of this is to reform committee jurisdiction, and, in doing that, to be guided by the principles of rationality and exclusivity. And I will illustrate this imperative further by using our committee as a case in point:

The Committee on Public Works and Transportation is the transportation committee of the House of Representatives. Does it make sense that we do not have jurisdiction over all transportation modes and policies?

We have jurisdiction of surface and air transportation. Does it make sense that we do not have jurisdiction over water transportation?

Our jurisdiction over surface transportation includes highways, roads, bridges, trucks, and pipelines. Does it make sense that we do not have jurisdiction over railroads?

We have general jurisdiction over transportation. Does it make sense that we do not have jurisdiction over all regulatory, safety, and research and development aspects of transportation?

Today's transportation system is a highly sophisticated integrated system with a significant impact on our economy and the environment.

Intermodalism, the movement of goods and people using a combination of modes of transportation, has become a major component of our transportation system. Intermodalism enhances competition and lowers cost to the benefit of consumers by providing greater choices that offer the most efficient services.

For example, since 1982 when the effects of railroad and motor carrier deregulation really kicked in, intermodal container and trailer loadings in the industry as a whole have increased by 97.5 percent.

Intermodalism is not linked to truck and rail transfers, of course; nor is it limited to freight transportation. Our clogged passenger transportation network is increasingly concerned with the efficient movement of people between airports, intercity rail, mass transit, and highways.

But how can the United States have an effective national intermodal transportation policy if different committees have jurisdiction over different pieces of the puzzle? How can we create the policies we need if the transportation committee can legislate on the ports through which goods come in, on the trucks that carry these goods in them, and the roads, and the bridges over which the



trucks travel, but not on the vessels that come into the ports or the railroads that transport the goods?

Too often regulatory and safety issues that are common to the various modes of transportation are approached differently by the different committees, which has also taken the shape of promoting one mode without regard to competing modes.

How can we establish a coherent national policy for passenger transportation when one committee is responsible for developing the national aviation system, and another committee is responsible for developing a national high speed rail system?

This same dilemma also extends to the Public Works jurisdiction within our committee, and here water policy, which I will only touch upon for the sake of brevity, is a perfect example. We have one national water way system in our country.

Lewis and Clark wrote of the interconnectedness of our country's water ways nearly 200 years ago. In the century since, our water ways have become increasingly integrated, and today the integration of our water way system has moved beyond transportation to include issues of water supply, management, and quality. These too are also inter-related.

To maintain the intended use of a water way, water quality planning must consider the need for waste water treatment facilities and planned or existing water resource projects such as reservoirs, dams, flood control structures, or irrigation works.

Conversely planning for water resource projects must consider water quality standards and the need to provide waste water treatment facilities in the project area.

In all, our nation's water infrastructure includes facilities that make use of water bodies as modes of transportation, store water in times of plenty for use, in times of shortage distribute water for various users, guard against damage incurred from excess water or water erosion, and treat contaminated water. To ensure an effective national water policy requires consideration of all these key inter-connected issues in a coordinated manner, not designated or designed into the present day committee assignments.

Now as much as these jurisdictional lines have been crossed and blurred among authorizing committees, so too have the walls cracked between Authorizing and the Appropriations Committees. In theory, the rules of the House built a wall between the two sets of committees—Rule 21 in particular.

But the rules of practice are far different from the rules in practice, and from the standpoint of an authorizing committee, the practice is getting worse all the time.

There have always been and need to be exceptions, but, unfortunately, there is a precedent of exceptions becoming the rule. Rule 21 was designed to divide the labor in the Congress so that the nation's business could be accomplished. Yet, all too often, Rule 21 is waived. And when Rule 21 is waived, so too is consistency in policy making. We no longer have just one committee in one subject area establishing policy.

Today when the Appropriations Committee is devoting more and more resources to examining those substantive legislation issues, authorizing committees are compelled to spend more and more time keeping tabs on what the Appropriates Committee is doing

legislatively to change the programs over which we have responsibility. And this is hardly a model of efficiency.

The second point more important than efficiency relates to consistency in policy making. We all recognize that under the rules the Appropriations Committee has ways of setting policy. It could choose not to fund a program that has been established in law, or it can within limits establish limitations on funding programs. Setting funding priorities without question is the function of the Appropriations Committee, but when the Appropriations Committee can routinely change carefully considered legislative policy, often without hearings, the legislative process and the American public are not well served.

Authorizing committees, of course, are not without fault. When an authorizing committee has failed to re-authorize a program in a timely fashion and it is the will of the House to continue funding the program, there should be enough flexibility in the rules to permit the Appropriations Committee to proceed with funding that program.

In our written statement, we have outlined a number of options for better enforcing Rule 21. But in sum, we believe we must minimize violations of Rule 21.

We do not view any of these reforms we have discussed or will discuss in answer to your questions as merely reforms for the sake of reforms. Our one and only goal is to improve our ability to do the job that the American people expect of us, which is to resolve the policy disputes that today too often fester without resolution.

Mr. Chairman, again I would like to thank the Joint Committee for this opportunity for this chance to appear before you this morning, and at this point, I would more than be happy to yield to our fine colleague from Pennsylvania, Mr. Shuster, our ranking Republican on the full committee.

[The prepared statement of Mr. Mineta is printed in the Appendix.]

Mr. DREIER [resuming Chair]. Thank you very much, Mr. Mineta. I want to thank my colleague, Chairman Swift, for filling in. I apologize for being late. We all know that we've had several conflicts this morning that have overlapped with this meeting.

Your testimony is very helpful, and we look forward to hearing from my friend from Pennsylvania, Mr. Shuster.

#### STATEMENT OF HON. BUD SHUSTER, A U.S. REPRESENTATIVE FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. SHUSTER. Thank you very much, my colleagues.

I would certainly associate myself with the remarks of the chairman of our committee, and I would point out that it's my understanding that the joint statement that we're submitting today reflects thus far the only committee in the Congress which has submitted a joint statement—again, pointing out the bipartisan nature of the Public Works and Transportation Committee.

I think it's very significant that 20 years ago in the last reorganization the proposal was made and originally accepted to create the committee on Public Works and Transportation as the transportation committee of jurisdiction and all transportation jurisdiction

was to be in this committee. By the time it got to the House floor, as we know, it became fragmented.

But I think the points the chairman make are very, very valid about the need to have a single committee which has overall transportation responsibilities.

It might surprise the members to know, for example, that United Parcel Service, which is a regulated motor carrier truck, transported over 582,000 trailers on the nation's railroads last year. So there is very, very significant intermodalism, and, in fact, the intermodal container and trailer loadings have increased nearly a hundred percent in the past 10 years.

So intermodalism is not only the wave of the future, it's with us today, and I think it's a strong argument for one committee having transportation jurisdiction.

Also there are many issues that are common to the modes—hazardous materials transportation, for example, drug and alcohol testing of transportation, employees, issues generic to transportation regulatory agencies, such as the ICC, for example—for each of these concerns. There may be a special concern that relates to one mode or the other, but in general the problem calls for a common approach. And the most consistent policy could be reached with one committee looking at the whole issue.

In particular, for example, there are other issues in particular to one mode or the other, but which have very strong competitive impact on the other modes.

For example, changing permissible truck weights and lengths have a very dramatic impact on the economics of railroad and barge traffic—another reason for having a single transportation committee. And rather than having these decisions made competitively between different committees of the Congress, it would seem to make a lot more sense to have them made by a single committee of the Congress.

Further, putting aside these specific issues, the biggest problem, having fragmented jurisdiction, is simply in the problem of creating overall national policy. When we enacted the Transportation Deficiency Act last year, we addressed highway and mass transit needs, attempting to establish an efficient national surface transportation system.

However, the law does not address in any way intercity or commuter rail as a component of that system.

Turning now just briefly to water resources, Mr. Chairman, in contrast to transportation which has never been consolidated but which for many reasons should be, water resources jurisdiction has been moving from a state of consolidation to disintegration. And we believe, and we focused on this in our written testimony, emphasizing the importance of keeping this consolidation.

Turning now to the whole authorization-appropriation process, we consider this an enormously serious issue. The fact that the Appropriations Committee in the House routinely receives blanket waivers of points of order. As an authorizing committee, on the other hand, we wouldn't stand a chance of being granted a waiver of Rule 21 in order for us to appropriate on an authorizing bill.

We think that this should be corrected and the rules of the House should be followed. Congressional Research Service analyzed

three appropriations bills that include programs within our jurisdiction for 4 years, and we've attached their report to our written statement.

The most important conclusions reached from this analysis are that a large number of provisions in these appropriations bills are protected by waivers, points of order, and that the percentage of these provisions is actually growing.

Taking these three appropriation bills over a four year period, 53 percent of the provisions were subject to waivers; more disturbing is the trend line. As one of the charts behind me shows, we went from a 33 percent waiver rate in 1990 and 1991 to a 95 waiver rate in 1993.

So we believe that this is an enormously significant issue for all of the authorizing committees, and should be addressed by our committee.

I certainly want to emphasize the importance on committee budgets, and the minority receiving one-third, that has been the tradition at the Public Works Committee and we continue to function based on that tradition. And, of course, we hope that the other committees of the Congress would become more bipartisan as well.

I'd like to turn just very briefly to a couple of other issues, one which relates to the wasted time in the Congress. If we look simply at the fact that most 15 minutes votes aren't 15 minute votes. They go on for 17, or 20, or 23, or 25 minutes, and if we average about 500 recorded votes and quorum calls a year—in fact, slightly higher than that I believe—and take a five minute average beyond the 15 minutes, this means that the Congress is losing over 40 hours a week just standing around because the hammer doesn't go down on these votes. It means we lose one work week in the Congress, as a sitting body. Beyond that, it means that members of the Congress lose literally thousands of man hours every year standing around waiting for the bell and the hammer to go down.

I would strongly recommend that we urge that a 15 minute vote be a 15 minute vote, except in extraordinary circumstances. And I also believe that if after the first, or second, or third time the speaker gavelled down at the end of 15 minutes, we would find that members would get to the floor on time. And we would become a much more efficient operation.

I also believe that—I would have no objection to making it more difficult to call for recorded votes on particularly innocuous procedural matters, the journal vote being one of them. If nothing else, this could be batched into a five minute vote later in the day, and it seems to me we would save, again, many, many man hours for the members.

And one final sentence that I would say, Mr. Chairman, that I can't pass up the opportunity to focus on and that's the Intelligence Committee. As a former ranking member of the Intelligence Committee, I would strongly urge that the time that members served be increased from 6 years to 8 years or more. The subject matter is so complicated there that by the time a member gets his arms around the subject matter, he's off the committee. And I have nothing personal to gain by this. I'm no longer on the committee, but I think that we would serve the nation better if we extended that tour of duty on the Intelligence Committee.

And I thank you very much for the opportunity to testify today. [The prepared statement of Mr. Shuster is printed in the Appendix.]

Mr. DREIER. Thank you very much, Mr. Shuster.

You and Chairman Mineta have both made a very compelling case for what I think would be one of the most sweeping reforms that this committee could come forward with. That reform would be simple compliance with the standing rules of operation in the Congress today, and your point on the waiver issue, Norman, is right on target.

I sit on the Rules Committee where we constantly see waivers not only of Rule 21, but of a wide range of other areas. And so I've been saying regularly that if we would simply seek compliance with the existing rules, we would be reforming this institution in a great way, and I'm sure that you agree with that.

You all have touched on some very important items, and your testimony has been very bold, and I greatly appreciate the fact that you've taken the time to be here.

You have referred specifically, and I was fascinated, Bud, with this whole issue of intermodalism and the UPS instance. I wasn't really aware of that. But you have gotten into several areas that are very important, and you've talked about the fact that you should have jurisdiction over all transportation issues.

I guess the one question I would like to pose, are there any areas that you all have jurisdiction over today that you think should not fall under the rubric of your committee?

Mr. MINETA. Well, again, I think as we try to align committees based on subject matters, there may be—and I'm not ready to say where those are—but there may be areas in which we would be willing to discuss giving up a portion or whatever it is that, you know, is necessary for realignment.

Mr. DREIER. Are you amenable to this idea of parallelism, establishing a parallel jurisdiction between the House and the Senate? It's something that we're considering here.

Mr. MINETA. Well, I think there is a great deal of merit to that. One of the problems that I always see is people who are interested in legislation shopping for a favorable forum, and it may be that because the jurisdiction of one committee over another, they will again shop for the more inviting committee.

On the other hand, because of the constrictions of the House rules, again, the same interest may go over to the Senate because of the lack of germaneness and shop for a forum over there.

So, yes, I think we should try to minimize that shopping for a forum by doing a similar structural relationship in the House and the Senate.

Mr. DREIER. What about the idea that has also been discussed here of just eliminating joint referrals?

Mr. MINETA. Well, I'm not sure that we would be able to do away with a total joint referral, and I'm not really sure of any examples right off hand. But it seems to me there may be areas in which there would have to be still—even as much as you would like the make the lines as clear as possible, I'm quite sure there will still be some areas, subject areas, that would be subject to joint referral.

I can't think of any examples, and I can't think of a situation where we would be so clean that we would be able to totally eliminate any joint referrals.

Mr. DREIER. Bud, do you have any comments?

Mr. SHUSTER. On the issue, Mr. Chairman, of our jurisdiction and what it should be in the future, I think the test that we should have to be willing to live by is, is it transportation, it is public works? And if it's not transportation and if it's not public works, then I think we have a job in defending why we should have jurisdiction.

Mr. DREIER. One of the things when Chairman Dingell was before us and this issue of transportation was raised with him, his response was that basically if it ain't broke, don't fix it. And I wondered how you would respond to the way—I don't mean to create any more problems than have already been created here—but how you would respond to the way they have been handling the issue which you think—that you find.

Mr. SHUSTER. But it is broke, and many times it's broken because of the conflicting emphasis between two or more committees. A specific example that's important today and going to get much more important in the future is the question of mag-lift versus hard rail, steel rail.

We have joint jurisdiction. If we're talking about high speed rail, for example, if it's mag-lift. But we do not have any jurisdiction if we're talking about steel rail on hard rail. It makes no sense as we look to the future and look at what is the best technology for high speed rail for us to be involved in only one kind of technology. We should be involved in the whole breadth of the issue.

And so I think that's a very specific example of one of the reasons why there should be one transportation committee.

Mr. MINETA. John, if I might just follow up on your question to me earlier, it seems to me that if you go on the basis of functional jurisdiction, that jurisdiction shall be determined by function, then it seems to me then your question of joint referral is answered. And so to the extent that you organize along functional lines, it seems to me then you do minimize the joint referral issue.

Mr. DREIER. Thank you.

Let me just ask you, Mr. Shuster, to follow up on your end point. What is your thought about the proposal to merge the two Intelligence Committees in the House and Senate?

Mr. SHUSTER. I think it's probably a good idea, and it's also a good idea I think to reduce the number of members on the committee because the subject matter is so sensitive. But most important, in my view, is extending the time for members because it is such an esoteric complicated issue, set of issues, that you deal with on the Intelligence Committee.

Mr. DREIER. You aren't just saying that you were a slow learner or—

Mr. SHUSTER. Yes, that's probably true too.

[Laughter.]

Mr. DREIER. Thank you very much, gentlemen.

Mr. Spratt.

Mr. SPRATT. Thank you, Mr. Chairman.

Mr. Shuster, Mr. Mineta, thank you both for your testimony. Let me just ask you quickly, what is the historical reason for the fact that you don't have hard rail, as you put it, Bud? Did you lose that fight on the House floor when the issue—

Mr. SHUSTER. I'm told a deal was cut with Harley Staggers as chairman, that when he retired—he would keep rail since he was so deeply involved in the rail issue personally, and that when he retired, then rail would come to us. But it never happened.

Mr. MINETA. In 1974, there was a reorganization of sorts, and at the time, they brought—up to that point, we had a committee on public works, and then in 1974 they established the Committee on Public Works and Transportation. They moved transit from the House Banking Committee to this new committee, and they moved Aviation from the then Interstate and Foreign Commerce Committee to the new committee.

But because Mr. Staggers was chairing the Interstate and Foreign Commerce Committee, as Mr. Shuster indicated, they had indicated or had a gentleman's agreement saying that when Mr. Staggers went on to his grand reward or retired from the Congress, they would then move rail over to Public Works and Transportation.

When, in fact, Mr. Staggers did retire, the then committee chair of Public Works and Transportation was not willing to press for that jurisdiction, and so we in effect lost the opportunity because he didn't want to do battle with the new incoming chair of Interstate and Foreign Commerce.

Mr. SPRATT. I understand that your committee has primary jurisdiction of the Clean Water Act. Is that correct?

Mr. MINETA. That's correct. The Federal Water Pollution Control Act is within the jurisdiction of the Public Works and Transportation Committee. The Safe Drinking Water Act is not.

Mr. SPRATT. All right. Now did that come about because of your jurisdiction over water ways?

Mr. MINETA. No, that comes over jurisdiction because most of the water pollution control facilities are owned by public agencies, and being a public works, it then falls within the jurisdiction of the Public Works and Transportation Committee—what are commonly referred to as POTWs, public-owned treatment works.

And so we have not only the establishing of the standards as they relate to water pollution control, but also the construction of the facilities, which is again one of these where you have subject by function so you have it in Public Works and Transportation.

Mr. SPRATT. Suppose we decided to consolidate all of the environmental laws in one committee, or, perhaps in a new committee—an environment and energy committee. Would you be willing to trade the Clean Water Act for rail transportation?

Mr. MINETA. Because these are all public work in terms of the Clean Water Act, I would think we would have a very difficult time, frankly, giving up jurisdiction on that area.

It seems to me again where you have public works—it seems to me that's relatively easily definable—that it ought to be kept in one place.

On the other hand, we have Federal office buildings, we have jurisdiction of General Service Administration. So all Federal office

buildings, and Federal court buildings are within the jurisdiction of our committee.

On the other hand, postal buildings are not within our jurisdiction, and so I think if you have these things go along functional lines, then it seems to me it's more easily definable. And again in the case of the Clean Water Act, I think that's again an issue involving public works and construction of these facilities, and it seems to me it should remain in our jurisdiction.

Mr. SPRATT. Mr. Shuster.

Mr. SHUSTER. I would agree with that. I would also point out when we're talking transportation, we're not only talking rail transportation coming to the Public Works and Transportation Committee, but also water transportation.

Mr. SPRATT. I'm sorry, I understood you to say that earlier. I just didn't mention it.

Thank you both very much for your testimony. I believe I'm the last remaining member here, so there's no one else to return to at this point in time. But that's very useful testimony, and very helpful also in what you've submitted.

Thank you both for coming.

Mr. MINETA. Thank you very much for your time and effort on this effort.

Mr. SHUSTER. Thank you.

Mr. SPRATT [assuming Chair]. Our next witness is Mr. Henry Hyde who has testified before, but he testifies today, I believe, Mr. Hyde, with respect to the Intelligence Committee.

Mr. Hyde, welcome again and we have your testimony. There is no objection to making it part of the record. We will make it part of the record, as you've submitted it, and you may summarize it in your testimony.

Thank you for coming.

Mr. HYDE. Thank you very much.

And, Mr. Chairman, I salute you for your stick-to-itiveness, and it's sometimes lonely at the top, and I think it's lonely on some of these committees. But I do thank you for being here.

I can't help but share with you a quotation from a former senator years ago—I think the turn of the century, maybe later—from New York, a man named Roscoe Conklin, who said, "The man who said patriotism is the last refuge of a scoundrel, never considered the possibilities of the word reform."

And I can only say to you reform, real reform, requires people giving up power, yielding turf, and that's what makes it so painful and so difficult.

So I don't envy you your task, but it is an important one.

I thank you for giving me the opportunity to share my views with the Joint Committee, and, as you know, I've submitted a comprehensive written statement so I'll just give a brief summary.

I think it's necessary that as you address congressional committee structure, you also look at congressional intelligence oversight. Now that's because the success of intelligence oversight is closely tied to the structure of the congressional intelligence committees. If we improve the structure of the intelligence committees, obviously, we improve congressional intelligence oversight.



As the ranking Republican on the House permanent Select Committee on Intelligence for 4 years—certainly, no longer; I've been off for a couple of years—I saw first hand particularly in the realm of covert action how the occasional politicization of the intelligence oversight process undermined the effectiveness of the House Intelligence Committee.

Since its birth in 1977, the House Intelligence Committee has grown by 68 percent. It's simply too large. With 19 members, it's often impossible to ensure that every member attends a given meeting or a hearing. Because of the nature of the work of the committee, it is imperative that each member attend as many proceedings as possible.

When only the chairman and the ranking Republican attend a hearing, the quality of oversight suffers greatly, as former director of Central Intelligence, Robert Gates, recently noted.

The ideal for congressional intelligence oversight, to my mind, is a joint committee on intelligence made up of nine senators and nine representatives with no more than five members from the majority party in each House.

I first advocated this idea in August of 1984, and in every Congress since then, I have initiated legislation to bring this about. A few years back, it had 169 co-sponsors. At one time or another, it has enjoyed the endorsement of an impressive array of individuals—Bob Michel, Mike Mansfield, Bob Dole, Sam Nunn, Alan Dixon, Howell Heflin, Dan Hefalsil, Bill Broomfield, Eddie Boland, the first and longest reigning chairman of the House Intelligence Committee, Richard Bowling, Howard Baker, Barry Goldwater, foreign chairman of the Senate Intelligence Committee, the three-member Tower Commission, John Tower, Brent Scowcroft, and Ed Muskie, as well as the distinguished co-chairman of this Joint Committee, Lee Hamilton.

Now I don't mean to imply that all of the foregoing still support this idea, but at one time or another, they did.

Nearly all former directors of Central Intelligence have endorsed the Joint Committee proposal, including William Colby, Richard Helms, and Stansfield Turner.

National security matters should transcend politics. By reducing the partisan edge to one vote on the House side and one vote on the Senate, the Joint Committee would be much more likely to take a bipartisan view of issues while the prerogatives of the majority would be maintained.

The distinguished co-chairman of this Joint Committee, Senator Boren, who presided for years over the Senate Select Committee on Intelligence, can testify how effectively that committee worked with a one vote edge for the majority. Thanks to this arrangement, politics were kept to a minimum.

A joint committee would have several other advantages over the current two-committee system. It would reduce the number of members and staff who have access to classified information. I don't want to get into a debate over which branch leaks more, the executive or the legislative, but I do think we must do all we can to reduce the number of leaks for which we are responsible. This would result in greater trust from the executive branch, making it more forthcoming in its dealings with Congress.

A joint committee would also institutionalize much closer cooperation between the Senate and the House in an area where such coordination is especially important and would prevent the executive branch from playing one House off against the other.

Additionally, a joint committee would streamline legislative oversight, and, thus, reduce the burden on senior intelligence officials of appearing before two separate committees.

My heart goes out many times to members of the cabinet who spend most of their time—not to mention the director of Central Intelligence—testifying, going from committee to committee on the Hill. It would simply and expedite the timely reporting required by law of significant intelligence activities. And by eliminating duplicative equipment, staff, and salary needs, the joint committee would save scarce legislative branch funds.

Now I recognize right now there may not be a majority support for this joint committee proposal. Let's face it, if you narrow the membership and you combine the two committees, you're losing the sinecure of appointing people to these committees. You're losing staff and their losing employment.

So there's resistance to this. I understand. But I just think the overriding concern ought to be the efficiency, the efficacy, of intelligence oversight, and that's why I recommend a joint committee.

I would advocate as a stepping stone, if we have to go at this gradually, simply reducing the House Intelligence Committee to its original size of 13 members, with seven majority, and six minority members. This would preserve at least some of the advantage of the joint committee. It's axiomatic; the more people in the loop, the more opportunities for leaking, and protection of sources and methods are essential in a successful intelligence operation.

I've very pleased the House Intelligence Committee now requires, per its own committee rules, each member and staff are to take an oath of secrecy. That should be extended to all members and staff who are given access to classified information. I've introduced a House resolution, H.Res. 124, that would require such an oath before access is granted.

There is a clear precedent from the earliest days of our nation for such a solemn oath of secrecy. In fact, the wording of the oath I propose is substantially the same as the oath of members and staff of the committee on secret correspondence of the second continental Congress.

Frankly, if this oath was good enough for leaders of the revolution like Benjamin Franklin, it shouldn't cause us any concern.

I remind all of my colleagues that each of us takes an oath at the beginning of each Congress and nobody balks at that. My proposal is not intended, nor do I think it will be viewed, as implying any ethical shortcomings among members or employees. But it underscores the seriousness of the proper handling of classified material.

Regarding another matter, this Joint Committee has recently addressed, I believe, the House should establish a security office similar to that on the Senate side. Among other things, this office would operate as a repository in the U.S. Capitol for the secure storage of classified information.

While the Intelligence Foreign Affairs Armed Service and the Appropriations Committees are familiar with the handling of clas-

sified information, a House security office would ensure other House committees and members offices follow a specific set of security guidelines and procedures.

In this connection, I've introduced H.Res. 166 to address this problem.

Finally, Mr. Chairman, I would like to raise an unrelated issue. Specifically, I would like to advocate something that is of great concern to every House Republican—equitable committee staff ratios.

In a March 30, 1993 letter to Chairman Hamilton and Vice Chairman Dreier, the House Republican leadership and ranking committee members urged the Joint Committee on—the JCOC rather—to recommend that the minority party in the House be given one-third of committee resources. This two-thirds, one-third ratio is used in the Senate, and I believe it's realization in the House would enormously reduce the often acrimonious proceedings to which the House is subjected.

Thank you very much for your attention.

[The prepared statement of Mr. Hyde is printed in the Appendix.]

Mr. SPRATT. Thank you, Mr. Hyde.

If the House and Senate committees were made a joint committee, a single joint committee, you've also recommended downsizing the House component of it to about 13 members.

What is the current Senate size, eight or nine?

Mr. HYDE. Seventeen right now.

Mr. SPRATT. Seventeen. This has always been a fairly elite group. The speaker really created this committee to be his surrogate for the receipt of information from the DCI because he realized that weekly he couldn't get this information properly processed and assembled—at least that's the way—

Mr. HYDE. I don't think the members realize how tough it is to serve on this committee. You go into a cubby hole that is secure, and you can't tell anybody what you're doing. And it's long hours and tough work, but people seem to want to serve on it. I guess there is a prestige to it, but it's just a fewer people—and I don't mean you shouldn't have it—but the fewer people, the more secure you can be I think.

Mr. SPRATT. What is an efficient size? How large does it have to be to include enough members to get the range or reactions, and how small must it be to be an efficient unit?

Mr. HYDE. I really don't know. I would think 20 members on a joint committee, 10 and 10—10 House members and 10 Senate members, and one vote majority with the majority party. That would tend to de-politicize things, and I think that's manageable—20 members with staff for both the House and the Senate. And that would be a considerable decrease in what we have now.

Mr. SPRATT. Mr. Shuster testified that the term of office on the committee should be longer, more than 6 years. He went to eight, ten, something longer than that.

How do you react to that?

Mr. HYDE. I suppose so. Certain people get very good at this work, and it is a specialized area. And I think I would give the speaker discretion or the leader to waive—I would have no problem with extending the time. We've had some awfully good people that

it's a shame to lose, and so, yes, I would support an extension to 10 years for that matter.

Of course, with term limits being such a hot issue around here, which I violently oppose for self-interest as well as other reasons, on the merits especially, but that might be a problem.

Mr. SPRATT. I don't have any further questions, but I thank you very much for your testimony.

Mr. HYDE. I thank you, Mr. Spratt, very much.

Mr. SPRATT. And we will take it under consideration when we look at committee organizations.

Our next witness is due here at 1 and could not come earlier, so the Chair will simply declare a recess until 1 unless our witness shows up a little earlier in which event we'll rap the gavel and get going when he comes.

So we're in recess until at least 1.

[Recess.]

Mr. SPRATT. Our final witness today is Representative Pat Roberts, the ranking member of the House Agriculture Committee.

Pat, my notes here say that that is a position that you have held since the beginning of the Congress. I think that means the beginning of this Congress.

Mr. ROBERTS. Yes, sir, that's correct.

Mr. SPRATT. He's been a member of the Agriculture Committee since 1980 but he also serves on the House Administration Joint Library and Joint Printing Committees.

It's my understanding you're going to focus on both committees in your testimony today.

Mr. ROBERTS. Yes, Mr. Chairman.

#### STATEMENT OF HON. PAT ROBERTS, A U.S. REPRESENTATIVE FROM THE STATE OF KANSAS

Mr. ROBERTS. I want to thank you and my colleagues who I know have labored have hard today for this opportunity to appear as you continue your efforts to review and reform the various aspects of our congressional operations.

You've embarked on a very difficult but most pertinent and important task, one that requires time and effort and patience, which you have already mentioned to me, Mr. Chairman.

So I want to thank you, and I want you to know that the citizens of my Big First District also thank you in regards to your mission.

I come before you today to talk about three issues all relating to the committee system and its structure. We all agree the system should be streamlined and simplified. The question is how?

My comments on committee structure concern basically that of jurisdiction; namely, that of the House Agriculture Committee, the Joint Committee Operations and Reform, and, finally, something called LSOs, Legislative Service Organizations.

Those are the many caucuses that have been created through the years that represent an unofficial committee structure of the Congress.

And, Mr. Chairman, I would like to ask permission to insert for the record at this point my full statement, which would include my comments in regards to the Agriculture Committee and also in re-

gards to the reform of the Joint Committees, and, in the interest of time, simply move to the LSO issue.

Mr. SPRATT. Without objection, your full statement will be made a part of the record.

Mr. ROBERTS. I thank the Chairman.

Well, let's talk about LSOs and what I believe to be an obvious need for real reform.

Since 1982 the House Administration Committee has appointed two task forces, and I was a member of both, a separate subcommittee investigation and report, and then another subcommittee review—all to reform the special interest caucuses we have authorized in the House called Legislative Service Organizations or the shortened acronym, LSOs.

The first three issued official reports and recommendations all citing the abuses and potential problems that loomed within the LSO structure. They all advocated change primarily to place the LSOs and their employees under the same rules as the House, before the train jumped off the track.

The last subcommittee review that began in the 102d Congress has apparently continued into the 103d Congress. During last year's debate on the legislative branch appropriations bill, I offered an amendment to prohibit the use of member's allowances to continue the funding of LSOs. That amendment failed on a voice vote.

I didn't call for a record vote in that my majority colleagues on the House Administration Committee and those within leadership agreed to include language to require the government accounting office to recommend to the House Administration Committee financial management practices for LSOs to follow in the future.

I would like to tell the committee, I have just come from a GAO briefing for me and Mr. Baynard of Ohio who is now ranking on the subcommittee of jurisdiction. The GAO work is continuing, but in keeping with what we learned several months ago, there has been no audit of past practices, no complete audit, only study of future financial management practices.

My colleagues, the time for reform has past. The train is not only off the track, but there are cars missing. The accident waiting to happen has happened.

During debate on my amendment on the House floor, various members that represented LSOs suggested our receipt and expenditure figures for 2 years running was too narrow a picture.

Well, in keeping with the GAO briefing and my appearance before you today, and prior to consideration of the legislative branch appropriations bill, my office has completed a 10 year review of the LSO quarterly financial reports filed with the Clerk of the House.

The big picture is the House LSOs with millions of dollars in Federal tax dollars missing and unaccounted for. These are an embarrassment to the Congress. I think it could be an national disgrace. It could rival last year's bank, restaurant, and post office scandals.

My independent 10 year review involves surprising and alarming figures. It shows that members of Congress have funneled more than \$34 million in tax funds on LSO operations. Those LSOs in turn report spending of \$26.8 million.

Now if we move to the pie chart and look closely now at the total dollars members have given to LSOs, 7.7 million are absent. They have simply disappeared. One out of every \$5 is missing, unreported, and unaccounted for.

Where have the funds gone? That's a good question without a good answer at this moment. At the very least, we should have an outside audit, an accounting of what has happened to these funds, then we need to consider what steps can be taken to respond to this problem.

First, let me explain that the financial statistics I am presenting to the committee are solely based on receipts and disbursements and the sum totals of the same listed by LSOs from January 1, 1983 to December 31 of last year. They are within the quarterly reports filed with the Clerk of the House.

Second, I have drawn these numbers from the grand total receipts and the grand total disbursement reporting sections from the reports.

Now if you look at the form chart, because some LSOs have not filed some quarterly reports, our figures are conservative at best. If you can look up here to the left, in terms of the red square, that is the sum total of receipts, on the right is the sum total of disbursements. They do not balance. There is no current balance. There is a discrepancy in most of the LSOs.

This is a 10 year summary now with a summary chart of receipts and expenditures for each LSO. Where are these funds? No matter the answer, there is a serious problem.

One possible answer might be that LSOs are capable of really creating a budgetary cushion or a carry over fund. Such surpluses are often created by LSOs to guarantee their future, but the practice is not allowed in member or committee offices.

My colleagues, during a time of severe budgetary restraint and at a time when the new House administrator may well tell members they will have to cut back on their official allowances, we should at the very least put an end to this policy. It would be ironic, to say the least, for members to be told that during this session they must cut back their office operations by five or ten percent only to find part of what they contributed to a particular LSO or caucus has been socked away in a bank.

A second answer might be bookkeeping errors or unreported spending, a situation that directly highlights the lack of oversight.

In looking over the spreadsheets, sloppy record keeping is the norm and no one is truly watching the LSO spending.

Unlike congressional offices and committees, the spending of LSOs is not reviewed, monitored, or regulated, by either the House Finance Office or the House Administration Committee. Basically, the LSOs have their own bank accounts comprised of tax payer funds and their own checkbooks, and they are free to spend it any way they likely.

That is a system waiting for a scandal to happen, and it may have.

Well, that leads us to the third possible option—misspent, or worse, funds that would be diverted to other uses. Without a proper and full accounting of all these organizations and the way

they have spent this tax money, we may never know. We cannot afford to bury this issue a day longer.

Now there's a serious problem here. If the money is socked away in LSO bank accounts, there's a serious problem here if it's simply sloppy bookkeeping, there's a serious problem here if the money has been spent on items the LSOs did not want to report, there's a serious problem here if the money was diverted to other unknown or private uses.

Now I want to make one thing very clear. I really want to stress this. I do not intend to perjure or single out any LSO or their purpose. I want to stress that some of these caucuses, obviously, do well intentioned work and provide special interest focus and research. And I especially want to thank some of the LSOs for their interest in providing better reporting and full disclosure.

My comments and suggestions are not wrapped in a blanket of blame. However, these organizations further diffuse an already fractured subcommittee and committee structure. They take valuable office space, they do not serve a true legislative purpose on Capitol Hill. Are the additional employees working for LSOs truly needed? Why can't these groups survive off Capitol Hill without the use of taxpayer funds?

The truth is that many LSOs have become social organizations using taxpayer funds for receptions, dinners, entertainment, and travel. What is the legislative purpose of such expenditures?

The House earlier this year eliminated four select committees citing the limited resources we have available and the lack of legislative authority of these groups.

Every criticism of the selects can easily be applied to every LSO.

I think the time for reform has passed. We have tried for more than 10 years to fix the current structure. Last year during debate on the floor I warned that current practices by LSOs represented a scandal waiting to happen.

Now a 10 year compilation of LSO receipts and expenditures show \$7.7 million missing and some very questionable spending. The time has come to do the LSOs, the American taxpayer, and ourselves a favor. If their work is vital and has public support, that work will doubtlessly continue. But it should continue without the use of taxpayer funds and it should be done off Capitol Hill.

I appreciate your indulgence, and I'll try to answer any questions you may have.

Mr. SPRATT. Well, thank you very much, Mr. Roberts.

Are you proposing to this committee that we abolish LSOs or that we simply reform the method by which they report their receipts and expenditures?

Mr. ROBERTS. I think it's time for a mercy killing. It think we ought to have it abolished.

Mr. SPRATT. It would be hard for you to prove to me that the Democratic Study Group—you can speak to the Republican Study Committee—doesn't serve a legislative function. Everyday we get a synopsis of what's on the floor, arguing pro and con from the Democratic Study Group, and it would be extremely difficult for us to run our offices and keep abreast of what's going on on the floor without their input.

Mr. ROBERTS. Mr. Chairman, I appreciate that. In the past when we've made recommendations, one recommendation has been that we excise out or save, if you will, the DSG and the RSE and simply say in fact what they are—they are a true legislative service organization and would be funded with official money, and, thus, they would be spared the Roberts ax. And I think that's probably a good idea.

Mr. SPRATT. Alternatively do you have a proposal for how these organizations—if they aren't abolished, how they should be audited annually? How they should report? Are you saying that this form itself lends to the problem? We couldn't see the form when you held it up here. Is the form itself deficient in not soliciting the sort of information that helps you to determine receipts and expenditures?

Mr. ROBERTS. The staff has given me the studies here in regards to the suggestions that we had—or at least I think that's the case—but truly we need a different reporting form. In just visiting with the GAO, they've indicated that a better organized form more along the lines of what we do in our congressional offices and committees would certainly be advisable.

What we have here are spreadsheets, and it's very difficult when you go other than the sum total of the receipts and expenditures to get any kind of a balance. And so, obviously, you would have to have a reform; obviously you would to make sure that the LSOs ascribe to the same kind of rules, regulations, and reporting and full disclosure as we have in the House. And that could be for DSG and RSE as well.

Mr. SPRATT. Is there any provision that allows these organizations to carry over money? Apparently, that's what they've done.

Mr. ROBERTS. Yes, that is speculation. When you go down through the three options, there's only three options here—either there's sloppy record keeping, either the funds were put in a bank, or either they are misspent. Any of the three is a serious problem.

I can tell you back during the Gramm-Rudman days, I know many LSOs went through a very, very difficult time obviously because of the pressures on member's allowances. And I think it goes without saying that if you can raise some money and have some carry over funds, you guarantee your survival into the next Congress.

I don't know. I don't know if these funds are in banks or if they're in a shoe box, for that matter. But I would point out that a committee cannot do that, and a member's office cannot do that, and that's part of the problem.

Mr. SPRATT. But the GAO didn't have access to the bank accounts and didn't try to determine whether or not that—

Mr. ROBERTS. No, well, they were not instructed to. When we agreed to a past audit by the GAO, the audit has turned into more of a study of how we can improve the financial practices. And so the audit became a study and the study is about 35 days away in terms of some rough drafts and about 60 to 95 days away from any kind of public airing, and probably several months away after that in terms of any action.



My point is that the legislative branch appropriation bill comes way before that, and I think we should take action that we need to take.

I have some recommendations concerning LSOs that date back to our task force group as of—what is this, Jeff, 1982 or 1986? OK, this is 1986.

LSOs should be required to file monthly activity and expenditure reports to the Office of Records and Registration in the form specified by the committee on House Administration. Each LSO should adopt a single standard amount for dues paid and the official expense allowance. Members should be the sole source of LSO funding, not outside institutes. Five thousand dollars per session should be the maximum. Personnel costs should be paid only from the allowance, and administrative costs, non-personnel operating costs such as supply, etcetera, etcetera, should be paid only from the official expense allowance. LSO dues should be paid from the official expenses allowance or the clerk hire allowances appropriated on a session basis—that would get at the question you're talking about—LSOs should not engage in activities already being conducted by committees of the House. LSOs should be located exclusively in the House or Senate office space, should not occupy or use administrative funds to rent private office space—that was done, etcetera, etcetera—

Mr. SPRATT. Mr. Roberts, let me ask you to submit those for the record because we like to have them in the record. The reason I'm sort of pressing you is I just got notice that there's a recorded quorum call on at 1:13, and it may be followed by a five minute vote.

So let me turn to the other members of the committee, and if we don't finish questions, we'll come back. But let's see if we can proceed with it.

Mr. ROBERTS. All right, sir.

[The prepared statement and referenced documents of Mr. Roberts are printed in the Appendix.]

Mr. SPRATT. Mr. Dreier.

Mr. DREIER. Thank you very much, Mr Chairman.

So what do you think of proxy voting, Pat?

[Laughter.]

Mr. ROBERTS. If I can get rid of LSOs during this testimony, you can have my proxy to vote.

[Laughter.]

Mr. DREIER. You and I have tried in the past, from having worked up in the Rules Committee, to move ahead with this. And we know that we've, frankly, gotten opposition from both sides of the aisle. I mean, this is not simply a partisan issue because there are people who have well run LSOs.

But it seems to me that they subjected be able to operate under a different means rather than using this great sounding term—legislative service organization. And it appears to me that the Long Island Congressional Caucus is about the best run one up there. They haven't expended anything, and I think that underscores the fact that we could have organizations set up without going ahead and providing taxpayer dollars to fund them.

It seems to me that there are—with all the reporting requirements that could be put into place, there are private foundations that have been set up that can have members of Congress involved in them. But I think that with LSOs, you create another very serious problem in establishing these private foundations that are working in concert with the taxpayer finance legislative service organizations.

And that's why I think that while some of these very worthwhile entities could proceed with their work under the rubric of a private foundation totally funded with private dollars, not using the U.S. taxpayer dollars, having the full reporting requirements out there, that we could meet that need that is there for those that really do need to survive—without pointing the figure again at any individual LSOs.

It seems to me that there are more than a couple up there that shouldn't even be in existence—

Mr. ROBERTS. Well, I tried to say—I thank the gentleman for his comment and his suggestion, and I agree with it. And I tried to say I'm not trying to put a blanket of blame on the LSOs. Some of it has been very helpful to us.

And we have 110—staffers inform me—110 unofficial organizations. I'm the co-chairman of the Rural Health Care Coalition, along with Charlie Stenholm. There's 147 members. We have 109 left on all sorts of interest groups, but they don't use taxpayer money.

Now I can tell you that Chairman Annunzio, Chairman Rose, and Chairman Hawkins, and every ranking member were very, very hesitant to say the least—and that's a nice word—to authorize any more LSOs because of this problem. And you're exactly right—if it's doing good work, you can do it with a private organization off Capitol Hill, or you can have a group, a coalition, a task force. You can call it anything you want to, and if you don't use the official funds, you can do your work. And we have 110 of those. It's the 28 that we really should abolish.

Mr. DREIER. Exactly, well, I totally agree and thank you very much for your bold recommendation.

Mr. ROBERTS. I would just say one other thing. You know, on the Select Committees, I happen to be associated a lot with the Hunger Committee because of our work done on the House Agriculture Committee and did excellent work. You know, Tony Hall and Bill Emerson did excellent work, but during a time of reform and limited budgets, and what we're trying to accomplish, it was felt that that task could be given to the House Agriculture Committee and we could go forward. The same thing with the LSO.

Mr. SPRATT. Ms. Dunn.

Ms. DUNN. Thank you very much, Mr. Chairman.

I guess, Mr. Roberts, what distresses me most about your testimony—because I hadn't really focused on LSOs before—if we're using taxpayer money, why aren't we giving adequate oversight to these committees? I think people want to know the answer to that question.

From your testimony, there have been no audits done of any of these LSOs. I think at the very least we ought to in some form call for a general audit.

One thing I would like to ask you is to extend on your comments on how LSOs compare to select committees, how select committees were overseen because we did decide to do away with select committees because of our need to become more fiscally responsible in the Congress before we ask our constituents to increase their taxes or for us to vote to decrease their spending, cut their spending in programs that they are interested in.

What's the next step that we should do in trying to decide what to do with these LSOs?

Mr. ROBERTS. Well, some—I guess if you had asked me that last year or the year before, I would have said let's wait on the GAO report, which will take another, what, four to 6 months and then hope for the best.

But I've got a file here filled with the recommendations and reports of two task forces, several investigations, and Lord knows how many studies, and it sort of disappears into a vacuum cleaner somewhere into a black hole when we get the recommendations made. There's nothing wrong with these recommendations if you think that now is the time to continue LSOs, and I would point out that the select committees went through their financial business exactly like the committees of the House and exactly like you conduct your operation.

In terms of the LSOs, they file a quarterly report but the spending has already been done, and there's no oversight except when we get to somebody poking around in regards to the press and indicates wait a minute, what is this expenditure for?

This has been sort of a high glaze inside-the-beltway reform effort that was started by Bill Frenzel some time ago, and I sort of carried it on the hope that we could reform them. I'm to the point now that I think we have an opportunity to cut back and to better help the committee system.

Mr. SPRATT. Mr. Allard—excuse me, Ms. Dunn, are you completed?

Ms. DUNN. Yes, thanks, Mr. Chairman.

Mr. SPRATT. Thank you.

Mr. Allard.

Mr. ALLARD. Thank you, Mr. Chairman.

I would just like to say that I really think my colleague from Kansas has done an exemplary job on this issue and the information he has presented to this committee has really been very informative and very good. And I'd like to compliment him on his tireless and tenacious efforts in this regard.

I'm curious as to what happened to those reports out of the House Administration Committee? Were any of those recommendations that were adopted, and, if so, how were they implemented once they were adopted?

Mr. ROBERTS. Well, they weren't implemented. That's the problem. I have here the recommendations—

Mr. ALLARD. Not a single one was implemented?

Mr. ROBERTS. Well, we have had some informal guidelines or some advice if in fact an LSO would call the House Administration Committee. It's my understanding after the horse was out of the barn and paid for—is this right, is this wrong, but there were no specifics.

And so, consequently, other than informal advice, I'm not aware of any regular kind of monitoring, or public disclosure, or any kind of regulations.

Mr. ALLARD. How many members belong to these LSOs?

Mr. ROBERTS. Approximately 400.

Mr. ALLARD. There are about 31 listed there, so we have 400 that belong to those——

Mr. ROBERTS. We have 400 members including Pat Roberts who is a member of the Republican Study Committee.

I used to be a member of the Arts Caucus, but there weren't enough cowboys so I got off.

[Laughter.]

Mr. ALLARD. Well, Mr. Chairman, our time to vote is coming upon us and I do have a lot of other questions. But again thanks for the time, and thank you for showing up before this committee. You're doing all of us a good service.

Mr. ROBERTS. I appreciate that, and I thank my colleagues.

Mr. SPRATT. Pat, thank you very much for your presentation.

[Whereupon, at 1:23 p.m., the Joint Committee was adjourned, to reconvene at the call of the Chair.]

## COMMITTEE STRUCTURE

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TUESDAY, MAY 11, 1993

UNITED STATES CONGRESS,  
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS,  
*Washington, DC.*

The committee met, pursuant to call, at 2 p.m., in Room HC-5, the Capitol, Senator David L. Boren (co-chairman of the committee) presiding.

Mr. DREIER. [presiding.] The joint committee will come to order. We are pleased to be continuing our series of hearings on committee structure.

Today our first witness is representative Kika de la Garza, first elected to the House of Representatives in 1964, representing the 15th District of Texas. Since 1981, in fact, the year I came here, Chairman de la Garza has served as the Chairman of the House Agriculture Committee. We are very pleased to have him as a witness here today, and look forward to hearing from you, Mr. Chairman.

### STATEMENT OF HON. E. (KIKA) DE LA GARZA, A U.S. REPRESENTATIVE FROM THE STATE OF TEXAS

Mr. DE LA GARZA. Mr. Chairman, I am very happy to appear today and offer my views regarding ways to improve the way Congress works. I am very happy to see you as vice chairman, my good and dear friend, the savior of the 1981 farm bill.

Mr. DREIER. You don't have to tell that story.

Mr. DE LA GARZA. The mandate you have been given by the Congress is a broad and complex one, to say the least. I am hoping that my humble contribution might be of some assistance to you.

The joint committee was created because we, as elected representatives, recognize the public's frustration—and our frustration—in the way Congress operates. Your hearings and your recommendations are crucial to achieving the goal of improving the Congress as a functioning institution of government and better meet the American people's expectations.

It seems to me that the joint committee's most difficult task is to distinguish between structure and procedure that unnecessarily undermine and hinder the legislative process versus structure and procedure necessary to preserve our Nation's cherished democratic principles. This is a conflict that goes back to the earliest days of our Republic—preserving the people's right to be heard versus enhancing government's ability to adopt decisive national policies.

I would suggest that the joint committee recognize that in a governmental system such as ours, the most that can be expected of

the legislative process is that it will facilitate the opportunity for people's views to be considered by the people's representatives.

We are deluding ourselves and the American people if we think that broad-scale change in the legislative structure and the process will erase stalemates that more often than not reflect the lack of consensus among the American people over how to deal with any given issue.

Neither should we fool ourselves into thinking that radical changes in legislative structure and process to force action by the Congress will necessarily achieve its objective. I would simply argue that whenever there is a lack of significant consensus among the American people on an issue, it will manifest itself at some point in the legislative process.

With those caveats, I would like to focus more specifically on areas within the joint committee's mandate. I have some comments to make regarding legislative riders on appropriations bills and some more general comments on the appropriations process itself.

I also want to touch on the matter of jurisdictional assignments among House committees, Members' multiple committee assignments, and the size of conference committees. I say this from my own experience as Chairman, as subcommittee Chairman, as Member, and my own frustrations in the process.

As Chairman of the Agriculture Committee, I have had to deal with numerous situations over the years in which the results of the appropriations process have compromised Congress' ability to enact meaningful legislation. I think my frustration with this situation is shared by many of my colleagues who serve on authorizing committees.

The problem occurs when the appropriators—as well as other Members—exploit the “must-pass” aspect of the annual appropriations bills to make an end-run around the prerogatives and jurisdiction of the authorizing committees. This legislating or authorizing on an appropriations bill frequently results in the adoption of piecemeal proposals removed from the context of overarching policy considerations.

Clause 2 of Rule 21 of the Rules of the House of Representatives is generally effective in preserving the role of the authorizing committees during initial House consideration on appropriations bills. However, and I say this very sincerely with some caution, the Senate's propensity to legislate on appropriations bills and the manner in which its conference reports and Senate amendments to appropriations bills are considered in the House undermines the effectiveness of the policy development process of the authorizing committees.

I believe that modest changes in House rules and practices are needed to address this issue and to restore the traditional boundaries between the roles of the appropriations and authorizing committees.

For example, I would suggest that the authorizing committee of jurisdiction—rather than the Floor manager representing the Appropriations Committee—be given the privilege to offer a motion in the House to dispose of any Senate amendment to an appropriations bill that is legislative in nature.

Another option the joint committee may wish to consider is recommending that the Speaker use his authority to appoint authorizing committee Members to appropriations bill conferences on provisions which are legislative in nature.

Let me make clear that while I believe improvements are needed in the appropriations process, I do not believe the appropriations committees should be abolished, nor do I believe their function could be better carried out by the authorizing committees.

The work of the Appropriations Committee is a full-time job. I believe abolishing the Appropriations Committee would drastically and detrimentally alter the approach that our authorizing committee or any authorizing committee could take towards policy development.

As it is now, we are fully occupied with the task of conducting oversight of policy implementation, with acting upon immediate policy demands, with investigating and evaluating new policy approaches with regards to areas within our jurisdiction.

If my committee or any authorizing committee were given the additional and essential task of allocating annual appropriations resources, something would have to give. Personally I feel that our efforts to debate and pass improvement in Federal policy would suffer.

I would suggest that the reason some of our colleagues have become enamored with the idea of abolishing the appropriations committees is because we have allowed the line between the legitimate roles of authorizing and appropriations committees to blur. I believe strengthening the rules and practices with respect to the appropriations process is necessary to distinguishing between the policy-making role of the authorizing committee and the essential fiscal priority-setting function of the appropriations committees.

The working relationships I have had and have with the House committee and its leadership have been overwhelmingly and mutually constructive. Naturally, we have differences over which programs should be funded and to what degree. But in my view, the success of our Nation's food production and the distribution system and the Federal commitment to feed the hungry is at least to some degree evidence of the quality of cooperation. Adoption of the refinements I have suggested will improve the effectiveness of both the authorizing and appropriations committees.

Among the more difficult and sensitive issues being considered by the joint committee is the question of changes in committee jurisdiction. Ask Congress' critics what is to blame for legislative gridlock, and many of them will point to the committee system and its seemingly arbitrary, archaic and sometimes overlapping allocation of jurisdiction. It is time to rewrite and reallocate jurisdiction, they say.

If you were starting from scratch, the joint committee would probably strive to assign policy matters into jurisdiction groups based on two simple criteria: one, according to policy areas that are logically related and complete; and two, that provide a fairly even division of the labor involved in the entire congressional workload.

I would acknowledge that the current committee structure in the House probably does not satisfy these goals completely. However, I am skeptical that a wholesale reorganization of committees and

their jurisdiction would be sufficiently beneficial to justify the expenditure and energy needed to develop such a new structure or secure its adoption.

I don't want to suggest that such proposals are wrong. But I cannot say that I have great expectations that redrawing jurisdictional lines will have the effect of doing away with problems associated with overlap.

I would hope the joint committee could approach the problems related to overlapping jurisdictions without a major rewrite of committee jurisdiction. Frankly, I think marginal consolidations of issues would be more readily acceptable by the respective chambers.

Rather than spend time trying to eliminate overlapping committee jurisdictions, I believe the joint committee should acknowledge that such overlap cannot be eliminated, but its gridlock quotient can be lessened. For example, inevitably, we find there are policy issues which cut across the arbitrary jurisdictional boundaries we have drawn. I would recommend that you focus on ways to facilitate policy consensus in spite of the inevitable overlap.

One option which might be worth exploring is greater use of ad hoc legislative committees to address cross-cutting issues. The ad hoc committees would give the House flexibility to reduce the gridlock quotient and overcome jurisdictional obstructions when necessary to bring a committee product to the House Floor.

Here I am not speaking of select committees or special committees or permanent committees, but that in a specific issue such as the energy issue that we had in 1977, that you have an ad hoc committee to deal with that issue rather than to institutionalize either select or special in a permanent way.

I do think that House rules need to more clearly spell out the criteria for Membership on such a committee. For instance, I believe the rules should require balance in representation of committees of jurisdiction, and I would also suggest that the total Membership on an ad hoc committee be limited to the utmost possible.

If the joint committee decides to recommend major realignment of committee jurisdiction, there are some issues and some areas around the margins of our Committee on Agriculture's current jurisdiction which I believe could and should be included with the committee's other responsibilities. And if you will forgive me for appearing to be provincial, nonetheless these are areas that we have worked with and have found to have at times unsurmountable challenges.

So I would hope that matters related to the production, inspection, and marketing of food and fiber be in the Agriculture Committee, because we have two areas and not a third one. And the turf fight has been out there between Agriculture and Food and Drug. We can work it out here, as an unofficial ad hoc between the committees of jurisdiction.

The marketing of food and fiber is also very important to us. Commodity exchanges, which we have had, forestry and forest management, rural development, and human nutrition, we feel could more adequately be represented if assigned in total to the Committee on Agriculture.



If jurisdictional realignment is recommended, I would suggest that the following issues be included in a post-reform Agriculture Committee: all forestry issues; all food-related inspection and consumer nutrition issues—including the inspection of meat, seafood, produce and processed foods; rural housing programs administered by the Department of Agriculture, since the Committee on Agriculture already has jurisdiction over rural development; and all human nutrition programs operated by USDA, including school lunch and WIC.

I hear from the other side, like the Secretary of Agriculture is having to come to five or six different committees or subcommittees to address an issue that he could directly address if it were only in the Agriculture Committee.

Finally, I would like to lend my words of support to three ideas that have been raised by other Members—and I would take at least one of those ideas one step further in the name of real congressional reform.

I think the joint committee should consider recommending that the Congress conduct more full, 5-day weeks of legislative business and replace the weekend opportunities for Members to be in their districts with more frequent week-long recesses. I believe that such a schedule would allow for succinct and concentrated debate on major issues, would give committees greater opportunities to meet and debate, and would enhance the Congress' public reputation.

I find myself doing 4,000-mile round trips every weekend. If I don't go some place on behalf of the committee, I go to my district. I have a district that I can be in my district the whole weekend and not go home. I am 300 miles from North to South. And also, that I will cover later, has some aspect in that, that you cannot have a committee hearing on Monday and very little on Tuesday, and then again on Friday.

So in an emergency-type situation, we find ourselves Wednesday and Thursday, basically, because some of the Members come and go, of necessity, and this is not the Members' fault, and we have conscientious Members that go to their districts and spend as much time in the districts as they can, but we should have a more positive delineated period, because I don't know if I can be in my district on Saturday or on Friday.

During the previous recess for the Easter recess, my wife and I were to go on a personal trip, and we had to leave, we were going to attend the meeting in part, and we had to leave Saturday morning. Now, I didn't find out that we could have gone until I read that a group was somewhere in Russia, because they found out on Saturday sometime, they put it on the—I didn't call the Members because we had been told on the Floor, without equivocation, we will let you know sometime over the weekend whether you have to be here Monday or Wednesday. So it was a lapse on my part not to call Saturday, but I don't know that it was even on Saturday, the notice was made.

Also, I would strongly encourage the joint committee to recommend limitations on committee assignments. We simply have too many Members serving on too many committees and subcommittees.

Here is my proposal for the House. I lived under this proposal for three terms, my first three terms. Limit House Members to only two committee assignments and a total of only two subcommittee assignments.

My first three sessions I served on only one committee, the Committee on Agriculture. My district demanded that I serve on the Committee of Merchant Marine and Fisheries, but this is as an aside also, the freedom and the prerogatives that we now have as Members—my delegation told me which committee I was assigned to. I didn't want Agriculture. I wanted Foreign Affairs. That was my area of expertise. That was my area of business. I had traveled. When people started hearing about Abu Dhabi and the Arab Emirates and Kuwait, many for the first time, I had been there in another life, in the private sector.

But we—if a Chairman of a committee got up, I am going to use one by name, and God rest him, Wilbur Mills, Chairman of—I am not saying anything about the present one, but Wilbur Mills, Chairman of the Ways and Means Committee, when he got up on the Floor, and you asked him a question anywhere in the tax code, without looking to staff, he would tell you. Bob Poage, the Chairman on the Committee on Agriculture, if you asked him anything about the Committee on Agriculture, if you asked him about anything, geography, related to agriculture, he would tell you. We have lost some of that because we are spread out all over the place.

When I became Chairman of the Agriculture Committee, I did not take a subcommittee. There are many Chairmen now who say that, Well, you are impotent, you can't contribute. Believe me, I have made my contribution, and I have done so without taking a subcommittee in the Agriculture Committee. At the time it also made peace among the Members because we had some newer Members coming in. Now, we could have gone to five subcommittees, but we went to six so we could accommodate a younger Member.

So the area of expertise is very important. And because you are on five subcommittees, most of them meeting at the same time, you have to delegate to staff. And we have excellent staff. They are the experts now, not the Member, I say respectfully, in most instances. And that shouldn't be. The Members should rely on staff for technical expertise.

But if you would limit the Members to two subcommittees, one in each committee, two committees and within—I was going to venture out to say that there should be no difference between major and minor committees because my personal experience, one, that we have a committee which is a minor committee, but it was done to accommodate the Chairman of that committee so that he could continue another committee. It had nothing to do with the jurisdiction or with minor—so in many instances we deal in personalities rather than in the structure.

When I became Chairman, I had to get off Merchant Marine and Fisheries because I was becoming Chairman of a major committee. Next to me was a very good friend of mine, who became Chairman of the Merchant Marine and Fisheries Committee. He didn't have to get off Agriculture, because it was a minor committee. And this is some of the things that I think there should be an equality, because I was serving my district, but I didn't regret it as much be-

cause I was going to need all the time to dedicate myself to the Agriculture Committee. But because the other committee was a minor, my friend did not have to get off agriculture. We made an arrangement that I would take care of him in Agriculture if he took care of me in Merchant Marine. But I had to get off of Merchant Marine.

I believe that such a draconian, if you would, limitation is needed for at least a couple of reasons, which I have mentioned to you. We are overly reliant on staff, because I get calls from Members, I have to be in this committee or I have to be in this other subcommittee, and we find ourselves running between subcommittee to subcommittee to subcommittee. And I think limitation on assignments will help us all to focus on our efforts in a very productive fashion, by becoming another group of experts, as they were when I came here.

I also believe that the efficient and timely completion of legislation is often hindered because the House contingents on conference committees are too large. I believe that the joint committees should consider recommendations designed to discourage conference committees of the large size we have seen in recent congressional sessions.

I have had to preside over a conference committee that had four other committees sitting in tandem with us. Then somehow the needs of Members are such that it has become so important to serve on conference committees, and I say that with respect, that there are few people in our congressional districts that know what a conference committee is, and less that care. But the institution has made it such a major importance to be a Member of a conference committee, and that somehow should be limited.

In conclusion, I urge the joint committee to consider recommendations that we help preserve the complementary roles of the authorizing and appropriations committees. I believe that issues related to overlapping committee jurisdictions can be solved at least in part through the expanded use of a one-time, ad hoc committee on specific areas, with some degree of marginal consolidation of committee jurisdictions.

Above all, I want to indicate my respect for the profound task the joined committee has undertaken. I know that if you focus your efforts on reforms that accent the benefits of our uniquely American processes of democratic consensus, you would arrive at recommendations that will be embraced by your colleagues and that will help restore the public's support and respect for Congress.

I pledge myself to continue to work with you and to support the final product. And, Mr. Chairman, if there be any questions, we are working on the budget now, and the Agriculture Committee, I am very proud to say, because of the structure, in spite of the problems of jurisdiction and too many assignments to Members, has been very responsible. We have reduced the budget by \$57 billion in the past 10 years. And we are very proud of that fact, that working with the Members dedicated to that issue, we reduced it by \$57 billion in the past 10 years.

We will meet our responsibility this year. We always have. Our commitment has been, you give us the numbers with the White House, past White House, present White House, with the Budget

Committee, give us a number and we will meet that number, but give us the privilege of setting the priorities.

This is what I am talking about. And I would be very happy to work with you.

I might also say that some of the areas of jurisdiction and better working relationships can enhance the availability of resources. And we work in that respect. I just wanted to show you, it is because I have a forum here, that there is a lot of concern about the Committee on Agriculture and the impact it has on the budget.

I wanted to show you my now famous chart. The blue part is the total Federal budget, \$1.4 trillion, whatever. The little line you don't see on the bottom is the impact that agriculture programs make on the total budget. Seven-tenths of 1 percent. Seven tenths of 1 percent of the total Federal budget.

And what do we give for that? I would like you to see that 17 percent of GNP is what comes from agriculture, 17 percent of GNP. Also, the green is positive, the red is negative. This is our balance of trade, world balance of trade. Here is zero. Only agriculture is above. Only agriculture is bringing money back from abroad. All the rest is negative, our balance of trade for all of the reasons. And then our little pyramid. In the volume of spending by entitlements, the little red at the bottom is agriculture.

So we have done, I think, a fairly good job with what we have had. I think with our cooperation we can do a better job still in this respect.

I thank you, Mr. Chairman. I would be very happy to answer any questions that you might have.

[The prepared statement of Mr. de la Garza is printed in the Appendix.]

Chairman BOREN. [presiding.] Mr. Chairman, we are very glad to have you with us. I apologize for being slightly delayed today. I thank the vice chairman for beginning these hearings.

It has been my privilege to work with you for a number of years now and sit in on some of those conference committees with you. I have wondered how in the world we can get the various committees and groups represented in those conferences to come together, but you have always been able to do it.

The formal consensus is you made a very valuable contribution to agriculture policy in the course of it. And it is very helpful to have your comments as we focus with this hearing, and then one additional hearing on Thursday which will finalize our hearings on the subject of committee structure and jurisdiction.

We have had several days of hearings on this subject already, but it is a very, very important one. Let me ask, the comments that you've made about the structure of committees and the number of assignments, many, many Members have made this committee, it seems to be an emerging theme, and I think it is a very heartening one, that we really stick by a limit to the number of committees and subcommittees that Members are assigned to, so we are not running from one committee to another, spreading ourselves too thin, fragmenting our efforts. We can rebuild that expertise you are talking about in certain fields.

Some have felt that could also lead us to reducing the number of subcommittees, that once you start limiting the number of commit-

tees and subcommittees on which Members can serve, you will begin to depopulate certain subcommittees when Members have to make choices about where they want to spend their time.

Several, including your counterpart on the Senate side, have indicated that there was a feeling that the number of subcommittees could be substantially reduced as a part of this process.

Is this an area where you think we might make some progress?

Mr. DE LA GARZA. I think it can be done, Mr. Chairman. We, as a matter of fact, when we were asked to reduce from eight to six in the Agriculture Committee, we worked it out within one afternoon session, really, accommodating Members' needs, accommodating the commodity mixes. And I think that it can be done.

Chairman BOREN. Thank you. I will defer any of my additional questions to later.

Let me turn to vice chairman Dreier for his questions.

Mr. DREIER. Thank you, Mr. Chairman.

Thank you, Chairman de la Garza, for your helpful testimony.

Let me say at the outset of your testimony you made a point which I have been making throughout, probably one of the largest reforms, greatest reforms we could come forth with from this committee would be to simply comply with the standard operating rules of the House. I say that with reference to your concern on the issue of appropriating and authorizing, and the problems that we have with the Appropriations Committee constantly taking on your responsibility.

It was bold of you not to advocate elimination of the Appropriations Committee. There are a number of even committee Chairmen, full committee Chairmen who have supported the concept of elimination of the Appropriations Committee. But I can understand your concern, and it clearly is a controversial issue, which we are going to be addressing here.

You went on to talk about this change to which Chairman Boren referred, the idea of reducing the number of committees on which Members can serve. And it seems to me that as we look at that, we are going to have a challenge if we try to implement that next year.

How would you propose that we deal with the sitting Members of Congress today? Should we phase in the idea of reducing the number of committees on which Members can serve?

Should we have a grandfather process? Should we knock you off your Agriculture Committee and put you back on Merchant Marine? How would you recommend that we do that?

Mr. DE LA GARZA. This is a very difficult area because you are dealing with personal needs or perceived personal needs in districts and in areas. But in order for the institution to function, it should be streamlined to the utmost possible.

I don't know if you grandfather for—the perception—we do not want to damage the career of any Member. And the perception out there, we are dealing with it now, is that if someone is taken off a committee, somehow it would appear to be negative.

So I think, as we have done in the past, that it be one session subsequent, so that a Member would be reelected, should he be reelected, or a new Member would come, that you might be able to get around that.

Otherwise, you are going to have the problem, if I get taken off Agriculture, I need it in my district and I will not be reelected. I don't say this personally for me, because at this stage of the game, I can come or go.

Mr. DREIER. If the issue of being taken off a committee is seen as a negative, then 28 Members of the House and Senate will have a big negative, because we will all be taken off the Joint Committee on the Organization of Congress, because we won't be here anymore.

Thank you, Mr. Chairman.

Chairman BOREN. Senator Reid?

Senator REID. Mr. Chairman, thank you.

Mr. Chairman, Chairman de la Garza, how long do you serve in the House?

Mr. DE LA GARZA. I am on my 29th year. For a fellow who didn't want to come, I stayed a long time.

Senator REID. It will be a career pretty soon.

Where do most of your conflicts arise with regard to the Agriculture Committee? Who claims jurisdiction? Or do you have conflicts?

Mr. DE LA GARZA. Well, we basically don't have conflicts as such because with the committees that we have overlap, we have good relationships, and we work with them. But the functional part, the aspect of, like I said, the Secretary having to be at other committees and crisscrossing, it would be a more orderly process if everything within the Department of Agriculture would come to the Committee on Agriculture.

Senator REID. Which things in the Department of Agriculture do not come—meat inspection, you said. What else?

Mr. DE LA GARZA. Meat and poultry is in the Department of Agriculture.

Senator REID. I am sorry.

Mr. DE LA GARZA. Food is in limbo for now. We don't know if it is going to stay in Food and Drug. I think all food inspection should be in Agriculture, because when the thing happened over there in the West Coast, it was the Secretary of Agriculture that the President sent. And this is something that I think needs to be done.

We have some areas like the food and nutrition—part of food and nutrition is with us, part is with the Committee on Education and Labor, where they have parts because of the school part.

And I think it would be appropriate that they do the policy part of schools, and that the Department of Agriculture, through its committee here, would do the food part of it, for example.

Senator REID. Tell me, Mr. Chairman, you say conference committees are too large, and it is no question that is true. I have come to them where it has been a room full of people trying to work out a bill, and you can't do that.

But what is the answer to that? Doesn't that come from the leadership in the House? It shouldn't be the joint committee that does that.

Mr. DE LA GARZA. In part it does, yes, I would agree with you. Again, I would say, when I came here, I didn't agree with it for other reasons, but the Chairman and the top four Democrats and

the Ranking Member and two Republicans, that was the conference committee on any issue in the Committee on Agriculture.

Senator REID. What was it, the Chairman, Ranking Member and—

Mr. DE LA GARZA. The ratio was two more Republicans and four Democrats. And no one else served on the committees of conference. And it worked very well.

Now, we didn't have the caucus, we didn't have the input that we do have now with all the Members. But it worked fairly well. We have had conferences where we had to meet in your caucus room or our caucus room because of all the Members, and the criss-crossing of issues with Members in many instances not being there.

Senator REID. I think this is the first time, to my knowledge, that this issue has come up regarding the conference committees. But I think it is really important, because toward the end of a session where we are in such a hurry and we want to do good work, it makes it extremely difficult when you walk in a room and it is nothing but conferees. I think that is something we should take a look at.

We might make the leadership's job easier for them if we put an arbitrary limit on the size of conferences.

Chairman BOREN. I agree with you, Senator Reid. I think, not to break into this, but again, this sometimes puts a lot of pressure on Chairmen, for example, if we were to adopt a rule that there can be only so many representatives of a committee on a conference committee, I would think that would make your life a lot easier, because otherwise you have so many Members of your committee that would come up to you and say, Oh, please, put me on the conference, if you are in a position to say, I would like to but unfortunately the rules only let me put X number on, it might make your life easier.

Mr. DE LA GARZA. It is an institutional problem, but it also becomes an administrative nightmare, because as Chairman I try and accommodate Members. The leadership tries to accommodate Members.

So we have—I have got to be on the conference of this issue. So we have this Member on that issue. Those two other Members on this issue. These three other Members on this issue.

When they read the list, we have got maybe a 15-Member conference from the House side, with another 15 alternating in specific areas to accommodate Members.

Senator REID. Mr. Chairman, I would close by just saying I hope the staff will remind us when we are coming down to our final recommendations not to forget this conference committee composition. I think it is a very important contribution you have made.

Chairman BOREN. Thank you very much, Senator Reid.

Ms. Dunn?

Ms. DUNN. Thank you very much, Mr. Chairman. I wonder if I might ask that my opening statement be included in the record.

Chairman BOREN. Without objection, it will be included in the record.

Ms. DUNN. Thank you.

[The prepared statement of Ms. Dunn is printed in the Appendix.]

Ms. DUNN. It is good to see you, Mr. De la Garza. I was very much taken by a point you made your testimony that I think has some real merit. Many of us freshmen are overwhelmed by the busyness of our schedule here. It is something we weren't prepared for.

Your point about having some real time in your district when you can focus on the problems of our constituents, a week in the district, 3 weeks back here, makes a lot of sense to me. It seems to me a lot of the deliberative nature has been taken out of this process.

Where I live, get on a plane Thursday or Friday, work the weekend, get back, start into the maelstrom again on Tuesday morning, I would very much like to see something like that done.

I hope we about not forget when we do our deliberations, Mr. Chairman, that we take that and any other potential solution to simplify our schedules into consideration.

Mr. de la Garza, I have been told by Mr. Roberts, your Ranking Republican, that your committee operates in a very bipartisan way and it is due mostly to your sense of fairness.

Earlier this year we debated an issue on the Floor that had to do with staffing, and the way that the Senate does this, staffing ratio two Majority to one Minority, and also controlled by the Minority Member of the committee of one-third of the committee budget.

How do you think this would work on the Agriculture Committee? What is your idea and reaction to that in general?

Mr. DE LA GARZA. We have never had any problem. That issue has never come up. I think institutionally I would think that the Chairman should have the responsibility, because he is the Chairman of all the committee. But working in unison with the Ranking Member, I have had three Ranking Members.

We have never had any problem, everything has worked well with us. There never has been any movements within the Minority in our committee that we wanted to manage this or manage that, control this or control that.

I have never focused on that because it never has been a problem for us.

Ms. DUNN. Thank you.

Thank you, Mr. Chairman.

Chairman BOREN. Thank you very much.

Mr. Allard?

Mr. ALLARD. Thank you very much, Mr. Chairman.

I would like to welcome the Chairman of the Agriculture Committee. I appreciate your testimony, Mr. Chairman. And I was listening with interest to your comments on having each Member serve on two committees and then two subcommittees, or two subcommittees—

Mr. DE LA GARZA. One on each.

Mr. ALLARD. In total they would be on just two committees.

Mr. DE LA GARZA. Right.

Mr. ALLARD. What I have thought about is if you do that, maybe we ought to put a minimum number of Members on that committee, and if the interest isn't there, that committee goes.

When you were first elected to the Congress, did you have any way of limiting the number of committees at the time that you



were elected, when you were operating under this provision, other than just the limit on the number of committees that a Member could serve on?

Mr. DE LA GARZA. This is a long time ago, before a lot of you were born, but at that time, you didn't have the proliferation of subcommittees. You didn't have the select committees. The average Member served on two committees, one major and one minor. The only committee that was exempted was the House Administration.

I wanted to address that, but again, I don't think there should be any exempt committees. Every committee should be—should count except for purely administrative functions. So we didn't have that problem then. You just belonged to a couple of subcommittees and your committee. And I had two subcommittees on Merchant Marine and two subcommittees on Agriculture.

Mr. ALLARD. So you were on four committees. And you are suggesting to this committee that we just have two, or do I misunderstand you?

Mr. DE LA GARZA. No, that is what I am saying. If you are going to bring back the expertise of individual Members, they should dedicate their time to specific areas, as we had when I came. When I came, every Member ahead of me was an expert in his field, and dedicated to that field. And there wasn't the pressure that we have now of having to swing around and swing around.

There was somewhat more coordination, so that some committees' meetings would not overlap. This was done with the Chairman on an ad hoc basis. I don't know how it worked, but I didn't find myself running from one to the other. They were somehow interwoven.

But my concern is the degree to which Members have lost the area of expertise in the particular area. And I think that can only come back by reducing their area of service so that they can devote time to that area of service. And it may be too draconian, but I feel—I can't operate the committee, I can't get quorum, Members come and go, running between two or three committees. It tires me to see them.

Every Member of my committee, I can assure you, is a conscientious Member, is dedicated. But they are spread out all over the place, and they just can't devote their time.

So I find myself having to deal with the staff that comes to sit in for the Member, in the staff section of our hearings, and I see them picking up the handouts, and many times asking me, What was it exactly you said, because their Member has to be some other place, and he has to delegate to a staff member to come and sit in for him in that committee.

I think this is an injustice to the Member, really. Although the Member is the one that asks for the committee assignments, I think that it is really not fair to the Member that we don't have a more organized, more synchronized function so they don't have to run in and around circles all the time.

Mr. ALLARD. I see my time has run out. Thank you, Mr. Chairman.

Chairman BOREN. Thank you.

Mr. Walker?

Mr. WALKER. Thank you, Mr. Chairman.

We have a number of reorganization plans here. I am wondering how you would think about a committee that we reorganized into the Agriculture, Appropriations and Rules Committee.

Mr. DE LA GARZA. Into one? I think that might be a little bit difficult. It would be a hairy assignment.

Mr. WALKER. As one way of trying to get Members maybe oriented toward the idea that they could give up a couple of committees, what would you think about eliminating the proxy voting system?

Mr. DE LA GARZA. That is a different issue altogether. That is a different issue altogether. My theory on that is to really come from the outside. In any election that you vote or I vote, you have the ability to vote absentee, and if you cannot be there, of, the election. That is what I consider the proxy to be, that if for X reason you cannot be there, you are voting absentee on an issue, and that is done in every election from President down to justice of the peace.

Mr. WALKER. The point I was making, however, is that one of the reasons why Members are willing to take five and six committee assignments or all kinds of subcommittee assignments is because they know they don't have to be there.

If, in fact, did you not have a proxy voting system as part of the overall, it would at least make Members think about whether or not they wanted to take a multitude after assignments, and it might make it easier for to us limit Members to a couple of subcommittees and make it for easier to convince them that this is the right thing to do.

Mr. DE LA GARZA. I have no fault with your theory, but mine is that it is a basic right of a Member to vote on an issue, and that is why we have in the House, we have pairs, either in person or personal pairs, for the same reason.

Mr. WALKER. I don't have a problem with pairs—

Mr. DE LA GARZA. That is absentee voting. If I can't be here on an issue, I can pair myself.

Mr. WALKER. The difference is that pairs don't count in the final vote, whereas proxies do.

Let me ask you this. How many Members were there on subcommittees back in the days when you said you came here, Members only served on a couple of subcommittees. How many Members did those subcommittees have? Were they relatively small subcommittees?

Mr. DE LA GARZA. Oh, yes. The Committee on Department Operations, Investigations and Oversight, I think, which I eventually chaired, was—the Chairman, three other Democrats, and three Republicans. There were seven of us. That is how I became a Chairman my second term. The Chairman of the subcommittee retired. The second Democrat did not choose to be Chairman. The third Democrat was defeated. And I became Chairman. We moved up the ladder that way.

Mr. WALKER. The reason why I was asking you—I see my time is up too—we would have to rethink the House in some major ways to accomplish what you are talking about. If we went to 10 full committees, for example, which would be a major restructuring of the House, you would probably be limited if you had five subcommittees on each of those 10 committees, you would probably be limited to between eight and nine Members per subcommittee.

If you actually kept about 20 committees and went to five subcommittees on each of them, you would be limited to four or five Members per subcommittee, if you were only going to allow Members to serve on one subcommittee for each of their major committees.

You really would have a very, very small subcommittee structure that point. That might be a very healthy system. It certainly would bring about some gathering of expertise.

I do thank you for your input.

Mr. DE LA GARZA. That is how it operated. We had some committees with five, we had some committees with seven.

Mr. DREIER. [presiding.] Thank you very much, Mr. Walker.

Mr. SWIFT?

Mr. SWIFT. No questions.

Mr. DREIER. Thank you very much, Mr. Chairman. It has been very helpful testimony.

I would like to ask unanimous consent that we be able to submit to you written questions, because there are some specific questions we are asking of each Chairman and Ranking Member as they testify before us. Without objection, it will be so ordered.

I hope you sit by your mailbox and wait for our letters or whatever will be sent.

Mr. DE LA GARZA. I would be happy to do that Mr. Chairman. I wish you well.

The caveat, this is my personal testimony, not on behalf of the committee, not for the committee, not for any other Member, but just me as one lonely individual.

Mr. DREIER. We understand that. And we thank you very much for your fine service.

Mr. DREIER. We are now very privileged to have the distinguished dean of the California GOP congressional delegation, who is here in his capacity as the Ranking Republican Member of the Energy and Commerce Committee. He also has the very important task of serving on the House Judiciary Committee. He is very busy in that he is in the midst of a markup right now that is going on in the Energy and Commerce Committee.

We appreciate your taking the time, Mr. Moorhead, to be here, and we anxiously look forward to your testimony.

**STATEMENT OF HON. CARLOS MOORHEAD, A U.S.  
REPRESENTATIVE FROM THE STATE OF CALIFORNIA**

Mr. MOORHEAD. Thank you, Mr. Chairman, Members of the committee. I appreciate very much the opportunity to come before this distinguished panel and to give me testimony on committee reform.

As Members of this panel, you have a challenging job ahead, so I commend you for your willingness to take on these very difficult issues.

I want to say that I certainly agree with the gentlelady from Washington, Jennifer Dunn, when she said we would probably operate better around here if we had one week off a month to cover the issues in our district and to meet with our people and the other 3 weeks back here.

I think the staffs would have more time to get the work done that has to be done prior to a subcommittee hearing, and prior to the full committee hearing, and even before we go to the Floor. And we wouldn't have to be working 3 days in the middle of the week, Tuesday, Wednesday and Thursday, and having Mondays and Fridays that there wasn't much to do. I think it is better to do your work and get it done when you can.

I know that those people that live close by here probably would like the idea of the long weekends. For those of us that are in the Western part of the country, you don't get very much done on the weekend when you have to go out there. You get a lot more done if you can concentrate on what amounts to a nine-day period, two weekends and 5 days in between. I think it would work a whole lot better for all of us.

As our Chairman has said, I appear before you today in my capacity as the Ranking Member of the Energy and Commerce Committee. I understand that the Chairman of the Energy and Commerce Committee, John Dingell, was here recently, several weeks ago, and testified as to the important role of the Energy and Commerce Committee in the policy-making process of the House.

When the joint committee was formed, its mission was to examine every aspect of the congressional process. One of the main areas that the committee was charged with examining is the current system of standing committee jurisdiction. You have had a steady stream of witnesses appearing before you describing both the successes and shortcomings of the current jurisdictional scheme in both the House and the Senate. Since it would be inappropriate for me to comment on the internal organization of the other body, I will confine my comments today to Rule 10 jurisdiction of the Committee on Energy and Commerce.

In any discussion of the realignment of committee jurisdictions, the Energy and Commerce Committee is a big, easy target, because of its long history of broad jurisdiction. The Energy and Commerce Committee was originally formed as the Committee on Commerce and Manufactures in 1795 and split into a separate Committee on Manufactures and a Committee on Commerce in 1819. This arrangement survived until 1892, when the Committee on Commerce was formed into the Energy and Commerce Committee's immediate predecessor, the Committee on Interstate and Foreign Commerce.

That committee was given very clear jurisdiction over a number of different topics after the legislative reorganization of 1946, including interstate and foreign commerce generally, regulation of interstate transportation, regulation of communications, petroleum and natural gas, securities and exchanges, regulation of the interstate transmission of power, railroad labor and railroad retirement, public health, inland waterways, and other miscellaneous provisions.

In 1975, the health jurisdiction of the committee was expanded, and in 1977, when the Joint Committee on Atomic Energy was dissolved, the committee received jurisdiction over matters relating to nuclear energy.

In 1980, the name of the committee was changed to the Committee on Energy and Commerce, and our present Rule 10 jurisdiction

was established through an intercommittee memoranda of understanding.

The Committee on Energy and Commerce's almost 200-year-long history has resulted in today's broad jurisdiction, although not nearly as broad as it once was. The fact that the committee has lost jurisdiction over most of its interstate transportation jurisdiction, as well as jurisdiction over science and space, has not kept my colleagues on the other committees from asserting that the Energy and Commerce Committee has too much jurisdiction, and that certain issues under our jurisdiction would be better placed under the control of their committees.

The joint committee should not seek to triple a committee's jurisdiction principally because it is perceived to be too broad. Instead, the joint committee should look at the current committee structure and evaluate the track record of existing standing committees.

When you look at the Energy and Commerce Committee's record, you discover the fact that the committee's critics all too often overlook—the Energy and Commerce Committee meets its legislative responsibilities by consistently producing quality legislation in a timely manner. For instance, thus far in the 103d Congress, the Energy and Commerce Committee has reported nine separate pieces of legislation to the Floor through the end of April. This constitutes 21 percent of all the legislation reported by the House committees during this time period, as shown by a chart I was going to bring but didn't.

This includes three health bills, two of which were major piece of legislation; a commerce bill; a telemarketing bill, and several securities bills. This more than any other single standing committee with the exception of the Public Works Committee, which reported a flurry of bills naming courthouses during the last weeks of April.

This strong record is not limited to the time of the 103d Congress. During the 102d Congress, 53 of the 71 bills reported from the committee were enacted into law, including the Energy Policy Act, the most comprehensive energy legislation in 14 years. During the 101st Congress, some 73 bills in which the committee had a part were enacted, including two omnibus reconciliation measures, and the Clean Air Act Amendments of 1990 which was last amended before that in 1977.

As you can see, the notion that the Energy and Commerce Committee is responsible for institutional gridlock is just plain false.

Because of the diverse jurisdiction of the committee, we are able to attract Members with diverse backgrounds. As a result, our Members usually have recognized expertise in particular subjects under our jurisdiction. This experience and expertise contributes significantly to the policy-making process over time.

In my opinion, the committee crafts legislation that is comprehensive in nature and consistent in its high quality. By way of example, through my years on the committee, I certainly found that to be the case myself as I worked on the Clean Air and Energy Policy Acts, to name a few. I think that demonstrates how the policy-making process can and should work.

Furthermore, I believe it would be a mistake to make committee jurisdictions too narrow since the natural result of the committees which are beholden to special interests and captive to their narrow

issue areas. This, in turn, could lead to an inability to develop comprehensive solutions to the problems facing us in the next century.

While I agree with the distinguished Chairman of the Energy and Commerce Committee's opinion that you should not change a committee's jurisdiction if it is successfully meeting its responsibilities, there are other some areas that I don't know whether John would agree with me or not, but first and foremost I want to express my deep concern for the lack of open rules from the Rules Committee.

Of the 11 rules granted to date, only one was an open rule. This is intolerable because, from the Minority's perspective, and all Members of the House, this represents a highly objectionable obstacle to the full and fair consideration of a bill on the Floor. It is imperative that we have more open rules.

I would like to say that our particular committee, Energy and Commerce, seldom asks for a closed rule. Very, very rare. Almost always, at least the major amendments that have come before the Rules Committee, have been ones supported and that we have asked for an opportunity for discussion on the Floor.

In testimony before the joint committee, the congressional scholars Thomas Mann and Norman Ornstein said that restrictive rules "constitute a disregard for Minority rights, the rights of individual Members, and the dismissal of the constructive role which the Minority or other dissenters can sometimes play in offering alternatives and pointing out flaws in a pending measure."

I also strongly concur in the statement of Representative Gerry Solomon on this subject when he testified that "one of the greatest services this joint committee can render is to reemphasize in its final report the wisdom of adhering to those rules and reforms enacted by your predecessor reform committees that were designed to ensure a more rational, informed, and deliberative process."

Secondly, I have long been opposed to proxy voting in the committee markups. Voting is the most sacred responsibility of every Member elected to this House. We are not permitted to give our voting cards to anyone else, and so we should not be allowed to cast our votes in absentia in committee.

I would think if we didn't have proxy voting you would see much greater attendance in committees listening to the testimony, listening to the arguments and amendments, and they would be making their decision based on hard information that they had obtained, rather than prior to the committee meeting, giving their proxy to someone who had to vote probably what they had told them to vote, but not based upon the full facts that would come to them later.

A key reform which I recommend for the Majority's consideration would be a strict limitation of the committee assignments of Members. This would enable Members to participate in person, which is why their constituents sent them here in the first place.

I think two committees is fine, but when you go much beyond you cut down the time that Members have to give to each of the committees they are on, and each of the subcommittees they are on. And I certainly agree with Chairman de la Garza when he says it is important to develop some kind of expertise on these subcommittees and full committees.

It follows through. Not everyone will have that expertise, but you have got to have somebody who is aware of the issues that are there and be able to pass them on.

I think all of us would acknowledge multiple committee assignments make it difficult for Members to meet all of their committee obligations, including markups, hearings and briefings.

Furthermore, multiple committee assignments place burdens on the committees themselves, since it often becomes difficult to meet quorum requirements due to Members' scheduling conflicts. Because of the Minority's stricter enforcement on the limitation on committee assignments, I can say that the Minority Members of the committee generally have a very good record of attendance at committee meetings.

When Chairman John Dingell testified here on April 29, he testified, among other things, to the good relationship between the Majority and the Minority. I would like to verify that for the record.

I appreciate his statements because I think they accurately reflect the fact that we have worked over the years on very tough issues in an atmosphere of mutual respect and professionalism. That respect is founded on the notion that we are all here to serve the citizens who elected us.

This has encouraged, both at the Member and staff levels, extensive debate and discussions on legislation so as to adequately air differences on policy issues at stake. This process, in turn, usually produces legislation that has been negotiated to meet concerns around the table to the greatest extent possible. There are, of course, instances when there are differences that are too great, and the matter is put to a vote, and the vote becomes the final determination of where the issue stands.

I would also like to say for the record that Chairman Dingell has consistently conducted committee proceedings according to the Rules of the House and the committee, and has seen to it that such votes take place fairly.

Finally, I want to take this opportunity to commend the Chairman for his leadership in this area generally, because his strong support for this policy-making process is fundamentally a recognition that each Member of the committee has an important contribution to make to the committee's work.

I also want to testify regarding the allocation of committee funding, which I believe now is basically unfair. We have committee budgets. One is the general budget that we have, it is balanced on one-third-two-thirds, and I find that to be proper. The other is the investigative funding, which is now divided anywhere from 15 or 16 percent up to the one-third funding level.

But when you get down there below 20 percent, you are not being fair to the Minority. You are not giving the Minority, to do the research that is needed, to do the work that is needed on important bills as they come before the House. And I think the more people that are informed and are well served by a good, solid staff, the better chance you have of getting good legislation that comes to the Floor, and legislation that is not going to be defeated, but legislation that once it gets to the Floor is probably going to pass.

We must raise that funding level to that 33 percent. I know that we have a vote on the Floor, and I don't want to take too much of

your time, but I do think there are other things we can do that would be important.

I would like to particularly ask that the joint committee judge the merits of committees when they make their decision about jurisdiction. Don't just jump overboard and say, That committee is real full and it has got a lot to do. See what we have accomplished. And if you look at the Energy and Commerce Committee, and the work done on important bills, you will see that our committee has been very effective, it has done the job it has been assigned, and it has had very, very little criticism in its final form.

I thank you, Mr. Chairman.

[The statement of Mr. Moorhead is printed in the Appendix.]

Mr. DREIER. Thank you very much, Dean Moorhead. We appreciate your testimony. It was very helpful. In fact, so informative that my colleague, Ms. Dunn, leaned to me as you were wrapping up and said, as she had gone down her list as I had, you answered virtually every one of our questions.

Let me say I want to particularly thank you for the call for more open rules. That has been something that has been the source of a great deal of frustration for those of us in the Minority, and you know that last week we started our first open rule on the Competitiveness Act. We are in fact going to be considering that bill later this day. I simply want to thank you for that.

I was going to raise the issue of the committee funding, and you have touched on that. In fact, you touched on it very thoroughly. I appreciate that.

At this time, if Ms. Dunn does have any questions—

Ms. DUNN. Thank you very much, Mr. Chairman.

I really do like the points you made, Mr. Moorhead. I appreciate your comments on proxy voting. I think that is going to be an implicit limiting mechanism to the number of committees Members can serve on, because you can't be every place if you are required to vote on your committees.

I guess we started today discussing the issue of a piece of legislation that has come up in most sessions called the Sunshine Act, and it deals with allowing press, written press, TV press, to cover committee meetings. And I am wondering how you believe that would affect the process, if we are able to pass something that says it is the right of the citizens throughout United States, through their televisions, C-SPAN, whatever, to view what goes on in these meetings which they actually are funding. Do you have any thoughts on that?

Mr. MOORHEAD. Except for the very secret hearings that were held on the impeachment process, and some of the others of more technical nature of that kind where—we have done a number of impeachments in the Judiciary Committee, people's reputations are on the line, and those committee meetings probably should be closed.

Ms. DUNN. And perhaps those dealing with national security issues.

Mr. MOORHEAD. That is right. I have never seen another committee meeting that was closed.

Ms. DUNN. We just got bumped out of Ways and Means the other day, the whole freshman class did.



Mr. MOORHEAD. In the committees I have been on, I have never seen anyone kicked out of either Commerce or Judiciary. If there has been a request that the meeting be covered by TV or radio, I have never seen a rejection, unless somebody's reputation was at stake, and you had to go over those issues behind the scenes, before you saw that there was a case that should be brought, then it would be brought out. That has been very rare.

I am happy to see my colleague from the committee is here, Al Swift.

Ms. DUNN. Thank you very much, Mr. Chairman.

Mr. DREIER. Thank you, Ms. Dunn.

I am now privileged to call on your Energy and Commerce colleague, the gentleman from Washington.

I was told the other day I referred to him as the gentleman from Michigan on the House Floor. I apologize for that.

Mr. SWIFT. I always get Members from California correctly. It is North and South Carolina and North and South Dakota that I usually get confused.

Let me make this brief so we can excuse Carlos and all of us can go vote. Just an observation. I think one of the things that the body could learn from Energy and Commerce in terms of the use of the rules is that the Majority does not use the rules to squash the Minority, and the Minority does not use the rules in the form of a filibuster or in any way abuse the rules. Either, in my judgment, is a violation of the spirit of the rules and tends to draw the other side into the equal and opposite abuse. We don't do that.

I can remember a couple of instances in our committee in which there was an abuse, filibuster by amendment. One was a Republican and one was a Democrat in the following Congress. And they were 10 and 12 years ago, I believe. We just don't normally have that kind of thing. As a result, there is no effort to change the rules.

Sometimes I think in the full House there has been abuse on both sides, and it is one of the things that has got us locked in this debate over appropriate use of the rules, open rule or closed rule, and so forth and so on.

Both sides need to understand that sometimes it is their responsibility as well to use the rules as they were intended to be used, whether they be in the Majority or in the Minority. We seem to know that on Energy and Commerce, and it works very well there.

Mr. DREIER. You have just made a very good and compelling case for the open rule process. We appreciate that.

Mr. SWIFT. No, I made a good and compelling case for not abusing the open rule process.

Mr. DREIER. Thank you very much, Alan.

Thank you, Dean. We appreciate your testimony. We are going to be submitting to you, and without objection I would like to ask that we submit to you a letter which will include some extra questions that Members of the committee would like to ask. We appreciate your being here.

We do have plenty of time to get upstairs. At this time, the committee will stand in recess, and in a few minutes we are scheduled to hear from Senators Pryor and Cohen, the Senate Aging Committee. So the committee stands in recess until that time.

[Recess.]

Chairman BOREN. [presiding.] We will resume our hearing, and Members of the House have been called over for a vote. This is a good indication of why we are trying to make some reforms as we operate: Trying to bring the Members of one House together in a committee is very, very difficult with the schedules involved, and with two Houses it is even more difficult.

Senator COHEN. Maybe they shouldn't be allowed to vote.

Chairman BOREN. But we just had a vote on the Senate side, and during Representative Moorhead's testimony, and now we have a vote on the House side, but we do anticipate House Members will be returning.

Our next panel consists of two of the joint committee's own Members, Senators David Pryor and William Cohen, the Chairman and Ranking Minority Member of the Special Aging Committee, respectively.

Senator Pryor served in the U.S. House of Representatives from 1964 to 1971, was Governor of Arkansas from 1975 to 1979, when it was my privilege to work closely with him. As neighboring Governors, we were able to resolve most of our border disputes relatively peacefully, although there were one or two that verged on military action between the State militias, but we were able to keep that from happening. And he began serving the United States Senate in 1979.

We came to the Senate together. In fact, all three of us involved in this discussion right now all came to the Senate at the same time.

Senator Pryor serves on the Agriculture Committee, of which he is the second Ranking Member; on the Finance Committee; and the Governmental Affairs Committee as well.

Senator Cohen was elected to the United States Senate in 1978. I had the privilege, as Members of the committee have heard me say previously, of serving with him on the Intelligence Committee during the time he was vice chairman for 4 years, and that was a real privilege for me to have the opportunity to work so closely with him. He is a Member of the Committees of Armed Service, Governmental Affairs, and Judiciary, as well as holding the ranking position on the Aging Committee.

We welcome both of you to this hearing today. We would appreciate your comments about the work of the Aging Committee and any other suggestions you might have for the committee as we deliberate about the committee process, the numbers of committees and the function of committees.

#### STATEMENT OF HON. DAVID PRYOR, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Senator PRYOR. Thank you.

I want to say a word about my colleague, Senator Cohen. A chairman of any committee in the Senate cannot have a better co-worker and vice chair than Senator Cohen of Maine. He has been splendid in every way.

We don't do things on a partisan way on the Aging Committee. He has been one who has truly been in the forefront of attempting

to move the issues as far as they related to the elderly. He has been a true working partner. And for that friendship and cooperation, I will always be indebted to my friend, Senator Cohen.

Chairman BOREN. I know you mean that because, as I said, you and I had the very same experience of working together with Senator Cohen. I had it for 4 years as he was my vice chairman. Now you are having the very same experience. Both of the those committees operated in a bipartisan fashion, as does this one.

We have been joined by our vice chair, Senator Demenici, who has followed along in that very same spirit. I think all of us from our experiences in other committees know that that is not always the rule in the Senate.

That is really an exception, to have what is really a bipartisan relationship in a committee and to have a committee work in a bipartisan basis. It is my hope we can spread that spirit or find ways to encourage it in all our committees.

We certainly join with the comments you have made about Senator Cohen.

Senator PRYOR. Thank you, Mr. Chairman.

Mr. Chairman, I am truly honored this afternoon to be here and to be given the opportunity to talk about the Senate Special Committee on Aging. This debate on the Special Committee on Aging was held actually last February. I think all of us know that the Senate, in a strong vote of support, voted to continue the work of this committee.

And I would like to restate, if I might, Mr. Chairman, I will try to make this very brief, some of the main points of that debate, which I still think hold true today.

The Senate Aging Committee makes Congress more responsive to the needs of over 31 million older Americans. In addition, it conducts investigations and oversight that assists the work of other committees in the Senate, and it directly serves senior citizens.

On top of that, Mr. Chairman and colleagues, it produces, I think, a great return on the investment to the taxpayers.

Some say that the Aging Committee is unnecessary today. They say it has no legislative authority. But if the Aging Committee no longer existed in 1993, other panels and other committees and other subcommittees would not physically have the amount of time necessary, nor the proper structure, to accomplish what the Aging Committee does, and I must say, what it proudly accomplishes.

Mr. Chairman, I would love to invite the Members of this panel who do not serve on the Finance Committee to work, for example, with those of us who serve on the Finance Committee, and to stay with us a month to witness the agenda and to see what we have on that particular agenda.

This year, for example, the Finance Committee takes up new administration proposals on the economic and tax plans, welfare reform, health care reform, trade issues, to name a few. And despite the fact that the Finance Committee has a great new Chairman, Senator Moynihan, we simply cannot provide in the Finance Committee the kind of oversight and the type of monitoring that we need of these programs, for the Federal programs serving older Americans.

Traditionally, the Aging Committee in the Senate has complemented the work of the committees like Finance by providing them with information, oversight and policy development.

In addition to this, the Aging Committee is a very unique committee in that it is a service committee for the United States Senate. In fact, the creators of the Aging Committee in 1961 argued that a single panel was needed in the Senate to do a comprehensive, ongoing review of the concerns and the programs for the elderly, rather than have them be fragmented among several committees. The need remains today for the Aging Committee to review such issues that cut across those committee lines.

If I might, Mr. Chairman, my colleagues, consider, for example, the huge task facing Congress coming up in the next several weeks and months on health care reform. The Aging Committee is going to be called on to play an instrumental, vital role in reviewing the profound impact these programs propounded by the White House will have on older Americans.

Ms. Hillary Clinton recently met with Members of the major legislative committees, including the Finance and Labor Committees. Yet when she sought to review the broad matters concerning the 31 million elderly in America, she consulted with the Senate Aging Committee. In fact, last Thursday she had breakfast with the committee, or maybe I should say we had breakfast with the First Lady.

Our meeting last week addressed how health care reform will affect older Americans, and included a discussion of issues that cut across committee lines, such as long-term care and prescription drugs. Rather than duplicating other Senate panels, the Aging Committee starts investigations, it develops proposals that are taken up by committees with jurisdiction, and are often enacted into law.

In instances too numerous to mention this afternoon, the work of the Aging Committee has led to policy changes that have improved the lives of elderly Americans everywhere.

Mr. Chairman, I would like to submit for the record a summary of some of those recent achievements. The legacy of the Aging Committee is service to the elderly and to all Members of the Senate. Older Americans from across the country write to the committee on a daily basis seeking assistance with disability benefits, information on medicare, guidelines on choosing insurance or help in choosing a nursing home in their particular locality.

We answer each and every letter, Mr. Chairman, and there have been over 47,000 such letters and such requests that have come to the committee since 1989.

The Aging Committee is also now developing a proposal for a National Mentor Corps, using the talents of older Americans to help today's troubled youth in our public school system.

The Aging Committee also provides valuable reports to the public and to Congress. The committee's report on the elderly details activity that impacts on the elderly.

Last fall the committee staff compiled a print outlining programs, offering three prescription drugs to those people in America with the lowest incomes. When the word got out, our committee was besieged with calls and letters from people in all 50 States who

were desperately seeking relief from skyrocketing prescription drug bills. Today, the Aging Committee has filled over 70,000 requests for this particular publication.

The Aging Committee, Mr. Chairman, produces a great return on the investment for the taxpayers that can compare, I think, to any committee of the United States Senate. The Aging Committee runs on an investment of around \$1 million a year, yet just one piece of legislation that it helped to create will save the taxpayers of America \$6.3 billion over the next 5 years by holding down the price medicare pays for prescription drugs.

In addition, taxpayers would save another \$200 million through a measure investigated by the Aging Committee that stops fraudulent billing practices by medical equipment suppliers.

In the last month alone, Mr. Chairman, the Aging Committee has held three major forums to find Federal cost savings. In April, a hearing emphasized that home-based long-term care can save money by keeping people out of nursing homes.

Two weeks ago we held a workshop to determine if cataract or unnecessary cataract surgery is being billed to medicare.

Last week a hearing held by the Aging Committee examined preventive health measures that can save money in treating the elderly population.

The Aging Committee also protects the savings of older consumers. It helps strengthen the law that helps prohibit physicians from overcharging medicare patients. We develop programs to protect the elderly against Medigap and long-term insurance sales abuses. The committee battled fraud against the elderly and developed legislation to help stop mailings from asking seniors for money.

In 1977, the Senate reaffirmed the need for a Special Committee on Aging by voting 90 to 4 to make it a permanent panel. The situation has not really changed since that decision in 1977, nor since the vote on the Senate Floor this past January.

Let me make, if I might, Mr. Chairman, one thing perfectly clear. In a recent meeting in this room it was brought up that some of the other special committees of the Senate had now become legislative committees. In jest I said, Maybe that was the answer for the Aging Committee.

I want you, Mr. Chairman, and other Members of the panel to know that I said that strictly in jest. I do not believe that the Aging Committee should become a legislative committee. I think the committee should be exactly as it is, doing the same hard work, the work of monitoring, the work of oversight, the programs that other committees and ultimately our respective legislative bodies, the House and Senate, pass.

The joint committee, I think, this committee, should never lose sight our fundamental purpose here: to make Congress more responsive to the needs of the American people.

The question I have today, Does the Aging Committee make Congress more responsive to the 31 million older Americans? I think so, Mr. Chairman. I say that respectfully.

Does the Aging Committee make Congress more responsive to the needs of the average American family? Yes, Mr. Chairman. Again, I think so.

To be fair, Mr. Chairman, there are a few groups that might like to see the abolition of the Aging Committee. One might be the pharmaceutical manufacturers. They would love to see the Aging Committee go away. They would be happy because the Aging Committee would no longer be there on a daily basis challenging their industry to give American consumers a fairer deal.

Another group that would love to see the committee go away, peddlers of fraudulent nursing home insurance policies and mailers of misleading solicitations to the elderly would also like to see the committee get out of their way and out of their pocketbook.

I hope that the joint committee today does not single out the Aging Committee as a symbolic cut so we can pat ourselves on the back and say we are doing something to save money. With the rapidly growing aging population, the growing concerns about how to control government programs affecting the elderly, now is exactly the wrong time to reduce our oversight capacity.

Mr. Chairman, I truly hope that the Aging Committee has earned the respect and the support of the United States Senate, and also to help the support and the respect of this joint committee to continue serving as America's advocate for the elderly.

And I am asking unanimous consent, Mr. Chairman, that a list of letters of support—not all of the letters themselves, but just the list of groups that have sent in letters of support to be used at this or any other hearing or any other type of debate—be placed in the record. Mr. Chairman, I would appreciate that.

Chairman BOREN. Without objection, they will be placed in the record.

Senator PRYOR. I know I am taking a little of my colleague's time—

Senator COHEN. You are taking some of my argument.

Senator PRYOR. These are not just letters from groups you might say representing the elderly. These are groups like the National Association of Meals Programs, National Association of Retail Druggists, American College of Emergency Physicians, the Children's Defense Fund, the Consumers Union, and on down the line. We think that there is a very broad range of support for this particular committee.

Mr. Chairman, also, and we are not trying to just brag on ourselves too much, but we are very proud of what we have done in the past 2 years. The number of not only formal hearings we have held, but also the workshops that we have held in Washington and across America relative to those problems that the elderly citizen is facing.

I would like, Mr. Chairman, if we could, to include those hearings and meetings in the record.

Chairman BOREN. It will all be included in the record.

Senator PRYOR. Also, not for the record but for any colleagues who have not seen this publication, we have now a publications list of all of the prints going back until the year, I believe, 1971, or actually 1964, of all of the works, the documents that the elderly have been made available or have given, and that are printed by the Special Committee on Aging. Some of these we still have actual prints of.

And this, Mr. Chairman, is the final report that I would like to be placed in the record, dated May of 1993, "The Achievements of U.S. Special Committee on Aging for the 101st and 102d Congresses," and we are deeply appreciative of you granting us that liberty to place these documents in the record.

[The report submitted for the record by Senator Pryor is printed in the Appendix.]

Senator PRYOR. Mr. Chairman, I conclude my statement. Thank you.

Chairman BOREN. Thank you very much, Chairman Pryor. That will be included in the record.

The interest which you have shown and the problems especially confronting the elderly is something, of course, not new. I know from your own—following your record at the time when you were in the House back in the 1960s, this was an issue you were already pursuing, including trying to make sure that the elderly were receiving good care in nursing homes, and other problems that they were confronting.

So we certainly appreciate the interest. You have for many, many years been an outstanding spokesman in the Congress for the elderly and sensitive to their problems.

Senator Cohen, we would be happy to hear from you at this time.

#### STATEMENT OF HON. WILLIAM COHEN, A U.S. SENATOR FROM THE STATE OF MAINE

Senator COHEN. Thank you very much, Mr. Chairman.

First let me thank you and Senator Pryor for your very kind and generous words. As I sat here listening to those glowing tributes I remembered A. Lawrence Lowell's advice, the former President of Harvard, who said, "Flattery is like nicotine: It is not harmful unless deeply inhaled," which subject matter I won't pursue any further.

But let me say I really had the pleasure of serving with you on the Intelligence Committee and Senator Pryor during these years, and I believe it is critically important that whenever we can identify the areas and issues that really require us to put aside these partisan sorties where we start slashing away at each other from time to time and all too frequently.

I have enjoyed immensely my work with you and Senator Pryor, and both of you have pursued a common cause, namely the intelligence community and the issues affecting our elderly, with great passion, and I would say a dispassion as far as the politics are concerned. I appreciate it very much and I want to commend both of you gentlemen.

It is somewhat difficult to sit on this side of the table for a change and try to put on a different hat. If I could maybe paraphrase Russell Long, he once said something like, "Don't cut me and don't cut thee; cut the one behind the tree." He was, of course, referring to taxes, and we are talking about committees.

I think what we have to do is resist the temptation I think on sitting on that side of the table to say, it is a simple solution, let's get rid of all the special or select committees, and we can clean up

that little chart and you have eliminated three committees and we have now made some progress in the name of reform.

I think we have to resist that temptation to approach this problem from a simple or simplistic fashion, and rather, use a rule of reason instead of a rule of thumb. And that is what I would like to talk about here just for a few moments—and I mean only a few moments, because Senator Pryor has covered virtually every issue I want to raise this afternoon.

In 1961, the Senate believed that the issues then confronting the elderly were so complex and proliferating in nature that they needed one committee to take a broad, comprehensive look at these issues, realizing that the individual committees in the Senate and later in the House—and I had the pleasure of serving on the House committee when it was first created back in 1975—believing that a single committee with oversight responsibility would be able to deal with these issues in a more effective manner, conduct hearings, examinations, investigations, and pass the benefit of those investigations on to the legislative committees. So 1961, that was the opinion.

In 1977, as Senator Pryor pointed out, the Senate reaffirmed that commitment by making the special committee permanent instead of being reauthorized each year. And so now we come to 1993. The question is, Should we abolish it altogether? And that question has to be asked in the context at a time when the needs of our senior citizens are growing exponentially.

Would it be wise for us to abolish this committee? And I would suggest to you respectfully that it would not be wise, it would not be responsible.

Now, I am reluctant to call upon the statistical information. I once heard it said that statistics, a man who relies on statistics is like an inebriate holding on to a lamppost, more for support than elimination. But let me try and cast a few shafts of illumination on this subject matter. It is like oxtail soup, Senator Domenici. There is just a bit of a delayed reaction.

Demographics: Senator Pryor has already indicated this year, there are roughly 31 million Americans who are 65 or older. By the year 2030, there will be more than 60 million people who are 65 or over. That is one quarter of our population who will be then 65 or older.

Our elderly are living longer. In 1986, 40 percent of the people were 75 or older. By the year 2000, just seven, or six-and-a-half short years from now, 55 percent of the population will be 75 or older of our elderly population. And by the year 2010, there will be 22 elderly for every 100 people of working age. By the year 2050, there will be 38 elderly for every 100 people of working age.

So I think the policy applications for this country are enormous. Health care, we are going to see a doubling of a need for hospital beds. Long-term care and disability programs, there will be a tripling of the number who are going to need assistance. On pensions we will see unprecedented numbers of people who will be living on retired income, or fixed income, I should say. Housing and welfare, there will be record numbers living alone or below the poverty line.

So we have these enormous social problems that are looming. So the question has to be placed in that context. It is not the time to



take the one committee who takes a comprehensive view of housing, health care, and welfare, and simply abolish it and then divide the responsibilities up into all the separate fragmented committees.

Because the object, as I have been sitting on the other side of the table, has been twofold for the committee. Number one, can't we eliminate some of the fragmentation? We have got too many committees spread over too many jurisdictional territories, so shouldn't we try to eliminate fragmentation?

Here we are trying to abolish the one committee which isn't fragmented, that tries to take a broad overview of all the issues confronting the elderly. It doesn't seem to me to be a wise use of this committee's expertise or indeed staff, because if you were to abolish the committee, you would inevitably take the staff members or those slots and the workload, and put it into another committee or series of subcommittees in various individual committees.

So that is one goal, eliminate fragmentation, and what we are proposing to do or some are proposing to do is eliminate the one committee that is not fragmented.

Number two, saving the taxpayer money. As Senator Pryor has pointed out, we have roughly \$1 million in terms of investment in this committee on an annual basis. We will save \$6.3 billion by 1997. And that is because we have been conducting investigations into the marketing of Medigap policies, quality of care in nursing homes, scams that prey upon the elderly, and durable medical equipment suppliers.

While most of the suppliers of these types of equipment are honest and legitimate, responsible, we have found many cases of fraud, where someone will come in with a piece of foam rubber, a piece of pink foam rubber, pass it off as some kind of a flotation mattress, something that costs \$23 to purchase, and then seek reimbursement and get reimbursement under Medicare for \$1,100.

Now, that is the kind of fraud that has been going on through that one particular type of scam operation. We exposed that. The investigation was started by our departed colleague, Senator John Heinz of Pennsylvania, who was on his way to investigate further this type of fraudulent activity when his plane ran into the helicopter and crashed, killing him and several others.

That is the type of work that he and Senator Pryor and others on the committee have been involved with for some time, trying to expose the kind of fraud and waste that take place, particularly those that take advantage of our elderly citizens.

Doctors and suppliers who overcharge prescription drug prices—all of these issues have been investigated by the Senate Aging Committee, all of which has resulted in substantial savings, according to the Congressional Budget Office.

So now at a time when we are calling for a comprehensive approach to health care, to pensions and disability programs, to AIDS discrimination, to housing, to income security, it would seem to be an unwise policy for us to adopt, to simply—let's get rid of this committee because it is only special or only select, and it is kind of sitting off there off the edge of the chart.

One or two final points. The exploration of new ideas and new areas. I don't know of any other committee that has been willing to undertake an examination of areas that otherwise might have been

dismissed as being fringe, on the real cutting edge, so to speak, and perhaps even questionable. But the Aging Committee, under the leadership of Senator Pryor, explored as to whether or not music can be a valuable therapeutic tool in treating people with Alzheimer's or treating people with other types of problems that affect our elderly.

Art has been examined as a potential therapeutic value contributing to those who may have some limited abilities. We are exploring the entire issue. Bill Moyers now has a best selling book out. We have been exploring the possibility of examining what the role of meditation is in the role of healing. We have got vast areas to explore, and it has been the Aging Committee that has done the exploration.

So, Mr. Chairman, let me cite someone who might be dear to your heart, John Kennedy, who said, "It is not enough for a great nation to merely add new years to life. Our objective must be to add new life to those years as well." New life to those years.

And reform doesn't just mean a shuffling of boxes. All of these 14 plans we have got around here to shuffle the committees around, seeing how many committees we can squeeze into a shoe box, that is not the essence of reform, of adopting what I call that rule of thumb as opposed to a rule of reason.

If you want to eliminate duplication, you should merge the authorization and appropriation committees. You should limit service on the individual committees. You should mandate time for real debate on the Floor instead of what we go through most of the time, simply reading speeches and no one is around to listen to them.

And more importantly, you can forget about everything this committee has been doing, scrap it all, because it is all meaningless unless we change the way in which we conduct business especially on the Senate Floor, because all of the reorganization, all of the compression of subcommittees and committees into a few of those major committees will be meaningless, absolutely meaningless, if we continue to exercise the kind of prerogatives that we have under the Senate rules.

Now, it is not going to be possible to propose major rules changes, because there is deep opinion on this issue by some very senior Members. But I will give you an example of what happened last week. We were debating the lobby disclosure bill, and there was an effort made to amend that bill to include campaign finance legislation. And of course Republicans have one view about political action committees and want to abolish them and try to put the Democrats on the defensive because they enjoy greater support than the Republicans do. And of course Democrats at that point said, We would like to put some limitation on what you could spend because that benefits you as opposed to us. And the system was in danger of once again breaking down.

We have the opportunity and the privilege of amending virtually any bill, attaching any amendment with a relevant or irrelevant, germane or nongermane, and we do it all too frequently. And our leaders don't really have the power to discourage that.

And so we have got to take it upon ourselves to start disciplining the system. Unless we resist that temptation to add amendments to

virtually every bill, completely unrelated—now, there is one thing, if a Member is being denied an opportunity to have a serious piece of legislation considered by an appropriate committee, it is quite something else, however, to simply attach amendments for political advantage. And in the event that we fail to start disciplining ourselves and giving moral authority, if not parliamentary authority to the leaders of our respective parties to discipline Members who engage in this practice, then you can change all of these charts, you can make all the reforms you want, it will be to no avail.

I hope these comments will be helpful to you and to us in our deliberations.

Thank you very much.

[The prepared statement of Senator Cohen is printed in the Appendix.]

Chairman BOREN. On the last point, would you favor a germaneness rule for action on the Senate Floor so the amendments would have to be germane to the subject matter before us?

Senator COHEN. With the flexibility that if a Member were not—were being shut out by the Majority, for example, and not having an opportunity to have certain types of legislation be given full consideration by an appropriate committee, I think that is something we have to protect against, and that is the reason why I think you have the rationale for having nongermane amendments so a Member can attach it.

But my own background, like that of Senator Pryor, was in the House, and frankly I like the rules in the House, where it has to be relevant and germane, and you are limited in time. The Senate has a different function, obviously. But we have to strike some kind of a compromise. Otherwise we are running the risk of simply debating for the sake of debating, we are attaching amendments for the sake of political advantage, and we are involved in politics. There is nothing wrong with that, but I just think that some discipline has to be introduced into the system.

I would prefer to see it done by having the leaders really crack down on individual Members, having some kind of an informal rule which the Members will observe, and some reverberations or repercussions inflicted by the Majority Leader or the Minority Leader upon Members who abuse the privilege we currently have. I think that would be much more effective than trying to adopt a germaneness rule in the Senate.

But I think we, number one, should exercise discipline, and number two, the leader should have more power than they are exercising today.

Chairman BOREN. Maybe we could limit the number of nongermane amendments a Member could offer. They can offer a nongermane amendment but with a rule that you couldn't keep bringing up the same subject matter over and over again.

Senator COHEN. Mr. Chairman, I was on the Floor helping to manage the bill dealing with lobby disclosure last week, and it was not a unique situation to be in, but I looked up in the gallery, the gallery had quite a few members of our citizenry up there observing, and they looked down at a virtually empty chamber. It was in a quorum call, and I couldn't help but point out they must be thinking or singing Peggy Lee's refrain, "Is that all there is?" Be-

cause they come into this historic chamber, they expect to see Daniel Webster and Calhoun and a few others engaged in pretty hopefully powerful and eloquent debate, and they come into an empty chamber in which we are debating as to whether we are going to lift a quorum call or go out for the evening.

So I think that is what is contributing to the disenchantment and the anger and the cynicism, that they see us as not making very much progress or engaging in conduct that they don't fully comprehend. In fact, I don't fully comprehend it from time to time.

Chairman BOREN. I think somebody ought to consider, as a Member of our committee I hope you will think about ways we might approach this, because in all honesty I am not sure we are going to see a rejuvenation of the spirit of self-restraint. I am not sure that the pressures that come to American politics externally, there are pressures in our society, there is more fragmentation in our society, there is less control or the ability to have any tools of control with the leaders of the two parties, and Members obviously feel that they gain more politically often by following their own agendas. That often includes nongermane amendments, and sometimes it is the same nongermane amendments over and over again. I am not sure we can any longer rely upon the spirit of self-restraint in terms of the way the body operates.

And, in fact, if we could get our business done in a better fashion, we might help impact some of the fragmentation in a positive way that is out in the country. We might help bring people back together.

But as it is, I think we are really organized in a way that maximizes the kinds of divisions. And I am just not sure that we can sit back—I think all of us know we would be giving up something if we were to go to a germaneness rule and some other rules which might apply to Floor procedure, which is our next topic after this, but something I hope you will think about.

Senator COHEN. Mr. Chairman, when the defense authorization bill comes to the Floor, we who serve on the Senate Armed Services Committee have spent days, weeks, months, trying to develop an expertise in the field of our defense needs. As soon as that bill hits the Senate Floor, there are roughly 155 amendments pending by other Members who have not been sitting on that committee, not listening to the testimony, not listening to the evidence.

It seems to me we have got to return, hopefully return to a system where Members will tend to defer to those that we delegate responsibility to, to devote their time and energy to those committees, to develop the expertise, and not simply respond to either a parochial interest or a political interest to try and add amendment after amendment to the bills.

Now, until we do that, I think we are going to continue to see the kind of—

Chairman BOREN. I am not sure we are going to do that voluntarily. I think we need to think—we should do it voluntarily, but I think we need to think of mechanisms that might help that along. There has to be a balance struck between efficiency and the right of individuals to get fairness and have issues that are important to them be heard on the Floor.

But I would really like to challenge you as one Member of the committee, because I have heard you say this before and I think you are exactly right, to help us in recommending any reforms we might propose, because along with structure, we look at reforming the institution. Some of the rules for procedure for operation obviously are extremely important to what we might be able to do as well in terms of making a positive change.

Senator PRYOR. Mr. Chairman, may I add in there, a few years back Senator Dole and Senator Byrd in their leadership functions appointed a little bipartisan group to look at some of the possible changes. As I have mentioned, one time again in this same room, that little group became known as the Quality of Life Committee. I do not know why it became labeled as that—

Senator COHEN. It failed.

Senator PRYOR. It did fail, and it, along with myself, we became very frustrated with what was going on.

And the distinguished Chairman has talked about things that Senators might give up, certain prerogatives or certain so-called powers. But I think what we have got to do is really ask ourselves now, Isn't it time to give up something in order to gain something?

And that something we are going to gain we hope, once again, is the respect of the citizens out there because we are not relative anymore to the real problems out there in our country. We are less relative to solving those problems than we ever have been. These are the tradeoffs we have got to look at. And I admire you and your committee for looking at them.

Chairman BOREN. I hope we can do that, and let me say, I hope when we get into the deliberative phase of this committee, you will dust off some of the ideas that that particular working group had.

I know they talked about things like placing holds on bills, how should one person be able to hold up action for weeks on end. And think we need to a—Senator Domenici?

Senator DOMENICI. Let me just congratulate you, my friend, Senator Cohen. You have successfully caused the committee to no longer be talking about the Special Committee on Aging, but rather talk about the rules of the Senate. You are an admirable witness.

Senator PRYOR. It was the Chairman's fault.

Senator COHEN. I am talking about real reform.

Senator DOMENICI. I understand.

Let me tell you or give you a few thoughts that I have, and I seek your observations or comments on it, either or both of you. Frankly, I think you make a very good point that there has to be more oversight of what is going on in the country by virtue of our rules, regulations, and the public's needs. You make a case for oversight, because that is about all you do, and for those who now complain that that is all you do, let me tell you, for one, I am hoping when we finish this reform that we have in some way built into this system more of an opportunity to hold committees responsible for oversight.

Now, I have my own thoughts about it. I have told you all I think we ought to be on a two-year cycle on a lot more things, giving more time for oversight. I am going to hang on to that vision.

You don't need to appropriate a budget every year. You ought to do it every 2 years. And clearly this place would have one year for fiscal matters and one full year for legislating and oversight. It has got to be something as basic and fundamental as that.

I believe, however, in the area of aging, just because of the enormous, enormous problems out there, and the impact of enormous Federal laws on pensions and all kinds of things, that it is absolutely imperative that somebody be focused on oversight in that area.

And let me tell you right up front, I tend to agree that a committee with as much diverse, substantive jurisdiction as the Committee on Finance, as good as they are, as excellent as they have been in getting to the point and getting things done, I don't believe they can do the oversight and do the legislation in this broad area of the problems of senior citizens.

That does not mean that I am totally satisfied by saying the Committee on Aging will do oversight and everything is rosy. I think we ought to talk, as we are finishing this up, about how we can assign the role of oversight to a committee like the Committee on Aging, but make sure that it is understood that they don't have the total luxury of just picking and choosing what they would like.

I mean, I served for a very long time on that committee. I had a great time. It was totally bipartisan. It seemed to always be bipartisan; everybody seems genuinely interested. But I can tell you, the choices of matters that were selected for consideration were politically exciting notions.

Oversight is not just that. Oversight is not just to grab onto an issue that will make news. That is part of it. But part of it is just a really tough drudgery of taking laws one by one and getting into the bowels of government and see that it is working. That is hard work, and I for one don't want to relinquish that to the GAO.

That is where we are coming. We are getting perilously close. Every time we have difficulty with something, we say, This outside group ought to do this for us. And some people are gaining a great deal of frustration on that activity.

I think we ought to place more of that back in our hands, in a credible manner, in a manner where the leadership can expect it. I don't know how to do that, I say to both of you, yet. But I believe you are hitting on that notion as you talk to us today.

So I am not getting rid of committees just because they are oversight or they are limited to one piece of what another committee does along with 20 other things. I am for getting to the bottom of how to weed for oversight on ourselves here and make it a responsible kind of action by our committees.

And frankly, if we can do that, it is going to require a lot more discipline than we have got. And I don't know that that discipline is only Floor discipline.

I say to both of you as my friends, Senator Byrd more aptly and adequately stated the frustration of this place when he said our attention is fractured. We are suffering from fractured attention. That may be because we have too many jobs.

You might address that on the multiplicity. It may be that we are on enough committees where we just pick one that can get something done and don't want to burden ourselves with attending to those who have a difficult job, getting to the bottom of things.

I don't know the answer. But frankly, before we worry about Floor activity, I think we ought to worry about it not only in conjunction with the Floor, but in conjunction with the impact on our committees.

And frankly, our committees just don't much give a damn what is going on on the Floor. If you are on the Floor, you might be looking for a Member off in a committee hearing and he may just be thumbing his nose at you the whole day because there is something exciting on the committee. That has got to stop. You have got to follow some kind of rules to get down there and present your case.

That is why you are frustrated, and the people see this roll call. This Senator is going to come in 2 days later and do a lot of work on the Floor on that bill.

I am all for giving our leadership some new way to say, That is not going to happen. I don't think it has to be a germaneness change. We might have some, but that is not the issue. The issue is responsiveness of the Members, to what the priorities ought to be around here.

They are not going to give in to Floor when they are doing something they think their constituents are interested in or there is a long list of them waiting to see them and they are going to see them, and the Floor has to wait and suffer the harm you have described.

Could you just quickly comment on the few observations that I had?

Senator COHEN. Let me address the second one, second point you made. I frankly would prefer to see a reading of the bill by title, as they do in the House. If you are not in there when that title is being read to offer your amendment, you lose it.

Now, I am told by the Parliamentarian that that can't be done because of the germaneness rule. But that is the kind of discipline I would like to see as far as the Senate is concerned.

I am enormously frustrated with sitting and waiting most of the day, until someone wants to come in starting at 6 at night, then we start the debate and vote until midnight. I think it is destructive of what Senator Pryor was talking about, the quality of life of Members who have young families. It is tremendously destructive to the family itself. They are not home for dinner, they are not home to counsel their children, and they are gone on weekends. So I think that we inflict a lot of wounds upon not only the body politic, but upon ourselves as well.

I would favor some kind of a rules change that would force us to be responsive to the legislation then pending.

A final point I want to make is about this notion of giving something up. I think anyone who is watching these hearings either here in the room or perhaps on television would say here are two people just out to protect what they have got.

Let me say to the Chairman and to Senator Domenici, I think both of us are willing to give something. I recommend, for example, we merge the appropriation and authorization committee. I am one of the more senior Members of the Armed Services Committee. I am fully prepared to lose all of that seniority if we were able to merge the committees and do something by simplifying a system to eliminate the duplicative process we go through on authorizing the

committee, authorizing the budget, appropriations, and then conference committees carrying us to November of every year. I think that is a tremendous waste of time and energy.

I am fully prepared to give up my seniority on that committee, or on Government Affairs or on the judiciary Committee. I am not concerned with position.

I may be the only person in the Senate who voluntarily gave up the chairmanship of a committee, the Select Committee on Indian Affairs. I was Chairman of that committee, and I found that I couldn't handle the workload at that time plus be an effective Member of the Armed Services Committee during the debate on SALT. So I yielded that position, along with all the staff, and said, You can have all the staff and all the responsibility. I can't do it effectively.

So I am not in the business to try to protect some special privilege of power that I have. But I do think this committee, whether you call it the Aging Committee or you create another special committee to deal with it in a comprehensive fashion, the issues that affect the elderly, it has to be retained or reshaped, but it ought to be in a position to take a comprehensive overview of the issues that are coming. They are here now but they are going to be magnified tenfold in the coming decade.

Senator DOMENICI. Thank you very much.

Chairman BOREN. Any other comments, Senator Pryor?

Senator PRYOR. No, I have no other comments. I just thank the joint committee for letting us come today.

And by the way, this was not drudgery. This was something we are both doing with a great deal of pride. We think pound for pound and person for person, dollar for dollar, we are getting as much out of this special committee as any committee in the Senate. We hope we will justify the support of this committee in its final recommendations to the House and Senate.

Chairman BOREN. Thank you very much.

I want to thank both of you for coming, to help us on some of these other issues as well which you have both raised. These are areas where both of you have a lot of expertise and have really done a lot of thinking already. So we would really welcome your thoughts as we come along.

Let me ask, do the two of you favor reducing the number of committee assignments for Members?

Senator PRYOR. I would support reducing the number of committee assignments. I think that really we have two issues here. One, we do have too many committees. That is a debate by itself. The next issue is, do we have too many people assigned to too many committees? And I think that is a separate debate. I think we have got to deal with those both.

I think that we have too many people assigned to too many committees, and, in fact, I am supposed to be at another committee right now.

Chairman BOREN. Do you have subcommittees on the Aging Committee?

Senator PRYOR. We do not have subcommittees, no, sir. We operate all as a group, and by the way, Senator Domenici raised a good point, that we don't ever want this committee to be a committee



that just chooses the hot topic of the moment. We allow each Member of our committee, Republican or Democrat, to choose any subject matter they desire, go back to their home State and hold an open field hearing on that subject. It may be a subject that just affects their State primarily or whatever subject they choose. But it is not taken lightly, the number of issues and the type of issues that we study and oversee.

Chairman BOREN. Thank you both very much.

Chairman BOREN. I would like to ask Senator Bumpers to join us now at the witness table. He will be our next witness until we hear the bells on the House side again.

That is the reason why I would apologize to you in advance, Senator Bumpers. They are conducting votes on the House Floor and the House Members present earlier have been called to the Floor.

Our next witness is also from the State of Arkansas. This is Arkansas day here before the committee. Some of you may wonder why we would give so much attention to the views from the Senators from Arkansas. But Arkansas does join Oklahoma, and Senator Bumpers and Senator Pryor have very large families, many members of whom live in Oklahoma, and are registered to vote there. It leads the Chair to believe their opinions should be considered very seriously.

No, that is not the reason at all, of course.

Senator BUMPERS. I accept that, Mr. Chairman.

Chairman BOREN. The senior Senator from Arkansas is the Chairman of the Small Business Committee of the Senate. He was Governor of Arkansas before he came to the Senate, a very effective Governor of Arkansas, where he was a pioneer in many fields. One was the immunization of children. He and his spouse, Betty Bumpers, who was then first lady of Arkansas, were pioneers in the field of marshaling all the resources in the State to immunize children.

He was also a very effective manager as Governor of Arkansas. I can recall going into a State lodge in Arkansas that had the Governor's telephone number along with a letter from the Governor saying, The people who work here worked for you, you pay their salaries, but the taxpayers, if they don't treat you properly, call the Governor. That was something that appeared not only in that facility but many others. It was kind of a hands-on management style that then Governor Bumpers was famous for.

Selected to the Senate in 1974, he is a senior Member of the Committee on Appropriations and also the committee on Energy and Natural Resources. And he is known by all of our colleagues as one of the most thoughtful Members of the Senate.

We welcome you to the committee today and we would welcome any thoughts you would like to share with us.

#### OPENING STATEMENT OF HON. DALE BUMPERS, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Senator BUMPERS. Thank you very much for your kind introduction. I will be very brief because we have a vote scheduled for 4:30, and I know you don't want to come back and I don't want to come

back. So I will summarize my statement and insert my formal statement in the record.

Chairman BOREN. That would be fine.

Senator BUMPERS. I first said I would not come here because I didn't see any need to clutter up the record further, even though we all know this place needs a major overhaul.

First let me say that the overhaul in my opinion needs to be first of all in the size of the committees. The committees are entirely too large. We also indulge some of our Members by letting them serve on three or four major committees.

I can tell you in a self-serving way, that I serve on two committees, which each Senator is supposed to serve on, and I have never sought a waiver to serve on an extra committee, because I can't do justice to the work I am supposed to do now.

As you know, I am Chairman of the Agriculture Subcommittee on Appropriations, so this morning I had to go to that one, but I missed Defense, Interior, State, Justice and Commerce, all very important hearings.

So in my opinion we could cut all of our committees down to 12 Members each, allow nobody to serve on more than two, and I promise you, instead of just running from one place to another on roller skates, we would all be better prepared and serve our constituents better. That is one overhaul I would like to see.

I heard a very prominent Senator say he thought the Small Business Committee ought to be abolished. If this committee, in the interests of reform and saving money, if this committee chose to do that, I am not going to squawk. I am Chairman of the Small Business Committee and I enjoy my work.

But I will say, I am here unabashedly not just to defend the Small Business Committee, but to defend the work we do, to defend the fact that we have the smallest budget of any committee in the United States Senate, that the work we do generates, not just our committee but small business, as you know, creates by far more jobs than any other segment of society.

Ninety-nine, 99.3 or .7 percent of all businesses in America are small businesses. And they don't have somebody, as I say, paid to represent them in Gucci Gulch. Most of them are small business people out there meeting the payroll, trying to make ends meet and so on.

But one of the things the Small Business Administration does, of course, they have about 13 separate loan programs. And, Mr. Chairman, Oklahoma has just been devastated by tornadoes. The Governor has asked for disaster relief. The Small Business Committee is big in small business disaster loans. I promise you, they are there right now trying to help small business.

And in the last—I forget what those statistics are, but I just want this for the record, since December of 1991, in short, less than a year and a half ago, big business has announced laying off over 500,000 employees. I am talking about the big manufacturers. In that same period of time, small business has generated over four million jobs.

Now, right now, small business is having a tough time because banks are not making small business loans. I am not being critical of banks, because it costs them as much to loan a small business-

man \$30- or \$40,000 as it does to loan a big businessman a million, and the risk is considerably less for big business, so they just don't make them.

Consequently, the demands on what we call our 7(a) program, those are Federally guaranteed loans where the bank makes the loan and we guarantee about 80 to 85 percent of the loan, the demand on that, in 19—this past year, this past year, which ended last October 1, we made over \$8 billion worth of those loans. The demand is so crushing on that money, we are out of money. We have already used up the last 3 months of that allocation.

One of the reasons I was disappointed that the President's stimulus program didn't pass, this was \$141 million in that program. One hundred and forty-one million, the way OMB scores that, generates \$2.6 billion in loans. They are shut down. They can't make a loan right now and will not make another loan between now and October 1 until we get a supplemental appropriation through here.

Now, that \$141 million generating \$2.6 billion in loans would have generated the first year 37,000 jobs. Over a four-year period, Mr. Chairman, it would generate 110,000 jobs, and according to—this is a Price Waterhouse study, this is not just Senator Bumpers speaking—and in the fifth year, in the fifth year, those companies who got those \$2.6 billion in loans would return to the Treasury \$347 million in taxes, well over twice as much as the program had cost.

We have a program called the Small Business Investment Companies where we loan money to people who will put up matching money, who in turn loan money and take equity positions and so on in new businesses or expanding businesses.

Now, Mr. Chairman, I want you to just think about this one for a moment. Here are 10 corporations. Now, I am just talking about—I am not talking about the Small Business Committee. I will say this, you can move the Small Business Committee to Commerce or Banking or whatever you want to. We have a million-dollar budget. As I say, that is the smallest budget of any committee in Congress.

And since I have been Chairman, my staff thinks that I am pretty tight, and I am, but in any event, I have taken some pride in the fact that we do great work, we have stopped a lot of legislation that would have been devastating to small business, but the small business investment companies that we loaned money to, they match it and they turn around and loan money to burgeoning or struggling entrepreneurs—listen to this—Action Auto Rental, Inc., Apple Computer, X-ray Research, Federal Express, Intel Corporation, Network Systems Corporation, Ramsey Health Care, Universal Health Service.

Now, Mr. Chairman, those 10 companies started with an SBIC loan. They got a total of—let's see, they got total—when the investment was made, the total investment, I believe, was something like \$1 billion in loans to those companies. Last year, those companies, I forget how many—those 10 companies have 140 now employees. They had 1,151 when these loans were made to them. And last year they paid \$1.567 billion in income tax. That is way more than the amount of money it takes to run the entire Small Business Administration.

Now, finally, Mr. Chairman, and I am not going to belabor this—is there a vote on now, Mr. Chairman?

Chairman BOREN. We have about 8 minutes left.

Senator BUMPERS. Fine. I will summarize very quickly. I just want to say, the worst signal—you know, Bill Clinton went the length and breadth of this country time and time again in 1992, never made a speech without saying that small business was the locomotive that pulls this economy. Four million jobs in the last few years, while big industry has laid off half a million.

The worst signal, the worst possible signal we could send to the American people right now is that we are going to transfer Small Business Committee someplace else because it just doesn't fit or because we are going to reform Congress.

I will tell you one thing. There are some committees that probably ought to be swallowed up by the Small Business Committee. You move this committee to another committee with the anticipation of saving a million dollars, you are not going to save anything. If you treat small business people in this country right, you are going to wind up spending that much money or more, and I promise you, it will not get the attention, it will not get the attention that small business people in this country deserve. As I say, it would be the worst possible signal.

You can talk about me having a self-serving interest in it because I am Chairman of the committee, but as I told you, if you want to abolish that committee, be my guest.

[The prepared statement of Senator Bumpers is printed in the Appendix.]

Chairman BOREN. Thank you very much.

Let me ask Senator Domenici if he has any questions.

Senator DOMENICI. Senator Bumpers, I am real sorry, I didn't hear the first part of your testimony. I will review what you sent to us in writing.

Let me suggest that the same concerns I had about the abolition of the Special Committee on Aging apply to Small Business. Frankly, I want to see reform that says the myriad of small business problems are going to have hearings on problems up here, not just say, Well, let's get rid of the committee.

Small business is very important. And I am not at all sure that just a committee that worries about taxation is the sum and substance of the problems with small business.

Senator BUMPERS. We don't have an awful lot of legislative jurisdiction. We handled four major bills last year. But we held hearings in all kinds of bills in other committees that would have some kind of an effect, good or bad, on small business.

Do you remember the so-called high-risk notification bill?

Senator DOMENICI. Yes.

Senator BUMPERS. I promise you—and as I say, I don't want to boast about it—I promise you the hearing we held in Small Business was responsible for killing that bill. And I promise you something else. That bill would have killed small business if it had ever passed. It was a trial lawyer's dream.

I am a pretty liberal guy on social issues. I believe in workers' rights and I believe in the social rights for people. But I am a real tightwad when it comes to money. And I am also a real stickler as

a former small business employer. I know that a lot of people in the United States Senate have never met a payroll that sounds trite, but if you have never done it, you don't understand often-times what you are imposing on these people, the cost you are imposing on them. It is the difference in staying afloat and going under.

That is the reason I have tried my very best to kill that high-risk notification bill. It was a trial lawyer's dream, it accomplished very little, and it would have put thousands and thousands of small business people out of business. Paperwork was drowning, but that is another subject.

Chairman BOREN. Several of our witnesses, and you have mentioned it, have talked about the need to restrict the number of committee assignments people have, make committees smaller. There is also a feeling on the part of many of us that we could dramatically reduce the number of subcommittees we have in the House and Senate. And every Chairman almost feels under pressure to give most the Majority Members a subcommittee if they want one. This was sort of out of hand now, I think. It also fractures the agenda and the priority setting.

We have over 200 committees, I mean subcommittees, between the House and Senate put together. I am just talking about subcommittees now.

Do you agree that we can reduce the number of subcommittees—

Senator BUMPERS. I got the CBS to do a study the first year I was a freshman. I was looking for something to do, so I called them and asked them to do a study on how many subcommittees we had and how often they met. At that time, we only had about 170. And something like 25 of them hadn't met in 3 years.

Chairman BOREN. But they probably have staff.

Senator BUMPERS. And have staff. As I told you, I was supposed to be in four subcommittee meetings this morning, and I am only on the legitimate two major committees. Now, you think about the Members of this body that are on three or four committees.

Chairman BOREN. We have some Members that are Members of more than 20 committees. One that is a Member of 23 committees and subcommittees. So it becomes an impossibility.

Senator BUMPERS. I thank you for the work you are doing. It is an admirable chore you have undertaken. I personally appreciate it.

Chairman BOREN. We would welcome your input not only on this subject where you have special expertise, but you have thoughts, I know, about many other areas where we can organize this place more effectively, and that we can really do a better job of making the big policy decisions which so often get lost in the shuffle. We welcome your thoughts.

We are going to complete our hearings by roughly the end of the month of June about, the 1st of July. We are then going to take about 2 months to do nothing but deliberate among ourselves and then have our proposals ready for the full Congress in September.

So in that time frame, after our hearings are over, we will especially be seeking advice from you and others about the way in

which we should proceed. We would welcome your input very much.

Senator BUMPERS. Thank you very much.

Chairman BOREN. We are going to have to stand in recess because we have a vote on Senate Floor, but we will return just in a moment, and we will have as our final witness, Representative William Clinger, Ranking Minority Member of the Government Operations Committee in the House. We will be coming back to take that testimony. We stand briefly in recess.

[Recess.]

Chairman BOREN. We will come back to order. I apologize to our guests that we did have to take a brief recess with votes in the Senate. Votes are still going on on the House side, but we are—we appreciate the patience of our guests.

Our final witness before the committee this afternoon is representative Bill Clinger, Ranking Minority Member of the Government Operations Committee, first elected to the U.S. House of Representatives in 1978, I believe, which is the same year that I came to the Senate from the 23d district of Pennsylvania, currently serving on the Committee on Public Works, the Committee on Transportation, as well as serving as Ranking Member of the Government Operations Committee.

We are very appreciative that you are with us today and we would welcome your comments and we will be happy to put your full statement into the record as well and any other information you would like to give us as well as what you would like to add for us verbally

**STATEMENT OF HON. WILLIAM F. CLINGER, JR., A U.S. REPRESENTATIVE FROM THE COMMONWEALTH OF PENNSYLVANIA**

Mr. CLINGER. Thank you very much, Mr. Chairman and I do appreciate your taking time to listen—this is my second appearance before the group, as a matter of fact. I was here earlier talking about capital budgeting so I am appreciative of the opportunity to have a second bite of the apple, if you will, to talk.

Chairman BOREN. We are glad to have you.

Mr. CLINGER. I talked a little bit about some of the reforms that relate to oversight and that is really what I would like to kind of focus on. I think really a special attention needs to be given to ensure that we continue to have aggressive, effective and hopefully bipartisan oversight of all of the departments, bureaus, agencies, commissions of the Federal Government.

I have attached to my written statement an extensive bibliography on oversight which suggests that there is no shortage of oversight that goes on at the present time. The question is, how can we make it better, how can we insure that we continue to have it. There has not been agreement as to the preferred committee structure for the conduct of oversight.

I have attached in my testimony the chapter from a document prepared by the Clerk of the House titled, "Guide to the Records of the United States House of Representatives at the National Archives." And this chapter covers the records of the Government Operations Committee and its predecessors and I was surprised,

there have been a lot of predecessors to the House Government Operations Committee.

It basically tells the story of the committee and how it has evolved. The House started out having a single oversight committee. At other times, the House decided the number of oversight committees that would be most effective—as an aside, the only term Abraham Lincoln here, he served as a member of a predecessor of the Government Operations Committee. There were a number of them at the time.

Years later the House went back with the idea of a single oversight committee, and in 1952 the committee was renamed the Committee on Government Operations. The Government Operations Committee is obviously not the only committee in the House with oversight. There are at least oversight efforts required by eight committees and eight committees that have special oversight authority to conduct specific reviews of selective—of subject areas, and so there is a lot of oversight going on.

The point I want to make is that no committee really has the broad oversight jurisdiction of Government Operations. In particular, no committee has such broad jurisdiction for programs it neither authorizes nor funds, and that I think is one of the most critical factors that sets Government Operations apart from other committees. A committee that doesn't have responsibility for authorizing or appropriating, I think has a capacity to be much more objective in looking at programs than those that have a vested interest one way or the other in the programs, bureaus, administrations, departments that they are overseeing.

I mean no disrespect to the Members or the staff of the authorizing or appropriating committees. I know there are countless examples of oversight being conducted by them. I am convinced that the oversight process is advanced by the existence of a committee whose primary responsibility is an oversight function. We can recommend elimination of a part of government because we don't have a vested interest in seeing that continue.

So in any change in the number of jurisdiction structure of committees, I would urge that the joint committee assure that broad oversight jurisdiction continues to be assigned to a committee, not necessarily Government Operations, but to a committee that is neither an authorizer nor an appropriator.

Turning to one other subject—another subject. During the past few years, there has been a disturbing increase in a practice that really has no place in the oversight process and that is the use of staff reports. At times without a single hearing, without a vote in committee, without the review of the elected Members of the committee and without an opportunity for descending views, staff reports have been printed, released and distributed to the public in general.

And neither the President nor the public tends to make the distinction between what is a staff report and what comes out through the normal committee process. The reports have too often fallen short of virtually every measure of fairness and objectivity, professionalism and integrity, and I think the issuance of these reports by an oversight committee is equivalent of a staff Appropriations Committee issuing their own appropriations bills or staff of author-

izing committees authorizing new programs. I think it is just plain wrong.

So, Mr. Chairman, I would urge that the oversight function is too important to have it tainted by this practice and I would urge the Joint Committee to recommend a prohibition really on the issuance of oversight, investigative staff reports per se. They should have the consideration of the committee if they are to be issued at all.

Chairman BOREN. I have seen situations where that can be abused. You are absolutely right about that.

Mr. CLINGER. Sometimes they can be sensationally—the President picks them up and gives them a lot more credibility than they deserve because of that.

Chairman BOREN. Exactly.

Mr. CLINGER. I turn now to a noncontroversial suggestion which is basically, where one party controls the White House, the control of the Government Operations Committee should be under the aegis of the other political party. Just a simple noncontroversial suggestion there.

I think that in keeping with that, the Congress passed the Inspectors' General Act in an attempt to address problems inherent in agencies investigating themselves. The independent counsel statute was later passed to avoid any conflict of interest in having the Attorney General investigate high level officials of his or her party.

So there is precedent to establish—there needs to be a insulation, if you will, from the oversight process for the party in power. Again, I would say with no disrespect to my Chairman or the certainly the Democratic Members of the Government Operations Committee, I would submit that the logic that applies in the Inspector General Act and Independent Counsel statute should apply to staffing and membership of the chief oversight committee of the House.

For that reason I would strongly support the proposal for membership, including the chairman of the Government Operations Committee, should be composed of members of a major political party unnamed other than the political party of which the President of the United States is a member, or at least perhaps another permutation of that would be to treat it like the Ethics Committee. In other words, have equal representation.

Chairman BOREN. What is the division between the Democrats and Republicans on the House Government Operations?

Mr. CLINGER. It is about two to—it would be the same as any other committee. It is not like the Ethics Committee or Rules Committee or anything else. The same. So short of adopting this proposal, I would suggest the Joint Committee should consider the importance of assuring at least that the oversight committee's minority has adequate resources to serve as an effective watchdog.

There are at present in our committee only 18 minority Members on the Government Operations Committee compared to 75 majority Members or staff members, so 84 percent of the committee's expenditures are allocated for majority, which is about \$4.6 million, and I commend my Chairman.

Chairman Conyers has made a good faith effort to rectify that, to close the disparity and we have made progress. But I do think that is something that really needs attention. You can't expect the loyal



opposition to engage in effective oversight if we don't have the resources to do the job.

The Joint Committee may also wish to consider reforms in House rules governing subpoena, which will strengthen the ability of the minority to obtain documents and information. This is a problem we have had in the past. I think this is of particular importance when the Congress and White House are controlled by the same party. Turning to the subject of contract—

Chairman BOREN. Can a majority vote under your rules? What does it take for a committee to issue a subpoena, does it require a majority?

Mr. CLINGER. It would, yes, therefore it becomes a party line thing. We don't get the—

Chairman BOREN. Under our rules, it takes only five Members of the committee to request subpoena power or to authorize subpoena power.

Mr. CLINGER. My suggestion would be that we have three Members could request it and if it is not acted upon, then they would have the power to enforce the subpoena be issued.

Just turning to the subject of contracting, it is certainly no secret that a number of concerns have been raised in both our bodies about the use of private contractors by executive branch agencies and departments, and there have been efforts to redefine what are inherently, "inherent governmental activities that should only be handled by government employees and not by contractors."

I think the same sort of theory, same sort of rationale or logic applies to the Congress and I would argue that there should be recognition of, "inherently committee functions." These would be functions which should be performed by committee employees or Members, not by detailees or private contractors. An example of this would be an organized hearing, interviewing witnesses, preparing committee briefing materials, drafting statements and questions, writing legislative report language, these are clearly activities and functions that should be the responsibility—should be the responsibility of committee staff and Members accountable and subject to laws and rules governing congressional employees.

There have been too many examples, I would suggest, of employees from the General Accounting Office, Congressional Research Service, executive branch agencies or departments, or private consultants serving as committee staff and their role has not been limited to providing special expertise but they got into a lot of things that really should be kept within the confines of the committee structure.

So I would urge the Joint Committee to consider the concept of, "inherent committee functions" and how it could best be incorporated in the committee's recommendations for reform.

So in conclusion, Mr. Chairman, a review of the history of congressional oversight can lead to the conclusions that some things have not changed in the past 170 or so years. Last January President Clinton announced his national performance review intended to enhance government accountability and improve effectiveness. In 1822 and 1829 the Government Operations predecessor committee conducted surveys to determine whether governmental depart-

ments were structured in a manner that facilitated reviews for accountability, so nothing much is new under the sun.

But the point is that I think we need—and we are still doing that and of course if we ever stop doing it, things will fall apart. I mean, it is a dynamic process and we need to reinvent government all the time and change it all the time.

So, Mr. Chairman, I would conclude with that, commend you for the challenge that you have.

Chairman BOREN. Thank you very much, Mr. Clinger.

[The prepared statement of Mr. Clinger and referenced material are printed in the Appendix.]

Chairman BOREN. Let me ask, I think I know what the answer will be, but let me ask it anyway. Since Government Operations in both houses is very much angled at oversight, although certainly there is—you do have legislative authority on the House side as well.

Mr. CLINGER. Any change in departmental, for example, elevation to department level.

Chairman BOREN. Did you have jurisdiction over the legislation creating Inspector Generals of various departments—

Mr. CLINGER. Yes, we did.

Chairman BOREN. —and that sort of thing? But oversight is such a key role. Is this, in your opinion, a possible candidate to be made a joint committee between the two houses?

Mr. CLINGER. I would think that should be given very serious consideration, because the role is precisely the same. I mean we really are looking at how to improve the process, how we make it work better, and I think it would also be helpful—you know, sometimes I feel that we don't often know what is going on, one end of the Capitol doesn't know what the other end of the Capitol is doing.

I think we would have a better sense of the problems facing each of us if the oversight were more joint.

Chairman BOREN. I think you are right. It seems to me, especially in this area, there would be problems of implementation in major legislative areas. If there are problems that the administration and the government, we all need to be aware of, it would seem to me that sometimes the House committee will uncover one of these areas, sometimes it will be the Senate committee, and there is a focus, different focus, sometimes not a lot of communication and that it might really help alert the entire membership of both houses and it might even focus more attention on the inquiries of the Government Operations Committee if this were a joint operation.

One of the things that I think we have really not focused on very much in this committee is the possibility of trying to move toward more joint committees between the House and the Senate, because I do think just as we have become too polar in terms of the party situation,—

Mr. CLINGER. Between the bodies.

Chairman BOREN. We have also, I think, seen greater division between the bodies. There are fewer Members in the House and Senate that know each other, that have a working relationship

with each other, even than was the case when you and I both came to this institution.

And it seems to me that again, moving with greater dispatch and timeliness and understanding has enhanced, the more we have opportunities to work together and just like the membership of this committee, we have—many of us have gotten to know each other, worked together.

That is a relationship and understanding that will not only be helpful in the work of this committee, but it will be helpful as we cross paths with each other on other issues.

Mr. CLINGER. Down the road.

Chairman BOREN. I think very often now the only time the Members of the House and Senate see each other is in conference and that is often a confrontational sort of situation, and I think that also just adds to the growing fragmentation and gridlock that we have had in our government. So—

Mr. CLINGER. We have been trying—I think we have been trying to get a closer relationship between the two committees. I talk to Senator Roth, Senator Glenn. I know there is much more communication now between the two committees than there has been in the past and it has been very helpful, so we know what we are doing and we can kind of coordinate efforts.

Chairman BOREN. Do you think that in terms of the number of subcommittees, do you have a number of subcommittees in the House Government Operations Committee?

Mr. CLINGER. Yes, we have been cut down. We had seven, we are down to six now.

Chairman BOREN. Many of the witnesses before us, when you look at the growth of committees, we are often fond of saying that we have gone from 38 committees roughly in 1946 or 1947 up to 200—there are various figures. I think the latest figure is maybe 276. We were up to about 290 and with the reduction of the number of special committees on the House side, that number has fallen back somewhat now.

But the real growth in the number of committees really is in the growth of the number of subcommittees quite obviously. We don't have many more standing committees than we had back at that period of time. Many have suggested that they think we can make progress overall in terms of our reform efforts by reducing the number of subcommittees and along with it reducing drastically the number of committees and subcommittees on which Members can serve.

Do you share that overall view in—

Mr. CLINGER. Totally. I think there is no question in my mind that—you know, we talk about the gridlock and the House at least, a lot of our time is spent spinning our wheels arguing about turf, which of the subcommittees has jurisdiction over it, and fighting over who is going to deal with the issue before we ever deal with the issue, and there is no question in my mind that we could drastically reduce those numbers.

I used to say in the House that I know most of the Republican Members that I serve with in the House and some of the Democrats I do not know, but I was always safe if I walked down the

hall and saw a Democrat I didn't know and said good morning, Mr. Chairman, because he probably was a chairman, chairman of something. And that has been a real problem.

The other problem I think is too often we show up at a subcommittee hearing just to be marked present. We don't really get a chance to really understand what the hearing is about or what the details are and have to leave, and I think we are overextended by the fact we have too many assignments, and it is far worse in the Senate.

Chairman BOREN. Absolutely. We have one Member with 23 assignments in committees and subcommittees and no way in the world you can even make—stick your head in the door for most of those.

Senator Domenici was talking earlier today to another witness before our committees, I believe it was Senator Domenici. He said he felt we were running the risk of more or less delegating to the GAO the real oversight function of the Congress, that very often committees are not doing oversight, and also there is a tendency to have no limitation on our use of the GAO.

I think this is one of the real problems. There is no penalty, there is no out-of-pocket expense as we use that term with health care much the same way. If there is no out-of-pocket expense, any Member who writes off and asks for a GAO study or any committee that relies upon it and so on, there is no real rationing of the use of that service to the point that it becomes overwhelmed, hard for them—hard to separate what is important from what is unimportant in terms of the use of their resources and it becomes a way of sort of having a bottomless pit of funds and people and it keeps growing and so on.

Do you share that perception that we need to find some way to really do more of this oversight ourselves and for Members to do—spend more time doing it themselves, to reach their own conclusions and that perhaps we need to also examine the way by which we use the GAO to make sure we are not just really running out of control in terms of the way we use them?

Mr. CLINGER. I totally agree. I think that you exactly identified the problem that I have seen for a long time and that is that we have overloaded the GAO in many respects. It is one way to tap somebody else's budget, you know, without having to deal with your own so that you have GAO to basically pay for a lot of the things that we would otherwise be doing, but the problem is that we have overextended them to the point where the work product becomes somewhat questionable.

If they are spread too thin, they really can't do the job they are asked to do. That in turn raises questions within the Congress, well, they are not doing what we want them to do, so we will cut their funding. It is a sort of vicious cycle and I think there is no question that we have lost sight of the fact that we are primary or should be the primary oversight activity.

Chairman BOREN. Certainly at least we should be the ones setting the priorities for the use of their resources because in a way, we inundate them with so many requests coming from so many committees and so many individuals, how do they then step into the breach and begin to tell us, since in essence they work for us,

what they think is more important in terms of working their own priorities?

Mr. CLINGER. And they have to respond to every request.

Chairman BOREN. It seems there should be some sort of maybe screening mechanism and I realize this—from what you said earlier and I agree, the oversight function must essentially be bipartisan. It has to be aggressive, whichever party is in the majority and whichever party is in the White House, it needs to be aggressive oversight and you need to have mechanisms that would prevent a majority from thwarting a legitimate inquiry.

I found myself, not in the sense of being a minority from a party point of view, but when I served in the State legislature, I attempted to investigate a number of abuses in the executive branch. Even though it was of my own party, I was concerned with what was going on and I found myself often unable to get an investigation undertaken or to get the resources to conduct one.

So I understand what you are saying and I agree with it, but I think that it seems to me that perhaps we need some kind of screening mechanism that allows Congress as an institution to set priorities for the GAO as to how they should use their resources and those issues on which there should be focus. Don't know whether that goes through some other committee or a special leadership committee or if there is a charge against your individual budget or your committee budget.

In other words, someone suggested that there should be a little out-of-pocket expense in essence out of the Members' or the committee's budget for requesting the GAO studies and that would ration—cause you to only make those study requests when it is really necessary.

Mr. CLINGER. They are frivolous.

Chairman BOREN. I think there is very little—I don't know how many letters I have sent to the GAO or how many I send as a chairman or just as an individual Member, but not enough thought goes into whether or not this is something that really ought to be done.

Mr. CLINGER. They just say, let's get a request over to GAO.

Chairman BOREN. I think all of us can think of something we would like to have looked into or studied. So as long as it doesn't—what we have to do with our own staffs, we have to set priorities because we only have so many people on our staffs and they have only so much time, therefore we can't have them look into everything at once.

But we don't have that problem with GAO. Somehow they have to deal with two and we have to pay for it.

Mr. CLINGER. And there are 535 people putting stuff over there every day.

Chairman BOREN. I appreciate your testimony and your suggestions very much and I assure you that the fact that other Members are not here to hear your testimony is not lack of interest. It is a symptom of what it is we are trying to cure with this committee, more scheduling problems that have taken everyone away to their—the two House floor votes and other activities this afternoon

and have disrupted our—I think we have recessed three times just in the course of this afternoon.

So I apologize to you, you had to wait and I appreciate very, very much the comments you have made.

Mr. CLINGER. Thank you, and Senator, I appreciate the opportunity to come before you.

Chairman BOREN. We will be in recess until Thursday when the committee will again hear witnesses on the subject of committee jurisdiction, how many committees should we have, do we have too many, do we have too much overlapping jurisdiction, do we have too much fragmentation, are Members trying to be assigned to too many committees at once, do we need more specialization of the Congress.

These are some of the issues that we are now examining and will continue that examination on Thursday and then next week we will be proceeding to the subject of the Floor schedule. We have heard some talk today about germane amendments. We have had some talk about the filibuster rule, how we can do our business in a more orderly fashion when the bills reach the Floor level for consideration by the entire House or the entire Senate, and we will be examining that subject next week.

So until Thursday, we will stand in recess.

[Whereupon, at 5:25 p.m., the joint committee was adjourned.]

## COMMITTEE STRUCTURE

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THURSDAY, MAY 13, 1993

UNITED STATES CONGRESS,  
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS,  
*Washington, DC.*

The committee met, pursuant to recess, at 10:08 a.m. in room SC-5, The Capitol, Hon. David Dreier (vice chairman of the committee) presiding.

Mr. DREIER. The Joint Committee will come to order.

Today is our final day in the series of hearings on reform of the Committee structure, and we're very pleased to have as our first witness, Senator Bob Graham of Florida.

He's been in the Senate since 1986, and prior to that was Governor of Florida. He's a member of the Armed Services, Environment, Intelligence, and Veterans' Affairs Committees. He'll be a perfect example of many, many committees, as we've heard from Senator Boren and others throughout this process.

Senator Graham will be discussing the Conference Committee process, and we're very pleased to have you with us this morning, Senator, and look forward to your statement.

### STATEMENT OF HON. BOB GRAHAM, A U.S. SENATOR FROM THE STATE OF FLORIDA

Senator GRAHAM. Thank you very much, Mr. Chairman. I appreciate the opportunity to testify before a Committee that has an opportunity to do so much good for this institution and for the process of policy-making in America. I thank you for this opportunity that you have afforded me this morning.

Mr. DREIER. We're happy to have you.

Senator GRAHAM. Mr. Chairman, I have a somewhat longer and more detailed statement which I would like filed for the record.

Mr. DREIER. Without objection, your prepared statement will appear in the record.

Senator GRAHAM. You may call into question whether the filed statement is longer than the oral statement that I'm going to give, when complete.

Mr. DREIER. I'd like to ask, is the statement that's reported, all of these books in front of you—do you want all those in the record?

Senator GRAHAM. Oblique reference and summary is made of these books. If you would like me to read in more detail, I'm prepared to do so.

[Laughter.]

Mr. DREIER. Oh. You proceed however you'd like, Senator.

Senator GRAHAM. Thank you, Mr. Chairman.

Mr. Chairman, this year, Congress is under special scrutiny. In November, voters sent 110 new Members to the House of Representatives, as you well know—a turnover of 25 percent. The American people have demanded that Congress end “business as usual,” and look for better, more effective ways to respond to the needs of all Americans.

The American people sent us to work this year with a mission—a mission to reduce the deficit, to improve the economy, and to reform health care. I contend that unless Congress looks at itself and examines critically the way in which we do business, we will be unable to fulfill that mission.

My goal today is to discuss the problems inherent in our current way of conducting the business of Congress and to outline the merits of bringing government into the “sunshine.”

Specifically, I propose that this Committee undertake a thorough review of House and Senate rules governing access by Members, staff, and the public to meetings and materials of Congressional Committees.

What is the problem? The problem is the perception, and unfortunately, in too many instances, the reality that most legislative decisions are being made outside the public’s view, which has caused our citizens to distrust their government.

Their distrust is justifiable, given the fact that they and their Representatives sent to Congress are often shut out of key decision-making meetings. For example, existing Senate rules do not guarantee a Member timely access, the opportunity to fully participate in the legislative process, or even the courtesy of adequate notification of scheduled meetings.

What’s the result of this problem? In my experience, this closed-door way of doing business has led to three crippling problems:

First, the exclusion of full public scrutiny has led to increasingly justified public skepticism and cynicism about Congress’ ability to do the work of the people.

Mr. Chairman, I would draw your attention to what will be two charts, both of which have been conducted by or prepared by Mellman Lazarus Lake, a polling firm—or a combination polling firm, which periodically evaluates public attitudes towards public institutions.

This study shows a dramatic decline—I would not use the word “decline,” I would not even use the word “freefall,” I would use the word “collapse”—of public trust in government, reaching an all-time low in this year of 1993.

In 1964, there was a favorable 60-point margin. Americans trusted their government to act in their best interest.

These two charts ask the question of first, how much of the time do you believe that Congress is acting in your interest—most of the time, some of the time, none of the time?

The other question which relates to issues of public alienation ask how much of the time do you think public officials care about people like me.

In both of these charts there is a similar, extremely negative line, which indicates that over the past 30 years, the public attitude and trust in government has dropped dramatically.



Mr. DREIER. You didn't say, "People like you and me," you just said, "People like you," right?

Senator GRAHAM. In 1993, we see a negative 60-point margin which shows how little trust Americans now have in their government, expecting government to act on their behalf almost none of the time. Voters are also feeling more and more alienated about government.

In 1964, by a positive margin of 28 points, those polled agreed that their opinions mattered to public officials. By 1993, an overwhelming majority believes that public officials were not interested in what they, the public, thought.

Public disgust with late night or closed-door legislating has contributed substantially to the wide-spread calls for accountability through measures such as the humility vow and the increasing support for term limits.

Mr. Chairman, I would like to ask to have placed in the record a number of items including an article from today, May 13th's Roll Call on the humility vow, which Members of Congress are being asked to sign.

Mr. DREIER. Without objection, so ordered.

[The information submitted for the record and prepared statement of Senator Graham are printed in the Appendix.]

Senator GRAHAM. I would also ask, Mr. Chairman, that copies of the two charts which I have referenced be included in the record.

Mr. DREIER. Without objection, so ordered.

Senator GRAHAM. A second problem is that the possibility for full and useful contributions by both the public and other Members of Congress is excluded by the current poor notification system.

To use the Senate's rules, for example, Senate Rule, Standing Rule, XXVI refers to Committee procedures. This Rule is the only Senate rule which addresses public notification regarding the scheduling of Committee meetings.

The Rule states that each Committee, except for the Budget and Appropriations Committees, must make "public announcement" of the date, place, and subject matter of a hearing at least one week before it is to take place, unless the Committee determines that there is "good cause" to begin the hearing at an earlier date.

Clearly, this vague "sunshine" requirement raises more questions than it resolves. Any person consulting that portion of Senate Rule XXVI which addressed the scheduling of certain Committee activities would have to ask:

How is the required "public announcement" to be made and where should one look for it?

Why does the public announcement requirement apply only in the case of hearings? Are such announcements required for other Committee proceedings, particularly markups?

Why does the public announcement requirement apply only to Committee hearings? What about Subcommittees?

Why doesn't the announcement have to include the time, as well as the date, place, and subject matter of the hearing?

What constitutes "good cause" for beginning the hearing at an earlier date? What about delays to a later date? Are changes in scheduling announced in the same way?

Why are the Budget and Appropriations Committees exempt from "public announcement?" Do they have any obligation to announce scheduled meetings?

I note, Mr. Chairman, that in today's Washington Post, there is an article about the fact that GOP Freshman in the House have been raising similar concerns about House procedures, and I would like to ask that that article also be placed in the record.

Mr. DREIER. Without objection, that will be part of the record.

Senator GRAHAM. This combination of public distrust and the impact on actual decision-making has resulted in a virtual flow—an avalanche—of books raising questions about the way in which Congress operates.

Just to list the titles of some of these books: "S&L Hell," "Unaccountable Congress," "The Culture of Spending," "Washington: City of Scandals," "Honest Graft," "Fat City," "Still the Best Congress Money Can Buy," "Under the Influence," "Adventures in Pork Land," and "Who Will Tell the People?"

Those are just some of the recent publications which have raised the issues that, I believe, could at least be ameliorated by the adoption of some greater public access to the actions of Congress.

But a third problem raised by this concern is that shadowy deal-making, outside the scrutiny of the public has led to very bad and very expensive public policy.

A good example of this relates to the Savings and Loan crisis and, Mr. Chairman, I would like to ask to place into the record pages, beginning at Page 63 of the book "S&L Hell," which describes in more detail what I am going to summarize.

Mr. DREIER. Without objection, so ordered.

[The committee did not receive permission from the publisher to reprint the referenced material. The submission is in the committee's files.]

Senator GRAHAM. This relates to the 1980 Banking Bill, which increased the Federal Deposit Insurance from \$40,000 to \$100,000 during the Conference Committee, with little attention either in the Senate or the House floor debate. Neither House had adopted an increase in the level of deposit insurance.

This change, of which few people were aware, resulted in increasing taxpayer liability for the Savings and Loan institutions' failure.

It is ironic, Mr. Chairman, that as we meet this morning, the Senate is debating the latest chapter in the S&L "bail-out" with a proposal to provide up to \$45 billion to the Resolution Trust Corporation to meet its current obligations under the S&L debacle—a debacle which was substantially caused or augmented in its scale by actions taken at that 1980 closed-door Conference Committee raising the amount of taxpayer liability from \$40,000 to \$100,000.

What are the solutions? One of the solutions to help restore public confidence in Congress is to adopt some of the sunshine provisions which have already proven effective in State legislatures. If we do this, Congress will become more accountable to itself and to the public.

As a former State Legislator and the Governor of Florida, I have seen that government that works in the sunshine works best. Sunshine for committees in State legislatures has been variously assured through mandates in State Constitutions, "open meetings,"

and "open record" statutes, and rules adopted by the Legislatures themselves.

My own State of Florida, which has a long and proud history of "Government in the Sunshine," has amended its State Constitution, just last year, to overturn a State Supreme Court decision which held that the State's "Sunshine Law" did not apply to legislature.

The Constitutional Amendment, which takes effect July 1 of this year, requires legislators to adopt procedural rules ensuring that meetings of Committees, Subcommittees, and Conference Committees are open, and that the public is notified.

Further, the Amendment requires that any proposed closure exemptions be drafted as narrowly as possible and be contained in free-standing legislation.

As a further example, last year the Alaska Legislature enacted legislation to similarly overturn a State Supreme Court ruling which denied enforcement of Alaska's "open meeting" statute against the State Legislature.

Mr. Chairman, in conclusion, I propose that the Committee study the rules of the House and Senate with the goal of improving public access and decision-making by clarifying the rules.

The Committee should ask the question: what are the rights of Members, staff, and most importantly, the public, to timely awareness and access to proceedings and materials of Congressional Committees?

First, as a starting point regarding Committees, Subcommittees, and Conference Committee meetings, I recommend that Congress establish:

a) requirements and procedures for the timely notification of scheduling including the time, date, place, subject matter, and participants of all meetings, including hearings and markups, as well as subsequent changes in such information;

b) that standards and procedures for closing types of meetings or individual meetings to Members, staff, and the general public be established;

c) with respect to hearings and markups, that timely availability of related printed materials, including prepared statements of witnesses, transcripts, bills, and proposed amendments be made available to Members, staff, and the general public.

As a second starting point regarding Conference Committees, I would recommend the inclusion of those three points previously made, as well as, and particularly, the availability of changes to bills that were passed by the House and the Senate as they were adopted in the Conference Committee. That would highlight the kinds of changes that were made in that 1980 Banking Conference Committee.

In considering the substance of these two recommendations, the Joint Committee should consider questions such as these:

Whether there should be different rules for Members, staff, and other interested persons.

Whether there should be different rules for Committees and Subcommittees, and what discretion, if any, should Committees and Subcommittees individually have to establish rules which depart from rules of general applicability.

Three, whether the rules applicable to Members and staff who are on particular Committees or Subcommittees should differ from the rules applicable to those who are not on those Committees or Subcommittees.

Four, whether the rules applicable to Members and staff who are on Conference Committees should differ from the rules applicable to Members who are not on those Conference Committees.

Five, whether a general presumption in favor of open meetings and unrestricted access to materials should be established, together with the rules that clearly articulate:

a) appropriate grounds for closing meetings, or denying access to materials to Members, staff, or other interested persons;

b) the burden of proof regarding such grounds;

c) requirements and procedures for the vote necessary to close meetings, or deny access to materials to Members, staff, or other interested persons; and

d) the availability of an appeals process.

Mr. Chairman, we have a personal and political interest in reforming Congressional operations. We must realize that we are accountable, and that we are held accountable for the actions of Congress.

Because the work of the Congressional Committee is such an integral part of Congressional operations as a whole, addressing "sunshine" issues in this context would ultimately improve Congressional efficiency and effectiveness as much as any other matter currently pending before this Joint Committee.

I appreciate this opportunity to testify today, and I look forward to working with you and other Members of this Committee on this central issue to Congressional reform.

Mr. DREIER. Thank you very much, Senator Graham. Your testimony has been very helpful, and I'd like to especially congratulate you for focusing attention on an issue which I've talked about throughout the decade of the 1980s, and that is that a late night meeting that was held in December of 1980 which, without a single hearing on the issue, increased from \$40,000 to \$100,000 the guarantee, and as you say, the Senate is at this moment considering the influx of capital to the Resolution Trust Corporation and we, in the House, are going to have to deal with this.

And while there are many who, during the 1980s, argued that it was de-regulation which caused the problems of the thrifts, I argued that it was—just as you made the case—that regulation increasing from \$40,000 to \$100,000 that government guarantees, so people didn't have the necessity to look at the solvency of institutions as they prepared to make deposits there, they simply said the full faith and credit of the Federal Government is behind them, so there's no reason to have concern for it.

It was a real tragedy, and we're still seeing the U.S. taxpayer paying the price today for the fact that there were no hearings. It was done in a late-night session with very little consideration, and frankly—it was before you and I were here—there were very few Members involved in that decision-making process, so I congratulate you for focusing attention on that.

I'd like to ask for your thoughts as you discuss this whole issue of openness, to a proposal that was made by a number of our col-

leagues in the House last year, including your Florida colleague, Mr. Bacchus, to require that all meetings be open with the exception of those dealing with national security issues.

Do you believe that that should be the case?

Senator GRAHAM. I think there should be a very strong presumption of openness, of meetings, of materials, and of all aspects of committee operation, and there should be the necessity for a very strong showing, such as a national security interest, that would warrant closing a meeting to the American public.

Mr. DREIER. You mentioned, as you looked at the article that was in today's Washington Post with a number of our Freshman Republican colleagues raising concerns about this issue of closed-door meetings—and as you know, the Ways and Means Committee in the House has been going through this process—are you concerned about that?

Senator GRAHAM. I am concerned, because if there's one thing that is going to get the attention of the public, it's their wallet. And when committees that are so intimately involved in issues of raising money, and in the case of the Senate, spending money—because the two committees that the public most identifies with that, the Budget Committee and the Appropriations Committee, happen to be the two committees that are excluded from even the limited notification requirements that are generally applicable in the Senate—when those Committees are out of the public's scrutiny, I think that there is a very justifiable reason for public skepticism and disillusionment.

Mr. DREIER. There are more than a few of our colleagues who have raised concern about this openness. There are a number of critics who say that on the floor of the House and the Senate, we regularly see people simply posturing before the cameras—very little actual debate taking place in committees when there is television coverage of hearings.

People are simply doing it for the cameras and not getting into the real issue, and I think we're going to be hearing from one of those critics later this morning of the openness process.

Have you had any discussion with people—I mean, it's hard to make the case, close down government and keep the American people from seeing what's going on, but have you engaged in any exchange with people who are advocates of more of a closed meeting process?

Senator GRAHAM. More than having engaged in discussion, I am a reformed sinner myself.

Mr. Chairman, in 1966, I was elected to the floor of the House of Representatives, and in the following year, served as a Member of the House Appropriations Committee and on the Conference Committee.

We met in a hunting lodge, 20 miles out of Tallahassee, to hold our Conference Committee report meeting on these states' budget. Not only was the public not invited, the site was purposely selected in the most unlikely place to even be located.

I served through 12 years in the State Legislature in which we went from that situation to one of almost total openness, and I can testify that the quality of public policy, the level of public confidence, and the ability to draw upon the full talents of the elected

Representatives in the legislature is much improved in a process of openness than in one of darkness.

These charts indicate, I think, what the people of the United States think about the consequence of our total operations, of which I believe these midnight meetings are one of the most visible symbols of public disgust.

Mr. DREIER. Let me just ask one quick question before we proceed to Mr. Hamilton, and it's a specific one.

You serve on both the Intelligence Committee and the Armed Services Committee, and I'd like your thoughts on two things:

First, the idea of merging the Armed Services Committee and the Intelligence Committee, and second, the proposal to see a Joint House/Senate Intelligence Committee.

Senator GRAHAM. First, I will answer the question, but I will say that my tenure on both of those Committees is since January of this year, so I do not speak from a great depth of personal experience.

I think that as we move into the post-Cold War era and the nature of our intelligence operations begins to change, there may be less reason to merge it with the Armed Services Committee than there was before, because I think increasingly we are going to be using our intelligence operations for activities that are other than specifically military in character.

Second, as to the possibility of a merged House and Senate Intelligence Committee, I think that deserves a lot of serious consideration. I personally believe that Joint Committees have a lot to recommend them because of the ability to bring a combination of perspectives—

Mr. DREIER. You don't say that just because you're testifying before a Joint Committee today?

Senator GRAHAM. No. I think this is a good example of that, particularly where committees are not originating legislation, but are primarily involved in the oversight of executive operations, which at least in the first 4 months seems to be the principal activity of the Senate Intelligence Committee.

Mr. DREIER. Thank you very much, Senator Graham.

Mr. Hamilton?

Chairman HAMILTON. Senator Graham, we're very pleased to have you. Thank you for joining us. Let me just ask you a few specific questions.

I noticed in your statement you talk about, with respect to hearings and markups, the timely availability of related printed materials including amendments.

I often find myself on the floor of the House scrambling around to find a printed copy of an amendment under consideration. Do you think we should have a rule requiring that Members should be notified ahead of time of amendments and have it in writing so that they can see what they're voting on?

Senator GRAHAM. I think that should be the heavy presumption that there may be some special circumstances which justify a deviation from that, but I believe there should be a super majority or other screen before there should be an exception to the rule.

Chairman HAMILTON. OK. There are special situations that arise, you'd have to make allowance for.

One of the problems for House Members is the non-germane amendments in the Senate. It creates great frustration on the House side. How do you feel about that?

Senator GRAHAM. I personally have advocated that the non-germane amendment—or that there be a rule requiring germaneness in the Senate.

I remember when I was running for the Senate in 1986, I came home late at night after a long day of campaigning and turned on C-SPAN, and the Senate of the United States which had the subtitle of debate on a significant environmental bill was actually debating the question of whether the Washington/National Airport should be transferred from its existing authority to an authority of the State of Virginia.

I might say, I asked myself the question, “What in the world am I running for this job for, if that’s the way they conduct their business?”

Also, I think the quality of decision-making is deluded because no one can be reasonably prepared to go to the Senate floor to consider every possible amendment that any Member may desire to offer, so you end up with shallow consideration often done more for posturing than for serious policy-making.

Chairman HAMILTON. Do you find yourself in the Senate from time to time having to vote on conference reports without knowing what’s in the conference report?

Senator GRAHAM. Most of the time.

Chairman HAMILTON. So would you be supportive of a rule that would require layover requirements or other procedures so that there would be time for Members to try to learn what’s in a conference report?

Senator GRAHAM. Absolutely. I have just become Chair of the Subcommittee on Water Policy of the Senate Committee on Environment and Public Works, and when assuming that position for the first time, I realized that in last year’s Appropriation Conference Report there were significant changes made to the Clean Water Act in terms of the distribution of funds, which I doubt that more than one or two percent of the Members of the Congress were aware of.

Chairman HAMILTON. You probably haven’t had a chance to look at all these charts around here, but we have a lot of different proposals with regard to the committee structures.

I think you now have 18 committees in the Senate—do you? Whatever the number, how receptive do you think the Senate would be to a restructuring of its committee jurisdiction—how tough a question is that?

Senator GRAHAM. I have read the news accounts of the previous meetings of this Committee; I think you know the answer to that question better than I.

All institutions, particularly institutions which revere their traditions as much as the United States Senate, are reticent to change.

Chairman HAMILTON. Let me personalize it if I may, if we came in with recommendations and major committee changes in the United States Senate, how would you react to that?

Senator GRAHAM. I would react from a general position of giving a presumption of correctness to those recommendations—

Chairman HAMILTON. You'd give it serious consideration in any event. You would not automatically reject it?

Senator GRAHAM. No.

Chairman HAMILTON. No. Thank you for your testimony. It's a great privilege to see you.

Thank you, Mr. Chairman.

Senator GRAHAM. Thank you.

Mr. DREIER. Thank you very much, Mr. Hamilton.

Chairman HAMILTON. Yes.

Mr. DREIER. Mr. Solomon?

Mr. SOLOMON. Thank you very much, Mr. Chairman.

And Senator Graham, from one Florida boy to another, I would like to welcome you before this Committee. I was born and raised in Okechobee, Florida. Not many people know that, but I'm one of the few Southerners that ever went North. It's a privilege having you here.

Senator GRAHAM. And we assume that you're going to come back.

[Laughter.]

Mr. SOLOMON. Well, one of these days—who knows?

[Laughter.]

Mr. SOLOMON. I apologize for missing the first part of your testimony, but I sure did like the last part of it that I did hear.

Concerning openness, I am the ranking Republican on the Rules Committee in the House and this year, in the first 4 months, we have waived the three-day layover on almost every piece of major legislation that's come before our body, and we have 110 new Members—I think maybe 112 now with some of the special elections—and what you had to say, I think, is just so relevant because, as you know, neither body, the House or the Senate, usually accepts the finished product of the other body when it's sent over to them—on very rare occasions—and the conferences are so important to iron out the differences.

Something I found very difficult to learn 25 years ago when I first entered politics was the art of compromise, but you can't have it your own way and you do have to take into consideration other people's views, and certainly we in the House have to take in your views.

Quite often, when the legislation does come back before our body after the conferences have met, they have gone beyond scope and many Members have no idea what's in that legislation. And quite often we don't find out sometimes until 6 months, or a year, or 2 years later.

I was so interested in your taking over the Subcommittee on Water Quality in the Senate on that Committee because I represent the Adirondack Mountains and the Catskill Mountains — heavy resort areas—and several years ago, we passed legislation in the House dealing with the filtration of water plants for small villages and towns, as well as big ones, and also the private water supplies of small motels, so now those motels with just 25 units or more are really under the gun to meet these standards that we put on them, and they really can't afford them, and this becomes effec-



tive in, I think, July 1 of this year, so I might be coming over to see you about some of that, because I know it certainly concerns many of your constituents in the State of Florida as well.

Senator GRAHAM. To be faithful to the position I'm advocating, we are going to try to assure that there's adequate notification and availability of access to all of our processes.

Mr. SOLOMON. Right. That's great.

Well, listen, I won't take up much more of your time, except to say that on the question that Congressman Dreier did pose to you about folding together the Select Committees on Intelligence, both Henry Hyde and myself have sponsored legislation to do that for many, many years, and following your line of thought that that Committee is an oversight Committee and does not necessarily generate legislation, I just think it would be so much better in the interest of all of us and the American people if we could, and since you're on that Committee, I would appreciate your giving consideration to it.

I won't take up more of your time, but I appreciate your coming before us. Thank you.

Senator GRAHAM. Thank you very much.

Mr. SOLOMON. I see that the wisdom that you learned in Okecho-bee has sustained you.

Senator GRAHAM. Thank you, sir.

Mr. DREIER. Thank you very much, Mr. Solomon.

Senator Lugar?

Senator LUGAR. Thank you very much, Mr. Chairman.

Senator Graham, I think your statement is an excellent one in terms of good government. I suppose I've just simply raised on behalf of this Committee, a thought as I read and heard your statement that at least in the Senate, frequently, proponents or opponents of a particular legislation may want to use elements of delay to their advantage or elements of surprise.

This is not unknown for Committee Chairman, but for that matter, for those who want to stall things and change the course of government in that way, and frequently, large sectors of the public who follow either the advocates or the opponents applaud that.

In other words, on the one hand there is a desire for openness and accountability and doing things by the record. On the other hand there is an advocacy for results, and the problem is compounded, as both of us know, by either the end of a Congressional session or the beginning of a long recess in which, clearly those who wish to work, either delay or surprise, have unusual advantages because the rest of the membership is likely to be vastly inconvenienced, or in fact, Senators leave, and you cannot count on the circumstances.

This is especially true, at least in my experience, in large tax bills, and in substantial appropriation bills that come at either the end of the year or the end of a Congressional session in which hundreds of pages literally are delivered to the floor and trust is placed in the Chairman or the ranking Member to give a faithful account, at least in summary, of the conference, with all of us knowing that we read long after about details of which we were unaware.

I'm not certain how to deal with that. As a practical matter, the country has to continue on, and having come to the end of sessions

on this occasion, perhaps one remedy would be simply to say, "This isn't the end of the session. We're going to meet for another 2 weeks." And in essence, people will have time to read this, and they're going to read it carefully—the public will read it carefully.

In other words—but still you'd come to the end of the session again. People play off of that backboard. Have you weighed, at least as you made these recommendations, the very practical ways in which elements of authority are played, and played with great vigor by those who have had authority in the Senate?

Senator GRAHAM. First, I think you've raised some elements of basic human nature that transcend Congress. There is a tendency of people to put off decisions until the decision must be made or is forced by external events. That is not a unique characteristic to Congress.

Number two, Congress does, by its essence—in fact, I would say that the United States Constitution is designed to be protective of the status quo. It intentionally makes change difficult.

I do not believe that requiring that there be a greater degree of openness, and all the things that make openness meaningful such as notification and access, is a goal that is incompatible with the desire of the people for change. In fact, I think that it would help give the people a greater degree of confidence that that change is in fact being directed for their benefit and not for other purposes.

I do not believe that the kinds of requirements that I'm making would unduly additionally burden the process, given its already essential human and Constitutional orientations.

Senator LUGAR. Let me just follow up, and as a practical — let's say we're in a fast moving conference on a large tax bill at the end of the session, would it satisfy your requirements if the Chairman or the ranking Members on both sides posted someplace publicly at the beginning of the morning what was going to be covered, where they were meeting, and the conference was open to everyone, so even if extraneous material came in, hopefully somebody saw it coming in, and reported it coming in?

It may have to be, as opposed to being a day in advance or the normal rules that we have, to have an "odd hock" procedure, at least that tries to get to this, and I'm really, just having watched your testimony, groping for elements that would somehow meet what I see to be, in fact, the practice here.

Senator GRAHAM. Well, in answer to a previous question of Congressman Hamilton, I had indicated that I felt that some type of an override procedure that would allow, in what I would hope would be exceptional not normal circumstances, could be instituted that would allow for modification of the general requirements, but I think the general requirements ought to be predicated on a presumption of openness and what is required to make that openness real.

If we feel, for instance, that for a conference report, that the reality of Member access and particularly public access is that there should be a 72-hour time period between submitting the conference report and the time when it can be taken up for adoption, that there should be a means of shortening that period, but that that means should be, itself, open, and require more than just a majority vote to be implemented.

Senator LUGAR. Would you include also, requirements that the room in which the meeting was held be big enough so that a number of people could sit there, and that there be a provision for television cameras or even the piping of the television signal to other rooms where the press could sit or other persons who are unable to get within the confines?

Senator GRAHAM. Yes. I would say that in my six-plus years here, I can't say that I have personally been exposed to a situation where a meeting was intentionally held in a room that was inadequate to contain the number of people likely to be interested in the subject matter. I have heard that there have been instances of that, and that would clearly be inconsistent with the goal of providing reasonable access to all of the activities of Congressional Committees.

Senator LUGAR. I can testify such meetings have occurred, and probably will again.

Senator GRAHAM. I am shocked and appalled, but educated.

[Laughter.]

Senator LUGAR. Thank you very much.

Mr. DREIER. Thank you very much, Senator Lugar.

Thank you very much, Senator Graham. Your testimony has been very helpful and we look forward to including it in our deliberations here, and I hope that you will have a chance to, as Mr. Hamilton said, look at the different proposals for reform of the committee structure process, and we appreciate your testimony.

Senator GRAHAM. Thank you very much, Mr. Chairman.

Mr. DREIER. Now I'm happy to turn the gavel over to the real Chairman, Mr. Hamilton.

Chairman HAMILTON [resuming Chair]. Thank you very much, Mr. Dreier, for your help this morning.

Chairman HAMILTON. We'll call Congressman Butler Derrick as the witness. He's the Chairman of the House Rules Subcommittee on the Legislative Process, a Member of the House since 1974, representing, of course, the State of South Carolina.

In addition to the Rules Committee assignment, he's a Member of the House Administration Committee, and he has some other interesting testimony to present to us this morning.

Butler, we're delighted to have you, and you may proceed.

#### STATEMENT OF HON. BUTLER DERRICK, A U.S. REPRESENTATIVE FROM THE STATE OF SOUTH CAROLINA

Mr. DERRICK. Thank you, Mr. Chairman. I believe that, having been on the Rules Committee—both of you, Mr. Solomon and Mr. Dreier.

Mr. Solomon, you didn't happen to be born in South Carolina? You have either been born or served on just about every committee I've heard of around here.

[Laughter.]

Mr. SOLOMON. No, and I think that would be up for election.

[Laughter.]

Mr. DERRICK. But now, the explanation when I found you were born in Okapanokee, it says a lot.

[Laughter.]

Mr. SOLOMON. Okechobee, not Okapanokee.

Mr. DERRICK. Okechobee, OK—well, whatever.

My testimony will be brief. I think we ought to do away with the Ways and Means Committee, we ought to do away with the Appropriations Committee, and we ought to do away with the Budget Committee, and I think that we should consolidate them into one committee—call it the Finance Committee, or call it whatever you like—and that committee should write the budget.

When I say, “the budget,” I mean the Spending Bill, and it should come onto the floor of the House and it should have priority over everything else.

I think one of the great problems in this institution that we have is that everything is disjointed. We’re doing one thing and we’re not sure how it’s going to affect this and that, and you know, the Budget Committee, as far as I can tell, was created under the Budget Impairment Act back in 1974, which was formed, subject to a national emergency until we got through, and I think we would come out better—much better as far as our finances were concerned, and our constituents would understand what we were doing, and we would understand better what we were doing, and we wouldn’t have the disjointed situation that we have.

The other things that I would do—I would suggest that we do away with proxy voting. We don’t have it on the Rules Committee, and I don’t think we ought to have it. I think it encourages absentee lordship, if you will, among Members.

I think that we need to consolidate our committees. I think that many of our committee jurisdictions are based on the needs of this country in the 19th century and not the 20th century, and certainly not the 21st century.

I think that we should limit—probably until after we’ve changed the jurisdictions, we should probably limit in the House, the Members to the service on one committee, and call the roll and not let them vote by proxy, and I think we would get much better results, and I think much more accountable results.

I think the Senate—the only suggestion that I have for the Senate is that the Senate should have a House Rules Committee so it can operate as smoothly as the House does. That’s all of my testimony.

Chairman HAMILTON. Well, thank you very much, Butler. We appreciate it greatly. You’ve come in here with a dandy, I’ll tell you.

[Laughter.]

Chairman HAMILTON. One comment that might be made about it on the critical side would be that you’ve put into one committee very disproportionate power—that is, all the spending and all the revenue in one committee, and its workload would be such that it would be overwhelming and any other committee would pale in significance in comparison to it. How do you react to that—I mean, what would you say to that?

Mr. DERRICK. Well, I would think that that committee would be bound by the rules, as we would probably promulgate them to pay attention very strictly to the Appropriations Committee’s in what they did, much more so than they do now, and we, on the Rules Committee, quite frankly, are guilty from time to time of waiving

that rule, and I think they would be required to follow much more strictly than we do in the House, those committees.

Chairman HAMILTON. Have you given any thought to how—

Mr. DERRICK. I think, because of that you would balance out the power substantially.

Chairman HAMILTON. Yes. Have you given any thought to how large the committee ought to be if you—

Mr. DERRICK. Well, I really haven't given it a great deal of thought, but if I had to guess, I'd say probably about 60 Members or something like that—a little larger than what it is now because, you know, the fact of the matter is that we're so disjointed, we don't know what—the right hand doesn't know what the left hand is doing, and there's no consolidation, and there's very little accountability, quite frankly, and that's what I would try to do.

Chairman HAMILTON. In your proposal, would matters like welfare and trade and—I don't know, maybe social security stay in that committee or would they go into other committees?

Mr. DERRICK. The financial part of it—the appropriating of the funds—

Chairman HAMILTON. Would stay in.

Mr. DERRICK. Would stay in that committee, that's right. Of course, they would be governed by the Authorizing Committees, and you know, I think that we almost have that situation now. I mean, we pay very little attention, frankly, or not near as much attention in the House as we should to the Authorizing Committees.

We're always putting a lot of things in the Appropriations Bills and whatnot, and we're going in that direction in any event, and I think that if we did pay much stricter attention to the Authorizing Committees, and in our rules, set it up so that the Appropriations Committee would be bound by that, I think you would balance that sort of power or vacuum that is of concern.

Chairman HAMILTON. Mr. Dreier?

Mr. DREIER. Thank you very much, Mr. Chairman.

We're happy to have you here, Butler, and it's a privilege to serve with you on the Rules Committee, as well as serving with Mr. Solomon and our colleagues.

When our Committee comes up with a proposal for reform of the Congress it will be coming back to our Rules Committee, and I suspect that certainly a large part of it will fall under the jurisdiction of your Subcommittee.

What recommendations do you have to us as we look at the challenge of trying to bring forth a package that can be passed on the floor of the Congress?

Mr. DERRICK. Well, I think that you need to not worry so much about what can be passed on the floor of the Congress. I think that you should do what you think needs to be done as far as the Congress is concerned, and let us debate it on the floor as to what the Congress thinks could be done, because you know, sometimes we're not very good judges of what will happen on the floor of the House. We anticipate too much the problems that we might have.

You know, I think if you start hedging your bet, so to speak, here and there about what the House will do and what the Senate will do and whatnot—you know, I served on a committee similar to this

that Speaker Tip O'Neill formed back in the 1970s, and we didn't get anywhere. And I think one of the reasons that we didn't is because we kept hedging it too much.

I think you should come out with a bold proposal and let the House do its will.

Mr. DREIER. From what you've observed here, do you think there is a good chance in this era of reform and new Members to the Congress for us to actually implement something?

Mr. DERRICK. I think it is an extremely difficult thing to do. You know, I have a saying that "if you don't know a Member's name, call him Mr. Chairman"—because they're Chairman of something, you can bet. And I think—

Mr. DREIER. You never called me "Mr. Chairman," Butler.

[Laughter.]

Mr. DERRICK. Well, I happen to know you well enough to know.

[Laughter.]

Mr. DERRICK. But anyway, you know, it's going to be very difficult, and you know, none of us live under the illusion that there aren't turf fights around here and you start jumping on someone's turf, but that's why I think that you cannot be too anticipatory about what the body will do.

I think that you need to do what you think needs to be done, and if the House thinks otherwise, then so be it, but at least give them those options of your good judgment.

Mr. DREIER. If you've looked at—or if you have your proposal to consolidate Ways and Means, Appropriations, and the Budget Committee, it seems to me that you might want to consolidate some of the other committees.

We have 14 proposals before us for major restructuring of the committee process. Have you had a chance to look at these different proposals?

Mr. DERRICK. I have not looked at all of them, but you know, one thing that occurs to me, and I don't mean to single out committees—I guess I'm eliminating Committee Chairmen as friends as I go along, but you know, the Agriculture Committee—I mean, I think the Agriculture Committee and its jurisdiction—I mean, it has things that have nothing to do with agriculture, but I think it was set up in a time when most of the people in this country were farmers, and that was — you know, I think that much of the jurisdiction there is not in fact what one would assume would be legitimate under the Agriculture Committee, and I think we need to consolidate these things.

Mr. DREIER. Do you agree with the sense that there is too much in the jurisdiction of the Energy and Commerce Committee?

Mr. DERRICK. The Energy and Commerce Committee has a tremendous jurisdiction. Whether I would be willing to go—

Mr. DREIER. I just want to give you a chance to offend every Chairman.

[Laughter.]

Mr. DERRICK. Well, I understand. You want to give me a chance to eliminate Dingell as a friend. I understand what you're doing.

[Laughter.]

Mr. DREIER. You've already taken care of de la Garza.

[Laughter.]

Mr. DERRICK. But you know, I think that could well be the case—I don't know. I don't know what all their jurisdiction is, but they certainly have a wide jurisdiction and they would certainly be subject to the same parameters that I've suggested.

Mr. DREIER. The one request that I would make of you is to look at the different proposals that are before us, and I would like to—

Mr. DERRICK. I've looked at Ms. Kassebaum's proposal—

Mr. DREIER. Right. On elimination of Appropriations.

Mr. DERRICK. And I think that has some merit to it.

Mr. DREIER. Well, we have these 14 proposals, and I would hope that you would look at them, and I'd like to discuss it with you sometime further when we get together.

Mr. DERRICK. Fine.

Mr. DREIER. Thank you very much, Mr. Chairman.

Mr. DERRICK. Thank you.

Chairman HAMILTON. Mr. Solomon?

Mr. SOLOMON. Thank you very much, Mr. Chairman, and Butler. Welcome to the Joint Committee, and let me say that I'm with you on one, and against you on the other.

One of your recommendations was to have the Senate set up a Rules Committee just like ours, and that means closed-rules, and I object.

Mr. DERRICK. That's the point.

[Laughter.]

Mr. SOLOMON. Seriously, on the other one, I really am intrigued by your recommendation to merge Budget, Appropriations, and Ways and Means.

I strongly support Ms. Kassebaum's recommendations to eliminate the Appropriations Committee, and we either have to eliminate Budget or we have to eliminate Appropriations—one or the other.

Mr. DERRICK. It's not so much a matter of eliminating anything, it's a matter of consolidation, and you know, so many of the things we do around here, Jerry, are so disjointed, and I think our expenditure of public funds is very disjointed.

Mr. SOLOMON. Well, it most certainly is, and the main point is it's not working.

One thing I wanted to mention to you was the joint referral or sequential referral of legislation, and as you know, I've been very active over the many, many years in dealing with the drug issues, and I have sponsored many pieces of legislation.

Some of it has become law, but for the most part, it always gets tied up in committees. And it has nothing to do with party politics, but just for example, I have one bill dealing with student aid and drugs that is before the Judiciary Committee.

I have another one before the House Administration, another bill before the Post Office in Civil Service, and finally, there's one bill which is so terribly important when you talk about random drug testing because you want to make sure that you aren't treading on anyone's Constitutional rights. It's a bill to establish Federal standards to ensure quality assurance of drug testing programs.

If we're going to have random drug testing or drug testing, we need to have quality assurance in there, and yet my bill is tied up

in five different committees—Ed and Labor, Energy and Commerce, Post Office, Judiciary, House Administration, plus a dozen Subcommittees. And you know, we really need to deal with that when we do realign them, and I'm interested in your thoughts on it.

Mr. DERRICK. Right. Well, you know, when I mentioned the redefining of the jurisdiction of the various committees and so forth, this is one of the major things that I would hope to eliminate—so much of the multiple referral.

I have seen it over the last 10 or 12 years particularly, and of course, what it does is it falls to us on the Rules Committee to work out these things in most instances, and it—you know, I run into the same thing on legislation that I represent—I mean, that I introduce, and I think this would be one of the, hopefully, positive things that would come out of it.

Mr. SOLOMON. Well, I certainly hope so, and you know, you mentioned you served on a committee back in, I think, 1974 which did make some significant changes, but by and large, nothing really was done as far as redesignating the Committees —

Mr. DERRICK. Let me say, as far as I can tell, this Committee has already moved much further than we did.

Mr. SOLOMON. Well, we certainly hope that something is going to come out of it.

I served on a Committee with Congressman Dreier, and Jerry Patterson, who was the Chairman of one in 1980. Jim Cleveland was the ranking Republican, and we did a lot of what's being done here, just in the House, and I think there were 47 Members of our Committee, and by the time we finally took it to the floor, as I mentioned to this Committee once before, we got 47 votes, and everybody else voted against it.

That's why we really do need to work together in the Rules Committee, and on your Subcommittee in particular, to make sure we are going to get a product that will be accepted by the House and the Senate.

Mr. DERRICK. Well, you know, if I may say this, I think what you need to be careful with, and I don't mean to be presumptuous when I say this, is that you don't eliminate all your options before you get there.

You know, it's awful easy—I know, because I've been able to sit back here and say, "Well, if we do this, we're going to make Dingle mad. If we do this, we're going to make Rostenkowski mad. If we do this, we're going to make so and so mad, or we don't think this is going to pass in the Senate, or we don't think this is going to pass in the House."

What I would, as I say, respectfully suggest to you that you do is to come out with a bold program and give both bodies an opportunity to deal with that, and do what you think is going to be in the best interest of this body, as I'm sure you will.

Mr. SOLOMON. I appreciate you coming before us.

Mr. DERRICK. Thank you.

Chairman HAMILTON. Senator Lugar?

Senator LUGAR. Thank you very much, Mr. Chairman.

Congressman Derrick, let me just mention on behalf of the Senate with regard to the third suggestion, that obviously, the



unique aspect of the body is unlimited debate, and the answer to the question often raised, what is——

Mr. DERRICK. It is unique, Senator. I'll——

Senator LUGAR. That's right.

[Laughter.]

Senator LUGAR. And as a practical matter, however one feels about this, our debates even on changing a closed-hearing procedure have been historically very hot and contested. I think that is probably beyond the scope of our inquiry now, although an interesting idea.

What I'm intrigued with, however, is the proxy voting idea. Let me just raise it in this form—that frequently, even though the Chairman has the proxies or the ranking Member or what have you in hand, they reflect how the Committee would finally come out on the subject or the views of the membership, or maybe even the views of the public as a whole.

As a member of the minority in the Senate presently, I'm intrigued by the prospect that, knowing that I'm likely to be outvoted, I have a chance in terms of who turns up at the meeting.

In other words, if I am able to round up the followers of my proposal and thus overwhelm the majority on any one day, knowing that that might be changed, of course, if the Committee work gets to the floor and people can be marshalled to see the light the other way—is the point of your proposal one to try to stimulate attendance or debate or confidence in the system, as opposed to the result?

Because some people would say that if you went into this rigorously it might be a frustration of democracy, and the way the people feel at one time is reflected by elections.

Mr. DERRICK. Well, Senator, you know, I agree with your statement as far as proxies are concerned—that most of the time, or maybe some of the time the proxies reflect what the committees are doing. But I suggest to you that if that Member were sitting there, listening to the testimony, in many instances it does not reflect what it would do.

And I guess my reason for doing that is that I think the end product must be better if the Members are there, as opposed to elsewhere and someone is using their proxy.

Senator LUGAR. So your basic rationale is to stimulate attendance and debate—participation—yes.

Mr. DERRICK. Well, of course, what we're getting at is the end result.

Senator LUGAR. Yes.

Mr. DERRICK. What's going to be best for the people and best for the institution. I just think the end product is bound to be better.

I also am aware of the fact that that is not a popular proposal among the majority, for reasons that——

Senator LUGAR. Obviously, for the reasons that I have suggested. This is devil's advocate—more popular with the minority, but——

Mr. DERRICK. But you know, I think that proxy voting encourages the continual proliferation of committees and subcommittees, and I think if you did not have the proxy voting, that it wouldn't.

Senator LUGAR. That suggestion falls in line with some other testimony we've heard with regard to the restrictions of the number

of committees or subcommittees in which a Member might serve, because obviously, to be present and to vote means that you have to limit the number of committees or subcommittees that you get into.

Both of these ideas, I find very favorable, but I'm testing out just for size to make certain we're not overlooking something.

Mr. DERRICK. I could go on and on, which I won't, but you know—I mean, I think there are some things that we could—we need to eliminate all of these commemoratives.

I mean, you know, a large part of what we spend our time on is of no great significance as far as the country is concerned, and commemoratives and all of this discussion certainly is one part of it, but I think it goes even deeper than that, and I think we need to restructure that, and if we did that, we'd be able—and didn't have proxy voting—we would be able to give our time to those matters that really do make a difference.

Senator LUGAR. Thank you.

Chairman HAMILTON. Mr. Reid? Senator Reid?

Mr. REID. I'd sure like to be on that one Committee—or how about being Chairman of it? Where are we going to find this 400-pound gorilla?

Mr. DERRICK. Harry, as Strom Thurmond says, "If you watch your diet, and you'll exercise, we'll see if we can get you on it."

[Laughter.]

Mr. REID. I came in a little bit late. How would you go about merging this? It's easy to say you would merge the Committees, but how would you do it?

Mr. DERRICK. Well, I think you would put the tax writing, as well as the appropriations authority all in—

Mr. REID. And budgeting, you said.

Mr. DERRICK. Into one committee.

Mr. REID. I know you said that, but how—

Mr. DERRICK. The Chairman asked me how many Members—I don't know, sixty Members or something like that. But I think the part of my proposal that may be overlooked is that you would also at the same time strengthen very much the jurisdiction of the Authorizing Committees vis-a-vis the Appropriations Committee.

I know in the House we have a lot of Authorizing Legislation Appropriations Bills. They would be more bound to follow that, and I hopefully think that that would balance out the power of the two.

As far as how you merge them, I don't know—I mean, that would be left up to the leadership, certainly in our body and your body.

Mr. REID. I don't see how—I have not served on the Ways and Means or the Finance Committee, but I have served on the Appropriations Committee, and I don't see how the Appropriations Committee or the Ways and Means Committee would have the time to do the tax writing or the time to do the appropriating. I just don't think—

Mr. DERRICK. If that's all they had basically to do, they could do it.

Mr. REID. Well—

Mr. DERRICK. In my opinion, you know. I mean, I realize it's a big step, but—

Mr. REID. I think even in—

Mr. DERRICK. But it does—excuse me.

Mr. REID. No. Please, go ahead.

Mr. DERRICK. The thing is, we operate in this area—our operation is so disjointed. I mean, one side doesn't know what the other Budget Committee—I mean, it's all—no one knows what the other is doing, and no one understands what the problems are going to be, and there is no accountability.

If you do this on the appropriations side, what's going to happen on the income side and vis-a-vis? And I just think if we brought it on and let the bodies focus on it, let the country focus on it, and let it take precedent over anything else, I think it would be good.

Mr. REID. Derrick, of course, I have a great respect for your understanding of the institution—that is, Congress in general.

You've been a very important Member for as long as I've been here, and long before that, but I have to say respectfully that an idea like this may have worked at one time a long time ago, but it kind of reminds me—I was having a meeting with my colleague, Senator Bryan, today with some people from Nevada, and we were reminiscing about our first year in the Nevada State Legislature. But we had to realistically admit that the problems back then were much different than they are now in Nevada.

The population of Nevada then was a few hundred thousand people. Now, it's by most standards, not large, but about 1.4 million, and their problems are more complex.

I think what we have to do—and leaders like you have to kind of give us the ability to do it—I think we have to, in my opinion, have parallel jurisdiction of committees in the House and the Senate.

I think that we have to limit the number of subcommittees that can be in each body, I think we have to limit the size of the Conference Committees, and I think we have to do some things that would appear to me, at least on a first step, to be doable, without really trying to be revolutionary.

Because if we come back with an idea like joining the Ways and Means, Budget, and Appropriations Committee—I mean, it frankly—I don't know how else to say it—isn't worth the paper it's written on. It will not happen.

Whereas, I think some of these other procedural things that will make our life more meaningful can happen if we have leaders like you that support us.

Mr. DERRICK. Well, you're very kind, and let me say that I agree with what you've said about consolidation, and this was just one part of it, but I think it would be worth considering.

I have great admiration of you, particularly your questioning of Mr. Perot recently.

Mr. REID. Thank you.

Chairman HAMILTON. Any further questions?

[No response.]

Chairman HAMILTON. Thank you very much, Congressman Derrick.

Mr. DERRICK. I wish you the best and good luck.

Mr. REID. Thank you very much, Butler.

Chairman HAMILTON. We will be in touch with you.

All right. The next witness is Congressman Gilman. He's on his way, so we'll have a brief recess until he arrives.

[Recess.]

Chairman HAMILTON. We're very pleased to welcome Representative Benjamin Gilman of New York as our next witness. He's the ranking minority Member on the House Foreign Affairs Committee where I have the pleasure to serve with him. His other Committee is the Post Office and Civil Service Committee.

Ben, we're delighted to have you with us this morning.

Mr. GILMAN. Thank you, Mr. Chairman.

Chairman HAMILTON. Your statement, of course, will be entered into the record in full.

Mr. GILMAN. Yes. I've submitted the full statement, and I have some brief remarks, Mr. Chairman.

Chairman HAMILTON. All right, sir. You may proceed. We're very, very pleased to have you.

**STATEMENT OF HON. BENJAMIN A. GILMAN, A U.S.  
REPRESENTATIVE FROM THE STATE OF NEW YORK**

Mr. GILMAN. Thank you. And I regret the delay; we had a markup in our Post Office Committee and I tried to scoot over as quickly as possible. I'm pleased to be with my colleagues.

Mr. Chairman, permit me to just touch on a few things that concern some of us about the current aspects of committee operations, and as a Member of the minority—and you and I have discussed a lot of these in our own Committee from time to time—there are some well-known problems with the use of proxy voting, with the possibility for abuse of the new, so-called, "rolling quorum," and with disproportionate allocation of committee investigative staff and committee facilities between majority and minority—and I know, the limitations on space—but I would hope that we could find some better allocations that have been made in the past for all of our committees.

Let me recommend to the Committee that you examine the following solutions to these problems:

First, I would suggest that we eliminate clearly objectionable committee procedures with regard to the use of proxy voting in rolling quorums.

I think it's important that Members be present, and I know that they all have a number of problems, but if they're not present, I don't think that we should be allowing the proxy voting, and I think it's extremely important that they take part and be there during the debate and then be required to be present during the voting.

Second, clearly setting out in the Standing Rules of the House the right of the minority on Committees to at least one-third of the investigative staff of those Committees.

We all have important issues before us, and unless we have proper staffing to assist in those endeavors, I don't think we can do the job properly.

The same proportion is already reserved to the minority under those rules when it comes to the so-called, "statutory staff," and I

would think we ought to have the same kind of a ratio with regard to the investigative staff.

I'd also like to raise some points that concern me with regard to our work in the Foreign Affairs Committee.

As you know, Mr. Chairman, well know, our Committee's jurisdiction has been usurped to a very great degree by the appropriations process, and we've tried in a number of ways to try to overcome that.

For example, Foreign Assistance Authorization Legislation is more often than not, held up, and the appropriation process marches forward according to the calendar set out under the Budget Act bringing the Congress with it.

An indication of just how bad things are is the fact that the Committee has not been able to enact its principal legislation of Foreign Assistance Authorization Act since 1985, and we've been confronted continually with continuing resolutions.

Appropriators, aided by waivers of Standing House Rules against Authorizing and Appropriation Bills, and the need to keep important Government programs operating, time and time again step in and become the foreign policy-makers, despite the fact that in our Foreign Affairs Committee, we've had extensive reviews of foreign policy, all of which goes to naught when we can't bring our policy issues before the Congress because it's usually included in a continuing resolution.

And while not necessarily seeking that role, the Appropriations Committee inadvertently becomes more than just the guardian of the public purse they were meant to be, they become the policy-makers.

Frankly, I view as the best solution to this problem, a proposal that's been suggested by the gentlelady in the other body of incorporating the Appropriations Committee into the Authorizing Committees.

Senator Kassebaum has suggested that and has done some studies on that. I think we ought to examine that possibility.

Once again, I thank you for soliciting these comments, Mr. Chairman. The efforts you and your Joint Committee are making are, I think, fully appreciated in both Houses and both parties, and we hope some revision and worthwhile reform will come out of your discussions and your deliberations.

[The prepared statement of Mr. Gilman is printed in the Appendix.]

Chairman HAMILTON. Ben, you've made some very good suggestions for us and we appreciate it greatly.

Mr. Dreier?

Mr. DREIER. Thank you very much, Mr. Chairman.

Ben, welcome and we're very happy to have you, and thank you for your very helpful testimony, and thank you personally for all the help you've given me in the years that I've been able to serve with you.

Mr. GILMAN. I thank you, gentlemen.

Mr. DREIER. We have 14 proposals that have been submitted to us, compiled by the Congressional Research Service. Have you had a chance to look at some of the proposals for merging the different committees?

Mr. GILMAN. I haven't yet, but I certainly intend to.

Mr. DREIER. Right. You have that packet there. Let me just raise one—there has been a call for a merger of the Finance and Foreign Relations Committees in the Senate. They call for the establishment of an International Economic Policy Committee.

I wonder if you have any thoughts about the idea of merging some of the items that fall within the jurisdiction of your Committee on Foreign Affairs that might be consolidated in some way.

Mr. GILMAN. I hadn't expressly reviewed that, but I'd like to give some thought to that, and I think there certainly should be room for doing some of that.

You know, right now we are awaiting a reform proposal on foreign aid, to be submitted by Secretary Cliff Wharton, who's been studying all of our foreign assistance legislation for the past 5 months now, and we hope to have that report shortly.

I know that Chairman Hamilton is intending to do an intensive review of those recommendations, and I've been hearing that part of those recommendations may be some consolidation of some of our jurisdiction with other committees.

Mr. DREIER. One of the proposals that has constantly come forward is the idea of reducing the number of subcommittees in the Congress, and I guess you all have reduced it by—

Mr. GILMAN. We did. We reduced by one, with the good Chairman's leadership. We wanted to reduce it a little further, but we had a great deal of objection by one of the caucuses in the Congress.

Mr. DREIER. Would you think that there would be a possibility for a recommendation that could come from this Committee to make a further reduction? Do you think that you could live with that if there were some merger of some of the items that fall in the Subcommittee areas today?

Mr. GILMAN. I think we should make a significant effort to try to reduce it. I know that one of the big problems throughout the Congress has been the proliferation of subcommittees, and whatever we can do to streamline that process, I think would be helpful.

Mr. DREIER. Obviously, if we were to do that, we could get to the issue that you raised at the outset, of proxy voting, and if we were to reduce the number of committees on which Members served and the number of committees in the Congress, the necessity for proxy voting, which some argue is overwhelming today because Members serve on so many different committees, would really not be there.

Mr. GILMAN. I think that's one way of eliminating it—by reducing their workload.

Mr. DREIER. Great.

Thank you very much, Mr. Chairman.

Mr. GILMAN. Thank you, Mr. Dreier. And thank you for your kind remarks.

Chairman HAMILTON. Ms. Dunn?

Ms. DUNN. Thanks.

Hi, Ben. Welcome to the Committee.

Mr. GILMAN. Thank you. Well, it's good seeing all of you workers working so hard on these important reforms.

Ms. DUNN. Yes. Well, it's a great task, and I think it's a worthwhile one. We all believe that we do need to come up with some good substantive changes here to make it all worthwhile.

I would like to go back to your point on proxy voting, and David has talked a bit about it and how it could cut back on the number of committee assignments and responsibilities that Members have, and I'm very intrigued by eliminating proxy voting because I think it would have the effect of making the system more deliberative.

Members would be there to discuss the issues, they would hear other Members' points of view, and I think it could be a pretty exciting change if we were able to make it.

I wonder if you would just spend a minute or two talking about proxy voting—what you think the effects might be if we eliminated it, what the problem is—the political problem — and then do you think that it's a political reality? Could we really get the majority to go along with getting rid of proxy voting?

Mr. GILMAN. I think the only way we can get the Congress to go along will be if we can reduce the number of subcommittees, because we all have really too many subcommittee responsibilities, and proxy voting is a way to try to juggle from one subcommittee to another if you can't be present because of a markup on one committee—you would leave your proxy with the Chairman.

I think the only way we'll eventually get to it is if we can trim down the size of our entire structure.

Ms. DUNN. I think, too, that the whole idea of fairness comes into the argument here.

I have sat in meetings, for example, where there have been more Members of the minority party present in the meeting than of the majority, and yet when the vote comes, the majority takes out of its pockets the proxy votes of Members who simply aren't there and haven't heard debate, and it seems to me that where we're trying to make this system more effective, bringing fairness into play is important, too. Do you feel that way?

Mr. GILMAN. I think you raised a very good point, Ms. Dunn, and I think we should be taking a good, hard look at how that does affect the bottom line on the issues. And if we are going to just allow proxies to make a determination on these important issues, we're not being fair to the entire Congress.

Ms. DUNN. Thank you.

Chairman HAMILTON. Any further questions?

[No response.]

Mr. GILMAN. Thank you, Mr. Chairman, for allowing me to appear.

Chairman HAMILTON. Ben, it's a great pleasure to serve with you, and we appreciate your testimony.

Mr. GILMAN. And thank you, Ms. Dunn and Mr. Dreier.

Chairman HAMILTON. The Chair is informed that our next witness is Congressman Young, and he will not be able to be here until shortly after 12, so we have another break here and the Committee will stand in recess.

[Whereupon, the subcommittee recessed, to reconvene at 12 p.m., the same day.]

## AFTERNOON SESSION

Chairman HAMILTON. Thank you for joining us.

Mr. YOUNG. My pleasure. I know you've gone through a long, trying period. I guess today's the last day—you don't have to put up with anymore, no wonder you have a smile on your face.

Chairman HAMILTON. No. We look forward to hearing from you.

Chairman HAMILTON. The Joint Committee will resume its sitting, and we welcome as our next witness, Representative Don Young. He's the ranking Member of the House Natural Resources Committee. He's been a Member of the House since 1973, representing the State of Alaska. In addition to Natural Resources, he's on the Merchant Marine and Fisheries, and Post Office and Civil Service Committees.

Don, we're very pleased to have you today, and we'll let you begin with your testimony. Your testimony, of course, as submitted to us will be entered into the record in full without objection, and you may proceed, sir.

**STATEMENT OF HON. DON YOUNG, A U.S. REPRESENTATIVE  
FROM THE STATE OF ALASKA**

Mr. YOUNG. Thank you, Mr. Chairman, and my written testimony has been submitted to the Committee. I have had the privilege of watching this Congress over the past 22 years, such as you have—to watch it come to a position of having some serious criticism and not being able to operate as I believe it should.

I would like to suggest respectfully that I know there have been some people in your Committee, and also other people, who have suggested that we need less major committees, and I would disagree with that, with the exception of one thing:

Number one, you should cut back on the subcommittees. We have too many of them.

We should cut back on the jurisdictional—each committee having jurisdiction over legislation, because by having legislation referred to two committees, you cannot, I believe, write sound legislation.

One of the things I'd like to stress this time as the senior Member or the Vice Chairman of the Committee of Natural Resources—I've also had the opportunity to be the Vice Chairman on Merchant Marine and Fisheries, and I would suggest — because I know there have been some ideas about eliminating the Merchant Marine and Fisheries, which is one of the longest serving Committees that has ever sat in this House—probably longer than the Interior Committee.

I have not checked it out, but the Merchant Marine and Fisheries Committee has been a Committee that has worked well together over my tenure of six Chairmen. We have produced good, bipartisan legislation, and we've only lost once on the floor because we have that ability to work together.

If there is any dissolving of any committee, and I'm diverting from my written testimony, but it's basically the same thing—any Committee—if you are to eliminate any Committee at all, it would be the Natural Resources Committee, thus eliminating my job.



The Committee on Natural Resources already has three other committees in its legislation other than Parks it is referred to—Energy and Commerce, Merchant Marine and Fisheries, and Ag Committee. They have more of their bills jointly referred than the Merchant Marine and Fisheries Committee does, so I'm going to suggest to you if you look at the ability to put good legislation in the House and then sign-in the law, our ability to do so has been very great.

I am saying this because it sounds strange—here I sit as the ranking Member or the Vice Chairman. I'm suggesting if you eliminate any committee, eliminate that Committee, and then keep the Merchant Marine and Fisheries Committee, but overall, I don't think you should eliminate any of the major committees that are in existence today.

The subcommittees must be cut down. We have too many of them. The subcommittees, with the joint jurisdictions, have made us unable to, I think, pass good, sound legislation.

Mr. Chairman, if I can digress also, we look at what is occurring in this Congress and the criticism we get and the gridlock we're accused of, and if I can suggest one thing, we are beginning to really respond just to special interests because of the joint jurisdictions.

I believe that—one, the Committee should have less jurisdiction. I want to stress that.

I'll give you the example of the Alaskan Pipeline, which you were involved in. That bill, the best energy bill we ever had, went to one committee. It went to the Natural Resources Committee, or the Interior Committee.

It was in one subcommittee, went to full committee, we won in full committee by two votes, it went to the House and it passed by 22 votes, and overall, if you think about that a moment, we went to conference with 12 conferees, six staffers — three from the Senate and three from the House—six Senators, and six House Members, and it was behind closed doors. And we wrote the best piece of energy legislation that ever came through this Congress.

Last year—I'll give you the example—we had an energy bill that everybody hailed as "the Great Energy Bill" — a terrible piece of legislation. It went, I believe, to six major committees on the House side, four major committees on the Senate side, we had a conference of 124 Members, we had a staff of a little over 200, and we had a press corps of about 300, and we had an open public you can't believe, and we wrote the worst piece of legislation we ever had.

So I'm saying that by jurisdiction, let's go to one committee, let's hear the public testimony, let's have the input, and then if people disagree with it on the floor and the arguments cannot be made for it, then defeat the legislation, but what is happening now is we're writing bad legislation.

While I'm rambling now, I'd like to suggest another thing. We ought to set a work time like the Senate has done.

I don't believe what we're doing is correct in the House. There's no known time we can go home. If we're not going to work on Friday, Saturday, or Monday, we don't know. And for those on the East Coast, that may be easy, but for those on the West Coast, it makes it, you know, very nearly impossible to set our schedule.

The last thing will not be done, but I'm going to say it anyway. I suggest in the very, very controversial pieces of legislation that need serious debate, we ought to shut off the television.

I have watched the debate in this House deteriorate. We now have what we call "posturing." We do not have sound debate between Members trying to solve problems and differences on the floor of the House, and I think it has demeaned the Congress, especially in the areas that have great controversy.

I say this because I know it won't happen. We're creatures of habit. We're afraid of what the public will say now. They're afraid that we'll be trying to do things without their knowledge, but our debate has become less and less.

Lastly, the Committee sizes themselves—that is, the staffers—and I'm saying this as a minority Member.

When I am competing in both committees with an extraordinary amount of staffers on the opposite side—what they do, I do not know, but they're there by the hundreds—64, I believe, on the Interior Committee or the Natural Resources Committee, not that many on the Merchant Marine and Fisheries Committee, versus 18, which we have.

If I ever get in power of the leadership, I can guarantee you I'm not going to hire that many staffers because I don't think it's necessary. And I say this because the staffers—because we're going to so many subcommittees now. I serve on six subcommittees.

We go to so many subcommittees, the staffers end up doing most of the legislation, and that's incorrect. Our job should be the elected legislator. We can do it absolutely correct.

Mr. Chairman, I don't envy your job because what you have and what comes out of here is going to be thoroughly criticized by all the turf wars, but I'm one of the few people that suggest if you're going to eliminate any major committee, eliminate the Natural Resources.

Overall, I'd say don't eliminate any of the major committees, but make those subcommittees not as many in each committee and forget the joint jurisdiction of the legislation because it demeans the legislative process itself.

Thank you, Mr. Chairman. I hope you read my statement because I just—that's what I meant.

[The prepared statement of Mr. Young is printed in the Appendix.]

Chairman HAMILTON. Well, I have read your statement, Mr. Young, and it's a good statement and you've given us some good proposals, as you have in your oral testimony.

One of the things that caught my ear was the idea that you produced good legislation when you closed the doors. Are you suggesting to us that we're better off, in Conference Committees, for example, to shut the doors?

Mr. YOUNG. Absolutely. I have always said that. I know that goes contrary to people's belief—everybody has public knowledge, but you and I know as legislators, it's very difficult to sit in a room, especially when you had 134 or 124 conferees—it was easier with 12—sit in a room with all the pressure interest behind you, trying to direct you, calling up your constituents, letting the pressure come back to you, and you end up with very bad legislation.

Now some people don't like that idea. I mean, they—you know, my good friend here wants to open committee meetings all the time—I didn't say the committees.

Chairman HAMILTON. I understand.

Mr. YOUNG. I'm talking about conferences. Because you're dealing with two different bodies.

You're dealing with the Senate and you're dealing with the House, and I believe you're better off having—and we can still do it, it just whether we have the guts enough to do it.

We can close those conferences and we can write better legislation, but we're not writing good legislation now, Mr. Chairman, we're not.

Chairman HAMILTON. Yes. Your general idea is to keep the major committees as they are, but you would like to see us cut down the number of subcommittees for each major committee.

Mr. YOUNG. Absolutely. In that situation, you can't write good legislation.

Chairman HAMILTON. OK. Very good. Very thoughtful comments, and we respect your experience on these matters. We haven't had too many Members come in and say they wanted to abolish their major committees.

Mr. YOUNG. You know, I want you to understand one thing. I said if you have to, abolish that one, but if—

Chairman HAMILTON. That's between the two.

Mr. YOUNG. I suggested you retain the major committees, limit the subcommittees, and limit the joint jurisdictional battles.

Chairman HAMILTON. I think I understand. Very good.

Ms. DUNN?

Ms. DUNN. Thank you, Mr. Chairman. I do want to clarify for everybody's purpose that our potential legislation, the Sunshine Act, would cover committee meetings, not conferences of the parties, certainly, where they have the right, I believe, to discuss issues that are important to themselves.

Mr. YOUNG. By the way, for you information, I support that motion to have committee meetings open.

Ms. DUNN. Great.

Mr. YOUNG. I think that's really important.

Ms. DUNN. Well, it seems to have a lot of popular support, and I will send it over to you as soon as we get the thing filed today.

[Laughter.]

Mr. YOUNG. As long as it's not conferences.

[Laughter.]

Ms. DUNN. No. It's not conferences.

I think that's really the only comment I have, although I would ask you, Mr. Young, on—we met the other day and were talking about a lot of these ideas, and I wonder if you would spend a few minutes talking about the balance of staff between the minority and the majority—what you feel is important for us to do there.

Mr. YOUNG. Well, I'm pleased you asked that question. I will suggest to you, as I suggested before, one of our weaknesses in our Congress is the amount of staff we have. I know I look back at all this room back here with all this staff, and they're saying, "Oh, my God," but the truth of the matter is because we're so burdened with subcommittees, we're now allowing the staffs to write the leg-

islation, make the decisions, and I think that's inappropriate, especially on the majority side.

You look at the balance, you know, and it is a very imbalanced ratio now, and I'm not saying its Democrat and Republican, I'm saying if we were in charge, we would have the same problem if we allowed it to occur, and I'm saying that's not the appropriate way that you can write good legislation.

Now we're outnumbered—I believe, I have 18 Members or 19 Members in my Natural Resources staff, versus 64 or 54. There's no reason for that, and I think it's wrong. I'm not complaining, I'm just saying it makes us worse legislators.

Now the excuse is, and I will say this up-front, I serve on six subcommittees and three major committees, and so do the Members on the majority side, and I'm saying you cut back on that number of subcommittees, then you won't need the amount of staff you have, and I think you can write better legislation. And that's really why we're here. We're the elected officials.

Ms. DUNN. It seems to me that equality and more fairness there would be important, just to be able to present the alternative solutions to problems that we all understand exist, and the way the achieve goals that we all think are good goals, but where the solutions might be different, it seems to me that having more fairness in staffing might be a good opportunity to help a minority produce alternatives.

Mr. YOUNG. The only thing I'm suggesting, though—that is a good idea, but I don't want 64 and 64. I just think that's—I think what we have to do is cut it down this way to make it more fair on this side—on the minority side.

I know it's not a popular thing to talk about, but this is what we're here for—to try to find out if we can make this system work better.

Now I will say, Mr. Chairman—and I will say it again—if you don't believe it worked better prior to 1974, you ought to go back and check the minutes, and find out what happened to the legislation, how many committees it went to, what was the involvement, and you'll find out this Congress worked a great deal better prior to 1974 when we reformed the Congress.

Now some people don't agree with that, they said it was too much control with the Chairman of the committees. Now we're talking about being efficient, and writing good legislation and good law that can be signed into by the President that can serve the people of this country. And when we reformed it in 1974, you saw the massive growth of subcommittees. You saw the massive growth of staff members, and you see the massive growth of joint jurisdiction, and there's where we start falling apart—and I can add, like I say, the television to it and a few other things—automatic voting—I mean, we did everything we thought we were doing right, and we've crippled this institution as far as being a functional institution to write good law.

Now I hear people on the floor everyday—and I'm rambling now—everyday they say, "Oh, we'll take care of it in conference." Well, now maybe they will—in open conference, I doubt it. Now that's not good law.

Or they'll have all the public input—this is another thing that irritates me—we'll sit for hours and listen to public testimony, special interest groups—everything that comes before the committee, and because one group wins in the committee after all that public input, here comes another group from one of the other committees that maybe never had any hearings at all, and will propose an amendment on the floor of the House, and it will be adopted on the floor of the House without any public input.

Now that happened to me in the Alaska National Lands Act. We went through all the committee process, had all the testimony, 100 and some odd hearings, went all through this whole thing, and we got on the floor, and Mo Udall and John Anderson introduced the amendment nobody ever saw, and it won. I don't think that's good legislation, I think it's bad legislation.

Now the Senate helped us out, but I'm just going to tell you—

Ms. DUNN. Could I ask one more question, Mr. Chairman?

I wonder, Mr. Young, if you would take a minute to talk to us about proxy voting.

Now I might have missed it because I came in late in your testimony, but I wonder if you'd spend a minute or two on what you think on that issue, and how that might affect the other things that we're considering doing.

Mr. YOUNG. The worst, most perverted-type system we have in our Congress is proxy voting, not just because the majority has more proxies, but what happens with the abundance of subcommittees, people cannot be there and they vote by proxies.

I'm saying eliminate that, and people would be in the committees if they didn't have so many committees to go to, and I'll tell you where it frustrates me most of all, and again, it goes back to the Natural Resources Committee, yesterday I had every one of my Members in that committee room, versus eight Members on the other side. The vote was taken eventually, and I'll admit it was a pretty good meeting — the proxies will kill you. And I don't think that's—nobody knew what they were voting for on proxies.

If we could eliminate the proxy—we don't have proxy votes on the floor of the House. Under the House Rules that's disallowed.

Now if you're going to have proxy votes, let's have it on the floor of the House. Let's have other Members vote for other Members. I mean, let's carry this all the way to the extreme, and it shows you how ridiculous it would be. Pretty soon, everybody would be home, and they would never be on the floor in the House, and one guy would have a big stack of proxy votes—a fax/computer list—and puts it in.

Now that's what we're doing in these committees, and I think proxy votes—and may I say, Mr. Chairman, and Madam—I will say this right up-front to you, when we speak of this, hopefully some day we'll be in the majority. You don't think so, but some day, and what I'm saying is we have to live with it also.

Chairman HAMILTON. I didn't make any comments.

[Laughter.]

Mr. YOUNG. But we have to because this body to me means too much, and we are not—our impressions now of the Congress—I'm saying from a constituents point of view—is we cannot operate. And it's not Republican and Democrat, it's the way we set our-

selves up in 1974. We made ourselves a non-operative body, supposedly to have it more open, and more above board, and more Democratic—I hate to use that term—and what we did was make ourselves inoperative, and consequently, what has happened is the executive branch has gained more power.

Now I know you can't turn the wheel backwards, but we ought to look where we made our mistakes and say, "All right. Let's change it," and it goes back to my statement.

Ms. DUNN. Thank you.

Thank you, Mr. Chairman.

Chairman HAMILTON. Don, thank you very much. We appreciate it.

Mr. YOUNG. My pleasure. I get carried away on this thing. We'll make it work.

Chairman HAMILTON. It was a great pleasure to have you.

Mr. YOUNG. See you later.

Chairman HAMILTON. The Chair is informed that Senator DeConcini will testify at 1. Senator Boren will be presiding at that time. The Joint Committee stands in recess until 1.

[Recess.]

Chairman BOREN [assuming Chair]. We'll come back to order. Our final witness of the hearing today is the Chairman of the Senate Select Committee on Intelligence, Senator Dennis DeConcini of Arizona.

He's been a Member of the Senate since 1976. He is a ranking Member on the Appropriations Committee and also on the Judiciary Committee, where he's been a very active and influential Member.

It's a special privilege for me to welcome him here today because I had the privilege of serving with him on the Intelligence Committee, and certainly was pleased when it came time for me, under our rules, to hand over the gavel and leave the Committee, the chairmanship, and membership on that Committee—because it's a rotating chairmanship under our rules—and I was privileged to hand that gavel over to Senator Dennis DeConcini because I knew that it would be in very good hands.

We're especially appreciative, Senator DeConcini, that you would take the time to come and be with us today, and to give us your thoughts on the organizational structure of particularly, the intelligence process and the oversight process, but also any other thoughts that you might have on the general subject of the reorganization and reform of the Congress.

#### STATEMENT OF HON. DENNIS DeCONCINI, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator DeCONCINI. Mr. Chairman, thank you very much.

Senator Boren, I'm grateful for those kind words. I thought about should I even come down to give this Joint Committee my views, when you've served longer than any one else in the history of the Senate Select Committee on Intelligence as its Chairman, and know more about it than I do, or will know probably by the time I finish my tenure, but I decided to do it anyway.

I will submit a full statement for the record, and keep it short.

Chairman BOREN. We'll put your full statement into the record for our colleagues.

Senator DECONCINI. I know you know most of the things personally that I'm going to discuss here, but perhaps for the other Members who are not here, they get a chance to do it.

It's a pleasure to appear before this Committee, jointly Chaired by yourself and Congressman Hamilton, both of whom have served as Chairman of the Intelligence Committee in their respective bodies, and done so and left a great legacy.

It's an organizational arrangement for those committees which I wish to focus on, and that is the Intelligence Committee, of course, that I presently Chair.

I'm aware that you are considering several organizational modes—models rather—with respect to the committee structure of the Congress as a whole, and that certain of these models would fold responsibility for intelligence oversight into the jurisdiction of other existing committees, or into the jurisdiction of a broader, as-yet-unformed committee on national security, and other possibilities that may be under consideration.

You have always had witnesses suggest combining the two Select Committees into a Joint Committee. I know that's been suggested before, and I'd like to urge you not to do that.

I think keeping the existing arrangement in place is the best way to go. It is working well. There is no compelling reason to change.

Indeed, eliminating the Oversight Committee or combining them into one would undermine the system that has taken years to construct, and I think has been constructive.

Now while I think there continues to be a compelling justification for continuing the existing oversight structure, I do think the work of the Joint Committee provides an opportunity to reconsider how the intelligence community currently functions, particularly when it comes to funding.

I suspect that few Members of the Senate and the House appreciate how arcane and convoluted a process we have.

Let me just hit a couple of high points that I know you already know, Chairman Boren:

The budget for intelligence is classified, but Constitution calls for appropriations to be public. The solution to this dilemma has, since 1947, been for the budget, for the CIA, and virtually all other agencies to be buried within the budget of the Department of Defense in line items which, in essence, mask the intelligence purpose or the exact purpose.

Indeed, since 1982, the Administration's budget request for intelligence has been decided by the Secretary of Defense and the Director of Central Intelligence Agency as a portion of the overall Defense Budget.

There is no real opportunity under the present arrangement for an Administration to assess separately what is being spent on intelligence overall against the other spending priorities, apart from those of the Department of Defense.

Now when the budget request for intelligence comes to the Congress, it goes to the Intelligence Committees, who do a detailed review of it and scrub it, as they say, and report annually an Intel-

ligence Authorization Bill. But because intelligence is part of the Defense Budget, the Intelligence Committee, as a practical matter, is obligated to consider each year's authorization for intelligence within the context of the Defense Budget.

For example, if we know the Armed Services Committee intends to take a cut in the Defense Budget, we can expect a request to find part of the reduction under intelligence. If we do not achieve the level of cuts sought by the Armed Services Committee, it will likely impose them on us anyway when it is referred to them.

By the same token, if the Intelligence Committee should decide to take a larger cut in intelligence, then what the Armed Services Committee had sought, when the Intelligence Committee bills goes to the Armed Services Committee on sequential referral, the cuts we achieved might well be applied to fund other DOD programs rather than being returned to the Treasury. And again, this results from intelligence being a part of the Defense Budget.

Now while the Armed Services reports our Authorization Bill, it also reports its own DOD Authorization Bill each year, which has the intelligence numbers buried within it, in a nondescript line item.

Thus, in effect, Congress passes an Intelligence Authorization Bill each year in two forms: one in the Intelligence Bill, and once in the DOD Bill.

I know, Mr. Chairman, you were extremely successful with the compliments and working relation with Senator Nunn of the Armed Services Committee to see that the cuts that the Senate approved in the Intelligence Committee really became real cuts, and were not used someplace else. That is the exception, as you may know.

Appropriations for intelligence are contained in nondescript line items. There is also a classified annex to the Defense Appropriation Bill, which explains what is being appropriated in the public bill in terms of a particular intelligence program.

I think we would all agree that this is an extraordinarily complex system, driven essentially by the need to keep the intelligence budget secret. The process would be enormously simplified if there were separate Authorization and Appropriation Bills for intelligence.

There would be no necessity to bury intelligence in the Defense Bill, and no need to translate intelligence expenditures into nondescript line items in the Defense Budget.

Members of Congress would actually know what they are voting for in terms of spending on intelligence, and granted, to comply with the Constitutional requirement, the bottom line — and the bottom line only—number for intelligence would have to be made public, but the details could remain classified and would be set forth in a classified annex.

This would mean that the American people would know what portion of the Federal budget goes to intelligence activities. It would mean that intelligence would have to compete against other spending priorities in a way that it does really have to do today.

It would also mean that intelligence could be assessed on its own merit without being tied to the fortunes of the Defense Budget—up



or down as that may go. I see each of these as pluses rather than minuses, and urge the Committee to take this into consideration.

I also do not think the de-coupling intelligence from the Defense Bill would weaken the role of the Armed Services Committee. The portion of the Intelligence Authorization which deals with defense elements could continue to go to the Armed Services Committee on sequential referral if they so desired.

In short, Mr. Chairman, and Members, I think you ought to give serious consideration in your report to addressing this aspect of how Congress deals with intelligence. I think such a change might strike a blow for greater openness and accountability, as well as greatly simplifying a confusing process that is used now in Congress.

I now want to turn just briefly to one other feature, Mr. Chairman, of the existing oversight arrangements where I believe organizational change should be considered, and this involves the jurisdiction of the Senate Intelligence Committee over the so-called, "tactical intelligence," and related activities of the Department of Defense.

Our counterpart committee in the House has jurisdiction over these activities, while the Senate Committee does not. The Senate Intelligence Committee, notwithstanding the limitations in its charter, conducts a review of the staffed level of the funding requested for tactical intelligence, and recommends to the Committee on Armed Services what action should be taken with respect to it.

More often than not, the recommendations of the Intelligence Committee are given substantial weight, if not adopted entirely by the Armed Services Committee. When it comes time to conference, the action of the House and Senate, as they pertain to tactical intelligence, however—the conferees from the House come from the Intelligence Committee, while the conferees from the Senate come from the Armed Services Committee.

The Senate Intelligence Committee, which has done much of the spade work and gone over it far more in scrutiny than—usually the Defense Authorization Committee takes no part in the conference on these issues, so it seems to me that the Intelligence Committee ought to have jurisdiction over all intelligence programs, whether they are denominated as national or tactical, and again, I don't see this as doing harm to the equities of the Armed Services Committee.

Armed Services would continue to receive our bill on sequential referral, and if they had a problem with that—what we had done with respect to tactical intelligence—they would be in a position to change it still if they wanted to.

They would know that we were going to be the conferees, and because of the time we had put into it, maybe we would spend more time on it in the sense of devoting and targeting just it. I'd like to encourage the Committee to consider the advantage of this modest change in the Intelligence Committee jurisdiction as it drafts its report.

Mr. Chairman, I thank you for your time today. I know you're busy, and I'd be pleased to answer any questions if you have them.

[The prepared statement of Senator DeConcini is printed in the Appendix.]

Chairman BOREN. Well, thank you very much, Chairman DeConcini. You've made some excellent points.

I think that, particularly in the period of time in which we now find ourselves, the idea that the appropriation for intelligence should now somehow continue to be consumed as a part of the defense budget, I think, is really no longer relevant.

I think, as you have said, we have to weigh intelligence needs and intelligence spending against other functions of government, and I share your belief that at this time there would be much more accountability to the American people if we had a separate budget determined by the Intelligence Committee, which puts in the vast majority of the time and work.

The other thing is—and this is a very technical point — but I think most of our colleagues, except those that serve on the Intelligence Committee, don't fully understand it.

When we make savings—let's take a hypothetical if we were to make \$1 billion of savings in the Intelligence Committee—your Committee this year came out and cut the budget by \$1 billion, you would think normally that that \$1 billion of savings would go to reduce the budget deficit.

Instead, since that bill is then considered as part of the defense budget, the Armed Services Committee, if it's so inclined, could take that \$1 billion of savings, and instead of applying it to the deficit, they could use it to soften some painful cuts they were otherwise going to have to make in the defense budget—in essence, spend the money on other defense programs.

Now that's demoralizing for the Intelligence Committee, because it's one thing to work and to go through the pain and the effort of cutting a budget, and hearing all of those who are affected come in and complain about those budget cuts, if you know you're really doing some service to the country by reducing the budget deficit. It's quite another to think you're going through all that so some other committee might be able to spend the money.

As you've indicated, I certainly had a relationship, and our Committee has had a relationship with the Senate Armed Services Committee, and with Chairman Nunn, and last year, for example, the money that we were able to save—Chairman Nunn honored that and made sure that it went to the deficit. But as you've said, that's the exception. That's not the rule.

There's nothing in the rules of either the House or Senate that causes that to happen. That only happened because of the good will and the individual Members of the two Committees that happened to be involved.

I think you're absolutely right. We need to change the system, particularly in a way that any budgetary savings achieved by the Intelligence Committee will really go to reduce the deficit and could not be used to be spent by some other program.

Whether that means totally separating the budget—making the bottom line public, whether there's something in between that might—if that fails, for example, that's always been rather controversial.

I think it's right. I don't think it divulges any secret programs—how much is being spent on some secret program. I think we ought to do it that way.

Failing that, I think we should at least look at some sort of rule that would require that the funds that are saved go to the bottom line of the deficit reduction.

You've made a very, very good point, and also your point about trying to have parallel jurisdiction between the House and the Senate Intelligence Committees—that's something that we're looking at across the board.

I think, any time you have multiple jurisdictions—so that when you go into conference, instead of just going into conference between two committees, you go into conference between several committees, it complicates the process, so I agree with both of those points that you've made.

Let me ask this question. Some have suggested that we subsume the Intelligence Committees into the Armed Services Committees, that the two—since they in the past have handled the budgets. We've had a dual referral, in essence, of our legislation to that Committee.

Some have said, "Well, let's just do away with the two-step process by no longer having an Intelligence Committee. Let that be a Subcommittee of the Armed Services Committee" —or whatever it's called. It might then be called the National Security Committee, and let it go there. How do you react to that suggestion?

Senator DECONCINI. Well, Mr. Chairman, I think that would be taking a step backwards to the way it was, which was part of the reason for the Select Committees to be formed on intelligence—to be sure that there was an emphasis on intelligence.

Not that the Armed Services Committee wouldn't pay attention to it—they would, but the Armed Services Committee has jurisdiction over almost \$300 billion—\$290-some billion—and we know what we're talking about here.

It's a lot of money, and it also is a very sensitive program that deals with the rights of individuals and the assurance that compliance with the statutory guidance and charters are followed.

I think it needs that emphasis for public confidence, and I think that's why it was created under Senator Church and others, and to fold it back into the Committee—and I know that one of your objectives on this Commission is to combine jurisdictions when you can do it.

This would not be one, in my judgment, that would really qualify and improve it at all. I think, if anything, you would take away whatever confidence is built up by having one committee.

What you really need to do, as you have just explained, is give all the intelligence to this Committee.

Chairman BOREN. It also might affect a—it might bring about a narrowing of intelligence. I know, one of the things that you and I have talked about in the past is the fact that intelligence isn't just military intelligence, and indeed, if there's been any failure of our intelligence in the past, it's been that we have not been multi-disciplinary enough.

For example, we didn't emphasize economic intelligence enough; we missed the sharp economic decline of the Soviet Union. We thought they were much stronger than they were.

There's some argument about that. There are those in the community who would say they didn't totally miss it, but the fact is, a

less than adequate job was done in looking at non-military intelligence development—political developments—the speed with which the wall fell and Eastern Europe changed, the collapse of the Soviet economy—these are the kinds of non-military issues.

Wouldn't it be dangerous if we were to make intelligence too much the child strictly of the military side? We might end up with excellent military intelligence, but we might end up with inadequate intelligence about other areas where we really need information.

Senator DECONCINI. I couldn't agree more with you, and as you know, on the Intelligence Committee there are Members of the Armed Services Committee—

Chairman BOREN. Right.

Senator DECONCINI. As a matter of our rules and the appointing process of a majority and minority leader. There is always that representation there that is very strong, and they get sequential referral eventually anyway of that tactical intelligence.

Chairman BOREN. Right.

Senator DECONCINI. But you're so correct that there is far more than just the military side of it, even though that is extremely important.

Chairman BOREN. Right.

Senator DECONCINI. And I think, as you do, there's going to be more emphasis on economic intelligence. I'm urging the Administration, as I think you did, to come forward with a policy and a program of how they want to direct intelligence, if at all, towards economic targets or surveillance, and what have you in gathering information, and then disseminating it.

We really don't have a firm policy, in my judgment.

Chairman BOREN. Right.

Senator DECONCINI. And to put it under the Defense Department, by and by, putting under the Armed Services Committee—that, in essence, is what you are doing, at least in the image of people who look at those committees.

Chairman BOREN. Right. Right. Let me ask you a general question. One of the things we are trying to do is keep our time from being so fragmented so that Congress can be more effective. This is something that witness after witness has talked to us about.

Many have pointed to the fact that we have so many committee assignments, that we—we average 12 committees and subcommittees to the Members on the Senate side. We go up to a high of 23, by the way—we have one Senator that's on 23 committees and subcommittees—we've granted so many waivers.

The other thing is we've had such a proliferation of subcommittees since 1947, when we started out with 38 or 39 committees, principally all standing committees.

The subcommittees were really something that mushroomed in the last few decades. We've gone up to somewhere between 250 and 300 committees and subcommittees, and the vast growth has been in the area of subcommittees, so some have suggested that we could really strike a blow for more coherence, being able to focus our time better if we would make a strict reduction and stay with it in terms of the number of committee assignments people could have.

Some have said, "Well, you should be able to serve on no more than six committees and subcommittees—maybe two major committees and two subcommittees of each one, and that would be it. Then you could call some "A" and some "B."

They would be of equal standing, but they could meet on different days. You would then be assured you wouldn't be running into conflicts in your committee meeting schedules and so on.

How would you feel about really holding a line on the number of committee assignments? And then that would probably help us in the process of de-populating subcommittees and committees that are not very important, so that you could trim down the number.

Senator DECONCINI. Mr. Chairman, I'm one of those guilty ones with one of the largest number of subcommittee appointments. I only serve on two "A" Committees, but—and I've had a chance, serving on the Steering Committee, and being at times when certain committees weren't popular, I could have taken another "A" Committee for Congress or maybe kept on.

Chairman BOREN. Right.

Senator DECONCINI. I think we need to restrict it. As much as that would affect me, and take me off some subcommittees in particular, I think we need to restrict it because it isn't a good thing. I can't cover it. There's more demand for more staff when you have to have that coverage.

Now I would exclude, and it's not because I'm Chairman of it, the Select Committee on Intelligence because, as you know, it's a rotating committee for only 8 years, and on the House, I think, only 6 years, so I would not include that one.

I would let someone serve the 8 years and have one more committee than the number that is adhered to.

As you know, the problem is, some Senators, just by seniority and by expertise and what have you, convince not only themselves, but many of us that yes, we should have that Senator on this third "A" Committee.

Chairman BOREN. Right.

Senator DECONCINI. And the only way to do it, in my judgment, is to have a rule that applies to everybody. And if you have to grandfather that in for a few years while you phase people out for political reality and constituents, to me, it would not be offensive.

I think that would be the most positive thing this Committee could do, as well as, if you can, make some recommendations—and I'm not here to do so, but I would be glad to talk to you about it—of doing away with a few committees, particularly some subcommittees.

Chairman BOREN. Right.

Senator DECONCINI. And I know you're looking into that, which is a very difficult—

Chairman BOREN. Do you still operate without subcommittees in the Intelligence Committee?

Senator DECONCINI. Yes, we do. Yes, we do. And we thought about it.

When I came in, I know I talked to you about it, and I thought about it, but we're still trying to do that, and we're very active, as we were when you were there. And you know how it goes—people are so busy.

Someone made reference to you just the other night at dinner—who serves on the Finance Committee with you—and they said when you were the Chairman, particularly at budget time, you weren't able to come to the Finance, which—

Chairman BOREN. That's exactly right.

Senator DECONCINI. You know, there's hardly any more important committee than the Finance Committee, and particularly at tax time with tax bills, and you couldn't do it because you had to be here—

Chairman BOREN. That's exactly right.

Senator DECONCINI. So that will always happen perhaps, but how about all the other committees?

Chairman BOREN. That's right.

Senator DECONCINI. I hope you move in that direction.

Chairman BOREN. Well, I think if we—you know, one of those—

Senator DECONCINI. And I promise not to howl and squeal when you take away committees—

[Laughter.]

Chairman BOREN. I'm glad to hear that, and I really think we have a very good chance to do that because many people have come before the Committee, virtually all of them serving on more committees than they, themselves, say they should be, and have said they're willing to do that.

We've thought about a rule—now you would have to have some exceptions. Appropriations has to have a large number of subcommittees, obviously, because they have to cover each one of the functional areas, but we have a feeling—

Senator DECONCINI. Well, Mr. Chairman, if I could interrupt you—I serve on the Appropriations Committee, and of course, the last thing I'd like to do is lose my subcommittee, but I really think that there are one or two of those subcommittees—

Chairman BOREN. That could be turned back.

Senator DECONCINI. If you talk to the Chairman and the ranking Member, it might be able to be folded in.

Chairman BOREN. Right. Right.

Senator DECONCINI. At least when that Chairman leaves.

[Laughter.]

Chairman BOREN. Right. Exactly.

Senator DECONCINI. If something happens to he or she.

Chairman BOREN. Well, we've heard from some of the Chairmen of full committees that, in essence, they would welcome a rule, and this would have to be—you would have to have—there would be sort of classes of committees where this would occur.

In some committees you can get along with no subcommittees, and I think where you can—it's best, because you have only so much time to devote to the Intelligence Committee each week, whether that's 10 hours or 15 hours, and unfortunately, as Chairman, I'm sure you're already finding it's more like 20 hours for the Chairman, and therefore, you can either decide to do it in the full committee and set the real priorities of all the Members of the committee, but if you allow that limited number of hours that are available to be used by subcommittees to set priorities that maybe

only one or two Members want to set, as opposed to the full membership of the committee.

I think that you end up not focusing the hours available to the Intelligence Committee on important things. I think that's true in other committees, and some have said, "As long as we can have an unlimited number of subcommittees, I, as Chairman of a full committee"—we heard this from several Chairmen. I know the Chairman Lady of the Agriculture Committee, for example, told us that.

There's tremendous pressure on a Chairman to give every Member a subcommittee and make them Chairman of a subcommittee, and if we had a rule that said, "No more than two subcommittees, say, in some committees, and no more than three in others"—maybe five or something in Appropriations — then the Chairman, in essence, would be spared from having to say—he's apt to then say, "Let's sit down and decide among ourselves in our committee how to divide up the jurisdiction. We can only have three subcommittees, we can't have eight"—or whatever, and we could do that.

Senator DECONCINI. Mr. Chairman, let me interrupt you. I serve on a committee where in the past, every majority Member has had a subcommittee.

Chairman BOREN. Right.

Senator DECONCINI. It's only this year that that hasn't happened because of the reduction in funding given to us by the Rules Committee.

Chairman BOREN. Right.

Senator DECONCINI. But it was a given. You went on that committee as a Freshman, and you got a subcommittee.

Chairman BOREN. Exactly. Right.

Senator DECONCINI. And you didn't get as much as the one that have been on there 10 or 15 years, but you got one.

Chairman BOREN. Right.

Senator DECONCINI. And, you know, it was nice.

Chairman BOREN. Right.

Senator DECONCINI. It was really nice to do it. You could focus in on it. But in reality, I think that day is passed—that we don't need to do that. I agree with you.

Chairman BOREN. Right. Let me ask one last question, and I won't hold you and we appreciate your time. Some have suggested, and I think this has come from—I'm trying to think—I believe, Senator Inouye, as a former Chairman of the Intelligence, mentioned this, my co-Chairman on this Committee, Congressman Hamilton, has talked about it, and I believe, Senator Cohen—maybe Senator Murkowski—and several of our witness have said that they thought that during the time that people serve on the Intelligence Committee, it is very time-consuming, and as we know now, it's also very sought after.

Probably over half the Members of the Senate right now, Democrat and Republican, have requests pending to become Members of the Intelligence Committee.

In fact, it resulted in its being increased somewhat in size, which I think alarms some of us because that's a committee that should not become large—when it's a committee that has very sensitive information and needs to function well.

There's a proposal that at least the Chairs, but perhaps all the Members, during the time of their service would not be excused from another major committee, but let's say, if they had a third committee—Small Business or Veterans Affairs—what we've called, I guess, "B" Committees in the past, or other Select Committees—that during that period of time they, in essence, stop being a Member of that committee, but that they not lose their seniority in that committee, so the minute—whether we applied that to, say, you as Chairman for that 2 years.

In fact, I did that in Small Business. I deferred voluntarily from being on Small Business while I was chairing the Intelligence Committee, and I've deferred again this year because I'm chairing this Committee.

Unfortunately, while I'll be able to go back on the Small Business Committee, I'm assured there's no rule that assures that, and also there's no protection from our seniority.

Some have suggested that in order to perhaps make sure the people on the Intelligence Committee—especially the leadership, but maybe all the Members—really devote the time, because you will find, as I did sometimes, that you felt like the Lone Ranger sometimes in important meetings because it's very difficult to get Members with all their other assignments to come, as much as they've asked to be on the Committee.

There might be a rule that—and maybe it could even be voluntary in the beginning—that if Members serving on the Intelligence Committee, or especially leadership positions on the Committee, would temporarily stand out of a committee, but they would automatically resume their place and their seniority on that Committee on rejoining it after chairing the Intelligence Committee. Would that make sense to you?

Senator DECONCINI. I think that has merits. I have not thought about it, and maybe I should have thought about deferring, but the reason I wouldn't want to defer, myself, is because of what you say—you lose your seniority.

Chairman BOREN. You're very senior on the Veterans.

Senator DECONCINI. On Veterans. And you know, I wouldn't want to not be Chairman of that after—

Chairman BOREN. Right.

Senator DECONCINI. But if I didn't lose my priority and seniority on it, it wouldn't have bothered me so much because, quite frankly, I don't have the time right now—

Chairman BOREN. Right. Exactly.

Senator DECONCINI. To devote to the Veterans Committee. And I'm the ranking Democrat or would-be Chairman if I took that Committee, and I think that's an excellent idea because it would relieve me without—and let someone else serve for the years that I wanted to defer. I think it's a good idea.

Chairman BOREN. I think it's something we might consider doing by rule because there's always been a sort of verbal agreement. That's what I'm operating under now, and I'm assuming it's going to be honored, but there's no guarantee, and I wouldn't go back on that Committee with my seniority.



Senator DECONCINI. Well, Mr. Chairman, that's a good indication that this Committee that you're on is going to keep the Small Business Committee.

[Laughter.]

Chairman BOREN. Well, I'm not trying to give anything away in advance, but—

[Laughter.]

Chairman BOREN. We really appreciate your testimony.

Senator DECONCINI. Thank you.

Chairman BOREN. We appreciate the good job you're doing at the Intelligence Committee, and I think you've made some excellent points, particularly this point about the appropriations process and how it now works.

We simply must find a way, especially in times when we're trying to get the deficit down. It's ironic that the way the intelligence budgeting is structured that there's almost a disincentive to the committees to make cuts and to use those cuts to reduce the budget deficit.

Senator DECONCINI. I'm very encouraged, Mr. Chairman—if I could interrupt you—with the fact that you and Congressman Hamilton are the Chairmen of this because you have such a great knowledge of this area—not that you're going to buy on what I suggest, but you don't need the whole legislation process to know where the problems are and what could be done to cure them.

Chairman BOREN. Well, we thank you very much. We will be completing our hearings about the 1st of July. Then we're going to deliberate, and then we'll have a package to present to the full House and Senate in September. And as we get into that process, particularly in July and August, of thinking about the final form of our recommendations, we may well be wanting to consult with you, and certainly informally during that period of time as well.

Senator DECONCINI. Thank you, Chairman Boren.

Chairman BOREN. Thank you very much, and the Committee will stand in recess.

[Whereupon, at 1:36 p.m., the subcommittee adjourned, to reconvene at the call of the Chair.]

## APPENDIX

### STATEMENT OF DANIEL P. MULHOLLAN Acting Deputy Librarian of Congress before the Joint Committee on the Organization of Congress

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Chairman Hamilton, Chairman Boren, Vice Chairman Dreier, Vice Chairman Domenici, Members of the Committee. I am Daniel Mulhollan, Acting Deputy Librarian of Congress and Chief of the CRS Government Division. It is a pleasure to appear before you today to discuss the congressional committee system.

The comments that follow stem from my 24 years of experience as an analyst in the Congressional Research Service—experience that began in 1969, when the 91st Congress was finishing work begun in 1965 by another Joint Committee on the Organization of Congress. The efforts of that joint committee ultimately led to the Legislative Reorganization Act of 1970.

A number of successor groups have reviewed the Congress since then, each laying groundwork for the important mission you are undertaking today. The Library of Congress is happy to have played a role in assisting both the past and the present efforts.

#### **Past Committee Reorganization Efforts**

From its beginning in 1789, Congress has relied on committees to consider issues and legislation. Through the years, the number of panels and the number of assignments per Member grew so much, and the perception of policy fragmentation among panels became so acute, that during World War II Congress decided to examine what organizational changes would help it function more effectively in the postwar environment.

As you know, the first Joint Committee on the Organization of Congress, created with a mandate similar to your own, was responsible for drafting the

Legislative Reorganization Act of 1946, the landmark work that defined modern committee system. George Galloway of the Library's Legislative Reference Service was of significant assistance to the Joint Committee in their efforts. Among other things, the 1946 Act abolished numerous outmoded and duplicative panels and—for the first time—codified standing committee jurisdictions in chamber rules. It clarified Committee procedures and created a modern staffing system.

During the next quarter century, new unforeseen problems arose—some emerging as unintended consequences of the 1946 Act. Accordingly, Congress created a second Joint Committee on the Organization of the Congress. The product of their labors was the 1970 Legislative Reorganization Act, which primarily addressed committee procedural issues, although the Veterans' Affairs panels were created pursuant to that legislation.

In 1973 the House created the Select Committee on Committees (the Bolling Committee) to update an institution which was operating under a system devised primarily over a quarter century earlier. The panel made extensive recommendations for changing the structure and jurisdiction of House committees, although much of the original plan was altered by the Democratic Caucus Committee on Organization, Study and Review. Congress did, however, adopt the Bolling Committee's recommendations on staffing and multiple referral of bills.

The Congressional Budget and Impoundment Control Act of 1974, while not having an across-the-board impact on the committee system, was responsible for the creation of the House and Senate Budget Committees.

In the Senate, the Committee on Committees, active in 1976 and 1977 and chaired by Senator Stevenson, achieved a degree of success in abolishing some Senate committees and realigning jurisdictions—although some observers, with the benefit of hindsight, question its success regarding the committee assignment process.

During this same period on the House side, the Obey Commission on Administrative Review did not really focus on the committee system although many of their recommendations would have had import for its structure and operations.

The Culver Commission on the Operation of the Senate addressed the structure of the committee system only peripherally, in part because of the simultaneous work being conducted by the Stevenson panel. As such, the Culver group addressed staffing issues and other matters tangential to committee organization.

The 1979 Patterson Committee on Committees in the House focussed primarily on realigning energy jurisdiction.

In 1984 the Quayle Committee on Committees primarily addressed the Senate assignment system. For a time, the committee service limitations adopted were implemented; but many of the limitations they imposed have since been diluted. Indeed, in their testimony before this joint committee, both the Senate Majority and Minority Leaders noted that the committee assignment system was one of the major problems facing the Senate.

Although prior reform panels made significant contributions to the structure and procedures of the Congress, this set of hearings by the Joint

Committee suggests that there are a number of Members who believe there is still more left to be done.

### **CRS Report on Committee Reorganization Options**

Members of Congress have already received a report prepared by the Congressional Research Service at the request of the Joint Committee to serve as a starting point for discussion of possible committee reorganization options and jurisdictional realignments. A companion analysis of those options has also been provided to you. While it may have been intended only to foster initial discussion, I understand that the report has been the topic of interest among many Members.

The report provides models for reorganizing the committee systems. The charts on display identify new committees which might be established under the various reorganization schemes identified in the report. Organizing principles for designing the alternatives variously included the number of panels, rational jurisdictional alignments, workload parity, the disparity of chamber size and its possible impact on committee organization, applying the organization of the executive branch or Federal budget functional categories to committee structure, and to a lesser degree, the committee assignment system. In selecting and delineating options, no consideration was given to feasibility, political winners and losers, options for timing or processes for implementation. Finally, consistency in jurisdictional approaches was not sought, in part to illustrate that various subjects are open to categorization under several topic areas. While many issues relating to the committee system are covered in the document, there are other issues integral to committee system reorganization that were not

addressed in that CRS Report. Among these are committee assignments, bill referral procedures, staffing, oversight, and the legislative process in committee.

The history of efforts to enhance the congressional committee system suggests that this Joint Committee may wish to consider in its deliberations a number of interrelated questions about congressional committees.

Perhaps most important is whether there is in fact a systemic problem with the committee system. If the Joint Committee determines that the committee system is basically sound and needs nothing more than fine tuning, its focus might include such issues as—

- Adjustments in jurisdictions at the margins and points of overlap among committees
- Ways to encourage committees to collaborate on subjects of mutual interest, and
- Ways to maximize the use of Member's time spent on committee work.

If more radical changes appear appropriate, then the Joint Committee may wish to consider these questions:

- How should committees and subcommittees be organized to reduce scheduling conflicts while still coping with an extensive workload?
- What should the appropriate assignment limitations and process be, for both committees and subcommittees?
- What is the optimum number of panels, and what should their size and ratio be?
- How should the Congress organize and manage its committee system to deal with problems of jurisdictional overlap?

- How should panels be organized to encourage them to give early attention to emerging problems?
- How can broad policy questions be examined in a comprehensive, rather than fragmented, manner? And
- What should the relationship be between the House and Senate committee systems?

The Congressional Research Service and the Library of Congress are of course willing to assist you in exploring these questions. We at the Library are proud of the assistance we provided the Congress almost a half century ago in assessing Congress' needs for the post war environment. We are again pleased to have the opportunity to assist this new Joint Committee in assessing the needs of Congress for a new domestic and international agenda and environment as we are poised to begin a new century.

I thank you for the opportunity to appear before you this afternoon.



Congressional Research Service • The Library of Congress • Washington, D.C. 20540

April 30, 1993

TO : Joint Committee on the Organization of Congress  
Attention: Walter Oleszek

FROM : Virginia A. McMurtry, *VAM*  
Section Head  
Legislative and Budget Processes  
Government Division

SUBJECT : Indicators of Committee Workload during Floor Action

This memorandum responds to your request concerning which committees in the House and in the Senate "consumed the most floor time" during the 102d Congress.

As previously discussed in a telephone conversation, the transcripts of House floor action provided in the *Congressional Record* indicates the time of day, usually at ten minute intervals, as the proceedings occur by means of a square-box symbol followed by a number (e.g., "1410," which denotes 2:10, on a 24-hour time cycle). However, absent the time boxes in the transcripts of the Senate proceedings, perusal of the *Congressional Record* does not allow a compilation of the amount of time devoted to particular items of business during consideration on the Senate floor. So in an attempt to provide relatively comparable data for the House and Senate, it was necessary to turn to indicators of committee workload.

The tables which follow present figures on two workload indicators. Table 1 provides the figures for the House committees and Table 2, for the Senate. The first indicator, "days of floor consideration," reflects the number of days during the 102d Congress on which a measure referred to or originated by the respective committees received floor action. The second indicator, "floor amendments offered," illustrates the total number of floor amendments introduced in the 102d Congress for measures referred to or originated by the respective committees.

Data for the tables were compiled from the Library of Congress' automated Legislative Information file for the 102d Congress. We created sets for each committee consisting of measures that were introduced in that chamber and referred to or originated by the committee, as well as measures sent over and



## CRS2

referred following action in the other body. We then limited the sets to those measures which had received floor action and looked at the detailed status steps to ascertain days of floor consideration and number of amendment offered.

In addition to the figures on days of floor consideration and on number of amendments offered, Tables 1 and 2 provide percentages and rank order for the House and Senate committees, respectively, on each of the indicators. Most of the data provided in the tables had been compiled previously, with several CRS staff involved. The assistance of Faye Bullock in collecting some additional data needed for this presentation is gratefully acknowledged.

I hope that this information proves helpful. If I can be of further assistance, you may reach me at 7-8678.

## CRS3

TABLE 1. Two Workload Indicators of Floor Activity by House Standing Committees, 102d Congress

Committee	Days of floor consideration <sup>1</sup>			Floor amendments offered <sup>2</sup>		
	Number	Percent	Rank order	Number	Percent	Rank order
Agriculture	60	6.0%	6	58	4.8%	12
Appropriations	72	7.2%	3	210	17.2%	1
Armed Services	41	4.1%	13	61	5.0%	10
Banking	47	4.7%	12	58	4.8%	12
Budget	6	0.6%	19	3	0.2%	18
District of Columbia	6	0.6%	19	1	0.1%	21
Education and Labor	50	5.0%	10	75	6.1%	8
Energy and Commerce	59	5.9%	7	96	7.9%	4
Foreign Affairs	72	7.2%	3	103	8.4%	3
Government Operations	23	2.3%	18	24	2.0%	14
House Administration	33	3.3%	15	10	0.8%	16
Interior and Insular Affairs	75	7.5%	2	85	7.0%	6
Judiciary	55	5.5%	9	90	7.4%	5
Merchant Marine and Fisheries	49	4.9%	11	121	9.9%	2
Post Office and Civil Service	66	6.6%	5	14	1.1%	15
Public Works and Transportation	35	3.5%	14	65	5.3%	9
Rules	126	12.7%	1	2	0.2%	20
Science, Space, and Technology	25	2.5%	17	61	5.0%	10
Small Business	6	0.6%	19	4	0.3%	17
Standards of Official Conduct	1	0.1%	22	0	0.0%	22
Veterans' Affairs	29	2.9%	16	3	0.2%	18
Ways and Means	59	5.9%	7	77	6.3%	7
All Committees	995	100.0%		1,221	100.0%	

<sup>1</sup> DAYS OF FLOOR CONSIDERATION. These figures were derived from data contained in the Library of Congress' automated Legislative Information file for the 102d Congress in the SCORPIO system. After identifying the measures which had been referred to or originated by the respective committees and which had received floor consideration, we examined the detailed status steps for each measure and counted the number of days during which the committees' bills were considered on the floor.

<sup>2</sup> FLOOR AMENDMENTS OFFERED. These figures were also derived from data contained in the Library of Congress' automated Legislative Information file for the 102d Congress in the SCORPIO system. After identifying the measures which had been referred to or originated by the respective committees and which had received floor consideration, we examined the detailed status steps for each measure and counted the total number of floor amendments offered to the committees' measures.

## CRS4

TABLE 2. Two Workload Indicators of Floor Activity by Senate Standing Committees, 102d Congress

Committee	Days of floor consideration			Floor amendments offered		
	Number	Percent	Rank order	Number	Percent	Rank order
Agriculture, Nutrition, and Forestry	18	2.3%	15	18	1.2%	12
Appropriations	107	13.6%	2	610	39.6%	1
Armed Services	24	3.1%	13	171	11.1%	2
Banking, Housing, and Urban Affairs	35	4.5%	10	63	4.1%	8
Budget	25	3.2%	12	0	0.0%	16
Commerce, Science, and Transportation	58	7.4%	7	92	6.0%	6
Energy and Natural Resources	53	6.7%	8	30	1.9%	11
Environment and Public Works	38	4.8%	9	83	5.4%	7
Finance	61	7.8%	5	140	9.1%	3
Foreign Relations	60	7.6%	6	119	7.7%	4
Government Affairs	22	2.8%	14	6	0.4%	14
Judiciary	112	14.2%	1	31	2.0%	10
Labor and Human Resources	64	8.1%	4	113	7.3%	5
Rules and Administration	67	8.5%	3	52	3.4%	9
Small Business	7	0.9%	16	3	0.2%	15
Veterans' Affairs	35	4.5%	10	9	0.6%	13
All Committees	786	100.0%		1,540	100.0%	

1. DAYS OF FLOOR CONSIDERATION. These figures were derived from data contained in the Library of Congress' automated Legislative Information file for the 102d in the SCORPIO system. After identifying the measures which had been referred or originated by the respective committees and which had received floor consideration, we examined the detailed status steps for each measure and counted the number of days during which the committees' bills were considered on the floor.

2. FLOOR AMENDMENTS OFFERED. These figures were also derived from data contained in the Library of Congress' automated Legislative Information file for the 102d in the SCORPIO system. After identifying the measures which had been referred or originated by the respective committees and which had received floor consideration, we examined the detailed status steps for each measure and counted the total number of floor amendments offered to the committees' measures.

# CRS Report for Congress

## Congressional Reform: Selected Issues & An Analysis of Options for the House of Representatives

Government Division  
Office of Senior Specialist  
American Law Division

Revised  
December 8, 1992



## COMMITTEE SYSTEM: PRO-CON ANALYSIS

### Jurisdiction and Referrals

Many comprehensive congressional reorganization initiatives to rationalize and integrate policy making have centered on the jurisdiction of committees and on committee consolidation. Members have not always agreed, however, that fragmentation of legislative jurisdictions necessarily impairs the formulation of coherent policy, or conversely, that consolidation of jurisdiction in fewer committees would promote more timely enactment of laws or the passage of "better" laws. What one Member sees as inefficient fragmentation, another may see as competition which generates action and new ideas by one committee when another is immobilized.

The effort to achieve more integrated policymaking, begun with the passage of the Legislative Reorganization Act of 1946, has not fully met expectations. The very act of dividing up subject matter deters full integration. Accordingly, practices such as multiple referrals have developed to overcome the deleterious effects of fragmentation, and to avoid or curb unwanted cross-committee conflicts. To a considerable extent, it has fallen to the party and committee leaders to develop, plan, and advance integrated and coherent policymaking.

However, there is no magic combination of jurisdictional adjustments and regroupings, committee restructuring, party policy committees, and integrative mechanisms that can overcome the fact that tough and complex problems and practices will continue to resist easy solutions. Partisanship, clashing philosophies, and the need for consensus building and compromise will remain essential components of the process of finding acceptable resolutions for the problems of a complex, heterogeneous nation. This fundamental fact of American legislative life must inform assessments of the merits and consequences of all reorganization proposals.

Committee reorganization can take a variety of forms. One approach is to amalgamate committees into a few broad functional groupings, another to set committee jurisdictions along the lines of the budget categories, a third to arrange committees to conform with the organization of executive branch agencies and programs, and a fourth to create committees to meet the most pressing current problems. Of course, these options are neither the only ones available, nor are any options mutually exclusive. Underlying all options, however, is the assumption that institutional change is indeed needed, that behavioral restraint and strict adherence to existing rules and procedures are insufficient or unrealistic.

Finally, possible jurisdictional changes and the use of multiple referrals are integrally related. In fact, some contend that had the 1974 allowance for multiple referrals occurred simultaneously with recommended jurisdictional changes, such referrals would have been less likely to occur and would not present the problem many believe they now present.

- 1. *Realign jurisdictions to equalize workload or unify responsibility over major subject areas while retaining existing committees or create a limited number of new committees with jurisdiction over broad policy areas and realign jurisdictions accordingly. Eliminate some committees, combine others and realign jurisdictions accordingly***

The thrust of this approach would be to consolidate committees along functional lines, such as health and energy. The value of this approach is evident as it could lead to comprehensive, or at the least coordinated, consideration of major issues. As well, such changes would not severely impact the number of committees and therefore existing chairmanships would not be lost, a probable plus for many senior members.

Nevertheless, the difficulty in defining issues in all their parameters would be exacerbated under this approach. Further, such consideration might deprive members of access points for influencing legislation. Alternatively, however, such consolidation might strengthen interest group influence in the formulation of legislation.

Eliminating some committees, such as select committees without legislative jurisdiction or standing committees with limited mandates, might result in fewer committees, fewer assignments, or even lessened workload. However, it might also lead to more subcommittees, larger committees with less member input, or problems with definition of jurisdictional issues.

- 2. *Realign jurisdiction to parallel budget function categories or Federal agency organization or to correspond House and Senate jurisdiction***

This option assumes that these categorizations and schemes are workable and appropriate for a legislative entity. This may be a problematic assumption. However, if chosen, each of these approaches has both benefits and detriments.

If parallelism were created along executive branch organization or budget function lines, it is conceivable that the number of committees, and relatedly the number of committee assignments per member, would increase. Seemingly, the number of committees would match not only departments, but independent agencies, a number of entities higher than the current number of committees.

On the other hand, the number may not be as problematic if the benefits included better interbranch relations.

Relatedly, if House and Senate jurisdictions were parallel, interchamber relations, especially during conference proceedings, might prove more facile.

**3. *Create a system of numerous committees with relatively narrow jurisdictions or a system of few committees with broad and integrated jurisdictions***

Creating either of these systems raises more questions than they solve. For example, numerous committees might exacerbate current concerns about the number of committee assignments per member. Alternatively, fewer but larger committees might limit member input into committee deliberations. In both cases, the number of subcommittees may increase, thereby shifting the assignment concern, among others, to the subcommittee level. Under both of these alternatives, there is a great reliance on workload ebbs and flows. Accordingly, the pressure on each committee would be difficult to regulate or even predict.

**Multiple Referrals**

Multiple referrals, allowed in the House since 1975, have enabled many committees to become involved in issues which may not be apparent in their Rule X jurisdiction. Conditions for joint, split, and sequential referrals are determined by the Speaker, although the rules do require that all committees receiving a referral must act prior to the measure going to the floor.

**1. *Abolish Joint Referrals***

Proponents of joint referrals maintain that they enable several committees and outside interest groups with possibly divergent policy perspectives numerous access points to provide input into the formulation of policy. Joint referrals, proponents contend, encourage intercommittee cooperation by allowing all panels early input and therefore facilitate floor consideration of bills which might otherwise be bottled up in a single committee. Without joint referrals, supporters claim, intercommittee conflict might be exacerbated as panels compete to secure the initial referral of a measure.

Opponents, on the other hand, charge that joint referrals lead to unnecessary duplication of effort, and consequently a slowdown in the legislative process. Staff power would be increased as would the influence of the Rules Committee in determining inclusions and exclusions to the bill. Critics further charge that joint referrals promote jurisdictional rivalry by encouraging jurisdictional claims and provides undue outside influence because of the many access points available to kill or otherwise affect the legislation.

**2. *Impose time limits and conditions on joint referrals***

One approach would be to impose mandatory time limits on joint referrals, such as once one panel reports, the other(s) would have a specified period to act or be automatically discharged. The Speaker already has this authority although he rarely uses it. In part, automatic discharge would appear to provide

preferential treatment to a measure multiply referred since singly referred bills have no similar automatic discharge requirement.

An alternative approach would be to designate a primary and secondary committee in the referral. This seemingly would instill an order and accountability in the referral process. However, several procedural issues are raised by this approach, most notably the role of the secondary committee in reporting. For example, would the version prepared by the second committee be sent back to the first committee or go directly to the floor? If the former, what authority does the first committee have? If the latter, is the Rules Committee required to allow the provisions to be offered as an amendment, and if so, does this not negatively affect the autonomy and authority of the Rules Committee?

### **Numbers, Sizes, Ratios, Assignments, and Subcommittees**

#### ***1. Reduce the number of committees, in part by eliminating select and joint committees***

Potential benefits of this proposal include centralization of policy making, which could increase congressional output; better enabling party leaders to aggregate the policy proposals reported by committees; a reduction in jurisdictional overlap and fragmentation; greater equalization of workloads and responsibilities among committees; a reduction in aggregate committee staff; and a reduction in Members' full committee assignments. Select and joint committees might be easiest to eliminate because they generally lack legislative authority.

However, the proposal would necessitate jurisdictional changes which might bring their own difficulties. It might also adversely affect the level and responsibilities of congressional staff, and could enhance the powers of full committee chairs. Abolishing committees might be seen as relegating some issues lower on the congressional priority list, thus arousing their respective constituencies. Eliminating select and joint committees could deny Congress useful mechanisms for handling its work; select committees address important issues that fall between the cracks of committee jurisdictions, and joint committees save Members' time by reducing duplication of efforts.

#### ***2. Abolish subunits of all committees or impose a small cap on the number of subcommittees per committee, and require House (or caucus/conference) approval for the establishment of subcommittees***

Supporters of the proposal believe that there currently are too many subcommittees, which overcompartmentalize congressional activities and add another step to an already difficult legislative process. Fewer or no subcommittees could centralize policy making, facilitate aggregation of subcommittee or committee work products, reduce the points at which



jurisdictional conflicts arise between committees, reduce Members' assignments, and lessen scheduling difficulties of Members. Fewer, larger subcommittees with broader jurisdictions might be more representative of the chamber as a whole and might broaden the range of interests represented at initial stage of writing legislation. Requiring House approval of subcommittee structure could assure that committees create appropriate subunits with cohesive jurisdictions, and could reduce subcommittee jurisdictional overlap and duplication of activities.

Contrarily, any reduction in the division of labor might impede Congress's ability to deal expeditiously with its broad and diverse workload; weaken the norm of specialization, which is a strength of the House; and reduce the avenues of access for party leaders, executive staff, and interest groups to influence committee decisions. Fewer or no subcommittees might deny Representatives sufficient opportunities to influence policy, pursue their abilities, and gain leadership experience and prestige. Especially if subcommittees were abolished, the control of full committee leaders could be strengthened, contrary to the reforms of the 1970's, and full committees might be overburdened with sole responsibility for crafting measures and conducting oversight and investigations. Additionally, a reduced, fixed number of subcommittees per committee could deny committees the flexibility to meet changing circumstances. Finally, requiring House approval of subcommittee structure would infringe on the long-standing prerogative of committees to establish subunits based on their own judgment of need.

**3. *In House Rules, establish reduced, fixed, uniform committee and subcommittee sizes***

Reducing committee and subcommittee sizes could increase the opportunities for meaningful deliberation during meetings and hearings. It would likely reduce Members' assignments, thus lessening the burdens on Members' from serving on many panels. Fixed committee and subcommittee sizes would provide more stability and predictability of memberships and could forestall pressures on party leaders and committees to increase sizes. Establishing a uniform number of seats on all committees and on all subcommittees might foster changes to reduce differences in committee workloads and jurisdictional breadth.

Reducing committee and subcommittee sizes (and thus assignments) might have an adverse affect on Members' opportunities to participate in the legislative process. Also, party leaders and committees need the flexibility to adjust sizes of panels to ensure majority party control, and in response to the changing nature and importance of policy issues and to Members' requests for seats. Limiting their flexibility could create conflicts among party Members interested in the same panels, and might require bumping Members from panels to reflect reduced party strength in the chamber following an election.

**4. *Require in House Rules the membership of each committee and subcommittee to reflect the House ratio of Democrats to Republicans, or give designated panels an equal number of Democrats and Republicans***

Advocates argue that panel ratios reflecting the House ratio would allow minority Members fair opportunity to be elected to committees and to participate effectively in committee business, the focal point of the legislative process. They assert that the Constitution requires legislative representation to be apportioned fairly on a population basis; but that by not extending this one person-one vote principle to its internal operations, the House has disenfranchised constituents of minority Members. Also, the minority needs protection in House Rules against panels unfairly stacked against them. Assigning an equal number of Democrats and Republicans to certain committees, such as those responsible for House operations (House Administration) and oversight (Government Operations), might improve House and program management.

Opponents believe that the majority party organizes the House as it determines appropriate to carry out the mandate of the people. The majority party arguably needs to be assured of working majorities on panels, which may mean giving it more seats on some panels than by a strictly proportionate approach. Moreover, committee and subcommittee ratios closely approximate Democratic and Republican strength in the chamber, making a House Rule to the effect superfluous. Giving certain panels an equal number of Democrats and Republicans, it is argued, could give the minority too much influence in important management areas.

**5. *Group all committees (standing, select, joint) into categories with stricter assignment limits applicable to all Members***

Stricter assignment limitations might be needed because currently some Members are spread too thin, have overburdened and conflicting schedules that are a major source of frustration, have difficulty giving attention to the issues of their assigned panels, and must rely heavily on staff and outside groups. Many assignments often means that a significant portion of a committee's Members does not participate in its deliberations. This change likely would reduce subcommittee sizes, because each committee would have fewer Members to allocate among its subunits. Additionally, the committee assignment process might be more uniform and simplified if categories of committees and limitations were applicable to all Members, as in the Senate.

Possible disadvantages include that stricter assignment limits may decrease the political opportunities, influence, and effectiveness of Members in particular areas that are associated with service on panels. Stricter limits might not be needed because Members may voluntarily limit their service on committees. Reductions in assignments might not alleviate scheduling problems or heavy reliance on staff and outside groups, because Members have so many other

demands. Also, categories of committees for all Members would change the long-standing practice of giving each party the flexibility to establish categories and limitations suited to its needs. Finally, changing the procedure for assigning Members to select committees could deny party leaders a useful opportunity to reward or encourage the loyalty of party colleagues.

**6. *Increase the leadership role in choosing committee and subcommittee members and leaders, subject to conference and House approval or only to House approval***

This change might improve the responsiveness of committees and subcommittees to leadership's objectives. By carefully constructing committees, especially the most important ones, party leaders might be able to exert more influence on their policy directions and activities. Party leaders also would increase ability to use assignments to committees as rewards for Members, and could withhold choosing committee leaders that are not highly supportive of leadership goals. Requiring subcommittee leaders to be approved by the full party caucus/conference might enhance their support for party objectives.

Viewed from differing perspective, there is no guarantee that Members owing their committee appointments to leaders will necessarily act consistently with leadership aims, given the many cross-pressures in Congress; it would be difficult for leaders to exact loyalty or to inflict punishment. Also, an increased leadership role would reduce the autonomy of the committee assignment panels, and might reduce the influence of panel members that stems from helping party colleagues obtain desirable committee seats. It would also reduce the traditional autonomy of committees in choosing subcommittee members and leaders. Finally, the role of seniority in choosing leaders could be diminished significantly, increasing the friction from competitions for these posts.

**7. *Place a fixed tenure limit on service on and leadership of committees***

There are several potential advantages of "rotating" committee memberships. First, oversight of the implementation of programs by the executive branch might be conducted by many Members without roles in establishing them, and thus without interests in preserving them. Second, the committee assignment panels might have more latitude to assign Members in accordance with upcoming policy issues and party needs. Third, committees might better reflect the makeup of the House, because of decreased self-selection by Members. Fourth, frequent membership changes might more fully expose committees to Members with fresh perspectives and ideas. Fifth, rotation would broaden Members' knowledge base, perhaps encouraging and enhancing the quality of floor deliberation. Sixth, important criteria such as expertise and leadership abilities might be weighed more heavily in choosing committee leaders. Finally, reorganizations of committees might be easier because Members' attachments to committees on which they serve would be weaker.

There are also several potential drawbacks of the proposal. It could diminish Member specialization, long the unique strength of the House, and hence expertise; decrease the institutional memory of committees; increase Members' reliance on staff with long committee service; lead to dramatic shifts in policy directions; create problems for agency and interest group staff who depend on regularized contacts with Congress; and, if the House sees rotation as decreasing committee expertise, increase the amount of legislating on the floor. Any resulting decrease in the reliance on seniority for choosing committee leaders might create further difficulties. Further, unless both chambers, and both parties in a chamber, adopt the change, the party or chamber with term limits might consider itself at an expertise disadvantage in dealing with its counterpart. Finally, this change could well result in Members serving on committees that do not benefit their constituents as directly as others, possibly decreasing their chances of reelection.

**8. *Require assignment panels to nominate multiple individuals for either chair or ranking member, regardless of seniority***

The increased competition associated with multiple candidates, and the greater likelihood of reaching far down the committee roster to choose a leader, might result in the emergence of better qualified leaders. The proposal also might give each Member and the party caucus/conference a truer choice in choosing leaders, and might increase their influence in the process. Also, decreasing the emphasis on seniority in choosing leaders could allow heavier weight to be accorded to other important factors, including observable merit, prior service record, future promise, regional representation, and loyalty to party leaders.

Reliance on seniority largely eliminates possibly destructive competition for leadership slots, and allows for predictability of leadership, advantageous for committee business. Further, such a rule might be superfluous because committee assignment panels already have free rein in choosing leaders. Unbound by the seniority criterion, on occasion they have chosen leaders other than the most senior Member. Moreover, leaders chosen largely on the basis of seniority often are expert in House Rules and in the rules, norms, and the issues of the panels they head. Also, the proposal could weaken the discretion and influence of the assignment panels, and increase the chances that leaders will change with political whims.

**9. *Specify which House Rules apply to subcommittees, require each committee to adopt written rules for its subunits, and ensure uniform enforcement of House and committee rules among subcommittees***

A lack of uniformity can make subcommittee procedures confusing, conflicting, and possibly contradictory to House Rules. Explicitly identifying which House Rules apply to subcommittees, and monitoring their application, could assure that subcommittee procedures do not contravene House Rules.

Adopting committee rules for all subcommittees could eliminate problematic inconsistencies among subunits, and preclude arbitrariness of subcommittee leaders in interpreting and applying rules. Finally, uniform enforcement of House and committee rules among subcommittees could strengthen control of committee business by party leaders, the Administration Committee, or other House entities.

Potential disadvantages include that the proposal could reduce the flexibility of each committee to determine its procedures, and the discretion of committee and subcommittee leaders in interpreting and applying rules. Given differing jurisdictions, workloads, strengths, and traditions among committees and subcommittees, different procedures (or interpretations of procedures) may be appropriate. Also, it might be difficult to monitor committee and subcommittee activities to ascertain consistency and to ensure uniformity. Finally, requiring the adoption of separate rules for subcommittees could prolong committee organization, and, if a subcommittee rule was determined inconsistent with chamber ones, committee activity could be complicated.

***10. Prohibit subcommittees from marking up and reporting measures; if not, require more subcommittee documentation when reporting***

Subcommittee markups possibly add an unnecessary step to an already complicated process, and may cause extensive delay or otherwise threaten future floor action on measures. They assert that they are duplicative, because full committees also typically mark up measures. Eliminating subcommittee markups might avoid disputes over conflicting recommendations by subcommittees, and over subcommittee recommendations that differ substantially from the views of committee leaders or majorities. Also, Members may be more able to compromise or modify views during full committee markups if not already on record at the subcommittee level. If the authority to mark up and report is continued, subcommittees could prepare reports similar to those by full committees (with impact statements; supplemental, minority, and additional views; and Ramseyer provisions). Such reports would likely assist full committees in their deliberations, and would facilitate preparation of full committee reports on measures.

Contrarily, subcommittee markups might be needed to weed out measures unworthy of full committee action. Subcommittee markups might enhance full committee deliberation and save time. Further, subcommittee markups enable the smallest and most specialized work unit to take the first cut at legislation, which the more generalist full committee can later review and refine. Some full committees might be too big and unwieldy to take the first cut at legislation. Requiring extensive documentation of subcommittee reports could be an inefficient use of time on measures not ultimately reported by full committees, and could burden subcommittee resources, spurring requests for increases in subcommittee staff or other resources.

### **Committee Procedure: Proxy Voting and Quorums**

Most committees allow voting by proxy, a practice that the majority defends as one way to lessen the demands on members' schedules; the minority generally opposes the practice as inherently unfair, allowing as it does the majority to control a vote even though members may be absent. Similarly, most committees' quorum rules—requiring one-third of the membership to be present to conduct most committee business and two members to be present to take testimony (a majority must be present to report legislation)—are meant to provide members with some latitude in scheduling their activities. Some members argue that many committee decisions made prior to reporting a bill are as important as the final vote and should be subject to the same quorum. Likewise, the two member quorum for hearings, some say, discourages attendance and portrays a poor image of Congress at work; this quorum, they argue, should also be adjusted upwards. A number of options have been suggested to change current practice.

#### ***1. Ban all proxy voting in committees***

This has long been the reform of choice of the minority. On the one hand, the ban would insure that all committee votes taken were made by members who were in fact present at the time of the vote. Committee and subcommittee chairmen would no longer be able to vote their colleagues' proxies; the use of the proxy as a political "favor" would end. The immediate public impact could well be salutary to the extent that people believe that the current system is tainted. Whether the ban would redound to the benefit of the minority seems problematical since members of the minority would likely be as inconvenienced by the need to appear in person as those of the majority.

Committee and party leaders may find that a complete proxy ban could hamper their ability to schedule meetings and control legislative outcomes. Smaller subcommittees and fewer subcommittee assignments could be another unintended consequence as leaders seek ways to counter scheduling conflicts; this in turn could mean narrower spheres of influence for members. Scheduling conflicts could, in turn, slow the passage of legislation through the committee system and hold up floor action. On the other hand, the ban might encourage the committees to operate more efficiently. As members are required to appear in person to vote, the quality of debate and deliberation could improve.

The ban would almost certainly prove inconvenient to the membership in general who will no longer be able to use their proxy as a surrogate to allow them to tend to other business.

#### ***2. Allow proxies during the amending process, but not for final committee approval***

Like the quorum rules that require one-third of the membership to be present to markup a bill but one-half to report it, this option establishes a two-

tier system for proxies. It strikes a compromise between current practice and an across-the-board ban.

The majority party would retain many of the advantages of current practice since the amending process is generally the most substantive part of committee markup; reformers note that the practice could be abused since votes on crucial amendments—often times more important than the final vote to report—would allow the use of proxies. In all but the vote for final committee approval, members would be able to rely on the use of proxies when they faced a scheduling conflict.

On the other hand, the option would require that on the final vote to report—the vote that places the committee's mark of approval on the legislation and endorses the measure as one worthy of consideration by the full House—committee members must vote in person.

***3. Permit Members a limited number of proxies for each session of Congress. When those are used up, they must appear in person to vote***

This alternative argues for a quasi-entrepreneurial system of proxy voting that allows committee members to choose when to exercise the option of using one or more proxies during a given markup. Members would need to value limited proxy resources and make judgments about how best to expend them.

One advantage of this system could be its utility as a political check: the names of the members who chose to exercise their proxy options, and the legislation under consideration by the committee, could be publicized and voters could decide for themselves if a member had exercised his or her option appropriately or not. Members could be held accountable for their proxy decisions. Members who chose not to exercise their proxy options could claim the same sort of advantage of Members who point to exceptional voting records in the House chamber.

Committee members would need to keep the chairman and the committee staff informed of when they intended to exercise their proxy option; and the staff would need to keep track of the number of times a member had voted by proxy. Other than this workload addition, there would seem to be little untoward impact on committee operations.

To the degree that proxies are used to aid committee leaders in return for favors, the system could alter the dynamics between leaders and the membership. Leaders would have to take into account the limited number of proxies available to each member and determine how these limited resources might best be used to further the committee agenda. Thus, the system could have a moderately reformist impact.

On the other hand, the system might prove cumbersome to **manage**; at the least, it would require the committee to develop a record-keeping system to track the proxy options exercised. The system would not likely be self-enforcing and committee leaders could find themselves required to enforce a rule that, they might argue, does not benefit the thoughtful consideration of legislation. Finally, there might be difficulties setting the actual terms of the system. How many proxies should be granted? Should there be the same number for the majority and the minority? What if a member, having used all his proxies, still insists on submitting a proxy vote? Can and should the committee deny the member his vote, no matter what the rule?

**4. *Require a quorum of a majority of the committee members to conduct all business***

This is the option of choice of members in the minority. Like the requirement to ban proxy voting, mandating a majority quorum for actions short of reporting legislation could create scheduling confusion, delaying hearings and markups. This might be alleviated through the implementation of computer scheduling, an idea that has been advocated in recent years. Similarly, committee and subcommittee assignments might need to be cut to compensate for the loss in scheduling flexibility; likewise the membership in general would need to adapt to the loss of such flexibility, and leaders would need to adopt new tactics and strategies for controlling outcomes.

On the other hand, the quality of deliberation could improve as more members are required for markup to proceed. The public perception of Congress could well be improved since one long-standing complaint is that Members spend too much time on activities not related to legislating.

**Committee Reports and Other Documentation**

Committee reports form a key component of the legislative history behind any congressional enactment. Current required inclusions for committee reports have been added piecemeal over the past one hundred years, while few efforts have been directed toward a comprehensive review of reporting requirements. Committee report changes could include: altering time requirements in House rules, changing the required contents of reports, and assessing the need for subcommittee reports.

**1. *Require more expeditious filing of committee reports***

Under current House Rules, committee members announcing their intention to filing additional, supplemental, or minority views must be given three days (not counting Saturdays, Sundays, or holidays) in which to file such views, provided the request is made in a timely fashion. Thereafter, the committee chair may take necessary steps to file the report. Conversely, there is no explicit time limit imposed upon a chairman to file unless a majority of



committee members formally request rapid filing, in which case the chair has seven days from the date of the request to file a report.

It has become a frequent practice to delay filing a committee report for strategic reasons. If a sequential referral has been or may be ordered, delay by the initial committee of jurisdiction could increase time pressures on secondary committees and lessen their ability to review the bill. It also adds further unpredictability to the workload of the Government Printing Office in processing these reports.

It can be cogently argued that timely filing of committee reports represents an issue of fairness to all Members giving them and their staffs more predictable times in which to review the content of pending bills. Faster filing of reports and minority, supplemental, and additional views is not exceptionally burdensome. The availability of computer word processing facilities to all committees speeds the preparation of draft reports and expedites editing to reflect final committee action. More expeditious filing of committee reports and a shortening of additional time for submitting supplementary views would make it possible for a committee to order a bill reported on one Tuesday, and for the intervening time clocks to expire and permit a bill's consideration the following Tuesday.

Against the proposal, it can be claimed that effective and little-used remedies for report filing delay already exist. The fact that a committee majority rarely instructs its chair to file reports more swiftly indicates that the actions of the chair meet with the approval of committee colleagues. More expeditious completion of committee documentation may not be in the interests of either party in committee or in the House: coordinating policy and procedural actions, informing non-committee Members of key legislative issues, and obtaining a place on the leaderships' legislative agenda all take time. Faster filing of committee reports may not result in faster, better coordinated, or better informed House action.

## **2. *Review current requirements concerning contents of committee reports***

House Rules now require most committee reports to include a Ramseyer print showing proposed changes in current law; a plain-English section-by-section analysis; a five-year cost estimate by the Congressional Budget Office (CBO), oversight findings reports; and inflationary impact statements. Each of these report requirements were added at various times to respond to particular legislative concerns. However, now may be an appropriate time to consider their overall utility, to review whether some should be discarded, and whether additional report requirements should be imposed.

Some observers have questioned whether the oversight findings reports need to be retained. Established by the House Committee Reform Amendments of 1974, the rule requires committee reports to take note of oversight efforts

done by their own panels or by the Government Operations Committee as a way of clearly linking oversight effort with subsequent legislation. In operation, committees generally omit any statement of oversight findings. Relatedly, the 1974 rules change also required the House Government Operations Committee to review and publish a biennial "oversight plans report" in an effort to coordinate oversight efforts among all House committees. By the 1980's, that requirement was dropped from House rules at the request of the Government Operations Committee because compiling the report was not viewed as a useful or informative exercise.

Rather than remove the oversight findings requirement, some parliamentary inducement could be found to encourage compliance by committees. An oversight coordination and monitoring role could be assigned to the House Administration Committee as part of its duties to review annually committee operating expenses and budget requests for subsequent years. If future operating funds depended upon clearly showing a link between oversight work and subsequent legislation, committees might make their submissions in the oversight findings section more informative.

Inflationary impact statements rarely are comprehensive. Prepared either by committee or CBO staff, they generally describe the bill as introduced (not as reported) and view each legislative measure separately. Few bills-taken singly-will have significant inflationary impact on a multi-trillion dollar economy, while cumulatively the impact of all reported bills might be substantial. Consideration might be given to requiring greater methodological specificity in preparing this inflation statement. Alternatively, this report requirement could be abolished completely. It was imposed upon the House when annual inflation rates were double or triple their present levels; current economic conditions might permit an end to this requirement. However doubtful in value, some could argue that ending the inflationary impact statement sends the wrong signal to Members of Congress and the public generally.

More narrowly, procedures for filing reports on special rules from the Rules Committee could be revised. House Rules have permitted the inclusion of minority, additional, or supplemental views in committee report to accompany legislation. The Rule does not now provide for filing such views in reports from the Rules Committee on special rules. Such views are not now permitted in order to allow the majority to file a report quickly and to call up the reported special rule the following day. Allowing minority and other views would trigger the current three day layover period, and impede majority party agenda control. Of course, some of this delay could be overcome by reducing the three-day rule as it applies to minority or additional views in a Rules Committee report.

On the other hand, the inclusion of minority and other views would inform Members better about the development of the special rule, and might highlight particularly contentious decisions made by the Rules Committee majority.

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Granting the minority a regular outlet to express their opposition might lessen, or at least enlighten, controversy during House debate on a special rule.

Relatedly, the Rules Committee in recent years has taken to filing two part reports on special rules. Part one usually describes the general parliamentary scenario to be followed under a restrictive rule, while Part Two lists or describes the amendments made in order. Rules reports might be more useful if all material were included in a one-part report. Alternatively, the two part report gives the Rules Committee some useful last minute flexibility in deciding which amendments are to be made in order.

The Ramseyer print-showing current law and proposed bill changes in law by typographical device has been required on legislative reports for many years. However, Ramseyers are not now required in Appropriations Committee reports changing current law or in reports from the Rules Committee on measures changing House rules. These could be useful documents in helping Members to evaluate these provisions or non-legislative measures. Contrarily, preparation of such documentation might be time consuming, could delay the filing of reports, and add little to Member understanding of the legislative provision or rule change.

**3. *Require additional documentation in committee reports concerning preliminary votes and quorums***

It is a widespread practice for committees to package all amendments agreed to during markup into either a new amendment in the nature of a substitute to the bill marked up, or to direct the chairman to report a so-called "clean bill" or an "original bill" in lieu of the measure originally considered and amended. This practice clearly simplifies subsequent floor action as the House then must consider only one committee amendment or a bill reported without any amendments. Current House rules, however, require only that committee reports include committee voting data in the aggregate (without identifying the votes of Members by name), and do not require the inclusion of vote results on preliminary votes on amendments. Reports similarly do not have to identify by name the Members who constituted a quorum during committee consideration.

The rules could be amended to require the inclusion of data on all votes taken during a committee markup including votes (by name, and whether in person or by proxy) on all amendments or motions relating to a chairman's mark or other vehicle. The committee report would then be a more complete and public record of committee action than is now the case. On the debit side, the inclusion of such data could prolong markup sessions by encouraging committee factions to demand more roll call votes since the results would now be printed in the committee report. Members' ability to compromise might be limited as they would be publicly recorded on a particular issue on which future flexibility either on the floor or in conference might be required.

In support of including more and more comprehensive voting data, it can be argued that such a requirement is consistent with the asserted need for greater public accountability and with other House rules requiring open committee hearings and meetings and recorded votes in Committee of the Whole. Including all data on committee roll-call votes would arguably enhance the value of the committee report as a component of legislative history.

**4. *Apply some or all reporting standards to subcommittee reported measures***

The House and party rule reforms of the 1970's gave subcommittees a formal role in the consideration of most legislation. Subcommittee markups are common in most House standing committees. However, subcommittees are not required to file written reports or other documentation with their parent committee preparatory to full committee consideration.

Subcommittees could be required to file a complete written report, including all items required in full committee reports, to their parent committees. The report could expedite full committee consideration and serve to inform full committee members not serving on a particular subcommittee of the key issues contained in the subcommittee bill. It could help the full committee to file its report more promptly as substantial portions of the subcommittee report could be included with little or no change in the full committee report. Occasionally, some data is omitted from full committee reports because CBO or some other entity did not submit the analysis requested by the committee in a timely fashion; if subcommittees were to initiate such requests, they are more likely to be completed in time for a full committee markup.

Opponents of such a requirement for subcommittees could argue that it would complicate the legislative process and result in the preparation of many unused reports. Full committees are not required to act on a subcommittee bill thus obviating the need for a full committee report; a subcommittee report would not be used as a basis for any subsequent committee document. Substantial staff work by the subcommittee and by support offices such as CBO and the Office of Legislative Counsel may have been done for no reason. Filing a subcommittee report implicitly grants certain parliamentary standing to the subcommittee-reported version of a bill; would the full committee chair remain free to set the subcommittee version aside in preference to his or her own mark? If the chair retained that power, the subcommittee report may not be useful because of disparities between its version and the chair's mark. If the chair were denied that power, the proposal would encounter substantial opposition from senior Members.

Alternatively, some report documentation requirements might be imposed on the subcommittee. Key among these might be a section-by-section summary of the bill and a Ramseyer. These also might be unused, but the overall workload would be less than providing a full subcommittee report while providing full committee members with some of the more useful components of

a committee report. Automated word processing and legal data bases could speed the preparation of some of this documentation, perhaps requiring no or little increase in staff.

##### ***5. Review the utility of other committee-generated documents***

Committees currently issue a wide variety of documents: calendars, committee and subcommittee prints, and draft House documents. At the same time, committees also routinely maintain internal documentation-such as subcommittee and full committee markup transcripts and journals-which is almost never published. A comprehensive review could examine the usefulness of current non-report documentation, and consider imposing system-wide standards for preparing, preserving, or publishing such material.

Committee and subcommittee prints are widely disseminated, either as draft reports or internal staff studies. No formal mechanism now exists in House rules to approve the issuance of such prints, and there is no requirement to include minority, supplemental, or additional views in such publications. The legal standing of these documents is also in doubt. It has been suggested that the opportunity to include other than majority views be formally mandated, or that a printed disclaimer be included in all such prints noting that the print was not formally approved by the committee or subcommittee and does not necessarily reflect the views of the panel. Against such proposals is the view that any limitation on the issuance of prints would needlessly complicate what is understood by all to be an informal process. Regardless of a change in the parliamentary status of committee prints, others say that prints should be formally numbered (as they now are in the Senate) to ease future identification, and that they be routinely archived by the House and the House Library for future reference.

House Rules require committees to keep a journal, an official record of committee and subcommittee action. This document-not to be confused with a committee calendar-is generally never published. Similarly, committees generally transcribe markup sessions and keep such records in their own files. Legislative history could be made more complete if markup transcripts were routinely published either as separate documents or as part of committee reports. Committee debate and vote records could clarify legislative intent, and serve to buttress committee positions during House floor action. Journals might be published intermittently, or at the end of a session or Congress, possibly as part of currently required committee activity reports.

Such additional documentation might be opposed on several grounds. Markup debate might be longer and more contentious if Members knew that their statements and votes were to be more widely and permanently disseminated. Markup transcript and journal publication could increase the demand for recorded votes as Members and outside groups seek to establish politically useful evidence of support for or opposition to particular proposals. Preparing transcripts for publication before floor action would be time

consuming and costly for a minimal increase in public understanding of proposed legislation.

### **Committee Staff and Funding**

- 1. Reduce the total number of staff or the aggregate level of funds for staff, through an 'immediate or phased-in reduction, through across-the-board or selected cuts, and through full committee or subcommittee cuts***

Arguments in favor of reducing committee staff stem from the notion that committee staff are too numerous, powerful, and costly. It could be asserted that big staffs insulate Representatives from one another and erode their control; perform the committee work that Members are better suited to do; and add to, rather than alleviate, the large committee workload. Directly reducing appropriations for committee staff, or cutting staff levels which would likely cut costs, could save the Congress money at a time of large Government deficits. It also might pressure the Executive Branch to trim its large bureaucracy, and increase public confidence in Congress if the legislature is seen as sharing in national belt-tightening and improving its organization and operation.

Related issues include how, when, and where to make cuts to staff or funds. Across-the-board cuts could be perceived as easy to make and equitable by treating all committees the same; contrarily, selected cuts could target only any committees with excess and not penalize those operating efficiently and frugally. However, there is no agreement about what constitutes adequate and excessive staff levels, and identifying excess could be methodologically difficult. Regarding when, immediate reductions could quickly reduce the congressional budget; a phased-in reduction, however, might be easier to implement by allowing for savings through attrition and for gradual adjustment to lower levels of staff or funds. Regarding where, subcommittee cuts may facilitate recentralization of policy making by spurring cuts in panels and by recentralizing staff at the full committee level; however, full committee reductions would help maintain subcommittee independence.

At the heart of arguments in favor of maintaining or increasing committee staffing levels are issues relating to workload management and congressional ability to independently and competently legislate and oversee the Executive Branch. The Nation's affairs, domestic and international are encyclopedic and complex. Reductions could endanger Congress's ability to manage its committee workload, and may force some committees to reduce activities. Congress's ability to function as a co-equal branch of Government might be jeopardized, and committees might become more dependent on agencies and interest groups. Also, committee staff reductions could decrease assistance to junior and to minority members, and might spur increases to personal office staff.

**2. *Encourage more hiring of short-term consultants and staff detailed from government agencies, in lieu of full time staff***

Short-term consultants and detailees from agencies allow committees to acquire temporary expertise that they may not possess, from the world of outside resources. Increased use of Executive detailees may promote good relations between the branches, and support agency detailees may provide Congress with more direct and better service for which it already is paying. Also, if committees met temporary, special needs by these means rather than by increasing permanent staff, they might reduce their costs. Savings would be greatest if Congress used consultants for whom it did not provide benefits, and employed detailees exclusively (or primarily) on a non-reimbursable basis. On the other hand, committees may wish to employ detailees on a reimbursable basis only, to encourage their loyalty and to militate against temptations for more outside assistance than necessary. Moreover, agencies undergoing budgetary difficulties with possibilities of downsizing, may be less likely to permit Hill details and more inclined to seek reimbursement for those detailed.

Opponents argue that Congress should have sufficient funds to hire its own permanent experts, and should not depend on increased ad hoc arrangements and handouts from agencies. With respect to detailees, it could be viewed as economically unsound to reduce committee budgets, give funds to agencies, then have Congress borrow from agencies. Moreover, detailees may well have vested interests in protecting their agencies or certain positions rather than in maintaining the independent attitude and judgment necessary for committee work. Separation of powers questions could arise, for example, in the case of detailees from a particular agency assisting with an investigation of that agency.

Employing consultants and detailees might be too time consuming to make their use practicable in crisis situations. Committees also might have insufficient funds to employ consultants and reimbursed detailees when needed, requiring supplemental funding resolutions which the House has tried to reduce to a minimum. Also, because committees usually can not obligate funds beyond the period covered by a funding resolution, the uncertainty of continued employment of consultants and reimbursed detailees may ill affect committee planning and activities. Critics also charge that the service of many detailees and consultants is routinely extended so that their tenures are as long as that of many permanent staff, in contradiction to their intended purpose. Finally, full disclosure advocates decry that the employment and salaries of those not on the committee payroll often are not disclosed to the public.

**3. *Accord the minority party members of each committee a greater share of committee staff or funds, with full control of the same***

Some claim that current minority staff levels across committees generally are insufficient for effective and constructive participation by the minority. They see the minority as precluded from obtaining an independent analysis of issues; fully developing arguments and presenting positions; and performing its

adversarial role of effective criticism, implicit in our two party system. Effective criticism, they argue, benefits government by improving the quality of debate and by presenting the public with more choices upon which informed judgments can be made. Increased resources also might encourage a constructive rather than obstructive minority role in more situations. Critics also state that as committee deliberations are at the heart of the legislative process, not giving minority members sufficient staff is tantamount to disenfranchising the districts who voted for them. Finally, such increase may more fully satisfy the minority thus decreasing the level of partisanship in House.

At least four issues arise relating to how to accomplish any increase in minority staff and resources. First, should the minority be accorded a share of committee staff or of committee funds? A share of staff has the potential advantage of avoiding duplication of expenditures for common items, such as field hearings, subscriptions, supplies and equipment, and witness expenses. Notably, a share of funds could give the minority more flexibility and control, for example, by allowing them to hire large numbers of staff if paid low salaries. Second, should the minority be allocated a fixed share of staff or funds, such as one-third, or a proportion of either based on the committee or chamber ratio of Democrats to Republicans? A fixed share could allow for stability from Congress to Congress (unless party control of the chamber changes), but one based on the committee or House ratio could be regarded as more equitable. Third, should any increase in minority resources extend to a committee's detailees and consultants? Such an increase might reduce the amount of funds spent on permanent minority staff, but permanent staff might better provide the type of assistance needed. Finally, what degree of control should the minority have over its portion of staff or funds? Permitting full control, such as the authority to independently hire and fire staff, set staff salaries, and authorize staff travel, could be necessary for a truly independent minority role; however, it might divide committees more than is desirable or necessary.

In opposition are those that deem current minority resources adequate, and that argue that significantly larger resources appropriately accrue to the party chosen by voters to run the Congress and to lead in policy making. Further, increasing the minority allotment may mean either substantial committee funding increases, or decreases in the majority party's resources resulting in the displacement of majority staff. Also, if the minority is better able to create roadblocks to majority actions, partisanship could intensify and the legislative process could become gridlocked. Some also assert that it is better to move in the direction of non-partisan staff, whereby any committee member can be assisted by any staff member, and that a unified staff is important for oversight.



4. ***For each committee (including Appropriations and Budget) and for House costs of joint committees, provide funds for all salaries and expenses through one periodic resolution (simultaneously abolishing the distinction between statutory and investigative staff)***

The House separately funds "statutory" staff and "investigative" staff and expenses, funds standing committees differently from most select committees, and funds the Budget and Appropriations Committees differently from all other committees. Advocates of the proposal to fund all (or most) committee staff and expenses through one periodic resolution per committee, as in the Senate, charge that the current arrangement is too complex and arcane. They view the proposed process as more uniform, simplified, and consolidated, aiding comparisons of the funding of various House committee activities and possibly facilitating efforts to hold down committee costs. Some reasons for the current procedures may be outdated, for example, the historical notion of a permanent complement of staff per committee (statutory) with the possibility of additional, temporary ones (investigative, funded separately). Today there are few truly temporary employees; investigations change in subject but persist. Also, the reasons for maintaining separate procedures for the Budget and Appropriations Committees may no longer be appropriate.

Further, it could be argued that all authorizations of funds should be scrutinized in committee and on the floor, whereas under the existing procedure funds for statutory staff and for the Appropriations and Budget Committees are not subject to the annual authorization process. Another benefit of the proposal might be that all authorized funds likely would be publicly disclosed, whereas currently each committee's allotment of statutory funds is not disclosed.

Several arguments against the proposal could be made. First, many lawmakers and staff with funding responsibilities view current procedures as straightforward and satisfactory. Second, the Committee on House Administration, presumably would have to absorb additional responsibilities. Third, the Congress permits many permanent authorizations in order to manage its business efficiently, and adequately regulates these activities through the appropriations process and oversight. Fourth, disclosure is not an issue; the amounts of both statutory and investigate funds *spent* are disclosed quarterly. Finally, because in general statutory staff salaries exceed investigative ones, the proposal might increase committee expenditures by spurring raises for investigative staff to statutory salary levels.

5. ***Require a separate, amendable funding resolution for each committee, or permit the omnibus one to be open to amendment***

It might be argued that a separate funding resolution for each committee would allow a more focused, cleaner consideration of each funding issue. It would give the House the opportunity to accept or reject the funding level for a particular committee without affecting the fate of other committees. Allowing

for amendment, whether of an individual or omnibus resolution, appears to give the House still more input into funding decisions. Rank and file Members would have more authority to determine funding levels than under the present arrangement, whereby the House traditionally votes only on whether to accept an omnibus package without floor amendment.

Contrarily, funding each committee separately could be quite time consuming at the committee and floor stages. In fact, before 1981 funding each committee's investigative activities through a separate resolution sometimes consumed weeks of floor time and took more than 20 recorded votes per year. A single resolution might permit the House to more easily assess the total funding level, and the comparative and cumulative effect of individual funding decisions. A single, unamendable resolution could be viewed as an expeditious manner of processing relatively routine legislation that the committee of jurisdiction has fashioned after careful study and following input from all committees' leaders. Further, it can be seen as avoiding contentious attacks and counter attacks against individual committees, and repeated criticisms by economically-minded Members.

**6. *Establish a biennial or other multi-year committee funding cycle***

It is asserted that a two or other multi-year funding cycle would substantially reduce the workload of committee leaders and staff who prepare budget information and testify annually, and of the Committee on House Administration which has jurisdiction over committee funding. A longer funding cycle might also facilitate longer term planning and continuity of committee activities. Also, because the House operates on a biennial cycle perhaps its budget should correspond, and the use of a two year funding cycle has gotten favorable reviews by the Senate where it was recently adopted. Finally, in times of intense public scrutiny of Congress and some misunderstanding of House operations, it might be advantageous to vote less frequently on funds for chamber operations.

A related issue is whether committees would be permitted to carry over funds from one year to the next under a multi-year cycle. Such a policy could promote stability of committee operations and mitigate any "use or lose" attitude, but could result in higher spending and charges of "slush funds." Additionally, this year the House has acted to prohibit funds in Legislative Branch Appropriations bills from being available for obligation without regard to fiscal year (so-called "no year" money), although this prohibition has not yet been enacted into law. A carry over of committee funds from year to year might violate this standard.

Several arguments against a longer funding cycle are advanced. The uncertainty of the congressional agenda might preclude accurate forecasts of activities and funding needs for more than one year at a time. On the one hand, because committees can not anticipate crises and other emerging issues affecting

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their jurisdiction, they may overestimate funding needs when submitting initial requests. On the other hand, they may require frequent supplemental authorizations, which the House has all but eliminated. A longer cycle also might make harder maintaining the current degree of consensus on funding activities. Institutionally one of Congresses most potent short term control devices could be significantly weakened.

An annual authorization may allow the management committee (House Administration) and the House to exercise better oversight of committee activities. In an era of large budget deficits and public criticism of Congress, it may be advisable to focus everyone's attention on spending as often as possible. Also, a longer authorization cycle might necessitate a change in the role of the appropriators to a two year cycle. Otherwise, the influence of the Appropriations Committee might increase at the expense of the authorizers.

ADLAI E. STEVENSON  
JOINT COMMITTEE ON THE ORGANIZATION OF THE CONGRESS  
APRIL 20, 1993  
WASHINGTON, D.C.

The Bolling and Stevenson Committee Reports, innumerable studies and the excellent testimony this committee is receiving will tell you, who are most directly effected, what you know: that reorganization of the congressional committee system is needed to restore to the Congress a capacity for serious deliberation and action while distributing its work and powers more equitably. Collateral benefits, not always mentioned, include better attendance at committee meetings, reduced staff and economies, a Congress that attracts well qualified men and women to its ranks, instead of driving them away, and a more accountable Executive branch. The Executive branch could be spared the excessive demands of unwieldy, proliferating committees and subcommittees. The Congress, reorganized, could be an advertisement for the democratic form of government we extol to the world. I also believe that a rational division of labor in Congress could focus media attention more on serious deliberations, less on sensation and trivia which demoralizes instead of educating, the American public.

The reports, studies and testimony are in substantial agreement on what needs to be done--the basic outlines of reform, if not every detail. I, therefore, have been invited to discuss the Senate reorganization of 1976-7, and, more importantly, how it was achieved.

In 1975, Senator Brock and I introduced a Resolution which, with the support of Senator Robert Byrd, then Chairman of the Senate Rules Committee, was approved in

February, 1976. It created a Temporary Select Committee to study the Senate Committee System. The Members of that Committee were disproportionately reform minded and evenly divided between the parties. I was its chairman and Senator Brock, the co-chairman. At no time in its proceedings can I recall a hint or suspicion of partisanship or self seeking. As Members and staff, we made reorganization a non partisan labor of love for the United States Senate.

We had a strong staff led by Ken Gray and represented here by Roger Davidson and Norm Ornstein. The Committee began with exhaustive research aided by the Bolling Committee Report. We sought to learn from prior exercises--just as you are doing. This research proved and documented what we, too, knew. Senators, for example, had an average of twenty committee, sub committee, commission and board assignments--far more than they could handle. The research produced a large compendium of data entitled "The Senate Committee System." It helped to prove the case for reform and identify the most demanding subjects of reform. We knew, and could demonstrate, that the Senate had to rationalize committee jurisdictions, reduce the number of committees and sub-committees and assignments thereto, redistribute power and workload for greater equity and efficiency.

The Select Committee held few hearings. They drew little interest and familiar complaints. And we wanted to waste no time. The chairmen and staff presented the Committee with three options for reorganization--one for five super committees, a radical, efficient management option; a middle ground option for twelve functionally organized

committees with clear cut, comprehensive jurisdictions, and a third inefficient, minimal change option. With these options on the table, we held another hearing. By then, it looked like the Select Committee was threatening to do something. Some twenty-five Senators were heard from and a smattering of interest groups. Out of this process, we, the Committee leadership and staff, got precisely what we expected and wanted—a mandate from the Committee to proceed with option 2.

From then on, within the Select Committee, it was a laborious but not an excessively contentious process. Tactically, we decided to go for 150%, hoping to win about 70%, of what we wanted. From the mandate we proceeded step by step to logical conclusions. The Committee proposed the abolition of all special, select and joint committees, arguing that the interests of small business, veterans, aging and so on are better served by an effective Congress and committees with legislative jurisdiction. Special committees make interest groups feel good; they offer platforms to Members and jobs to staffers—but they fragment the process and diffuse responsibility.

Committee jurisdictions were rationalized, made coherent and updated to reflect emerging subjects of national importance. For example, the old Interior Committee became Energy and Natural Resources. Public Works became Public Works and the Environment.

That mandate produced an unusually business like process for what is an intensely political exercise. Because the objective was sensible and middle of the road, and the

methods impartial, outcomes were easier to defend, losers easier to console. Being rational, the outcomes hit at irrationalities and anachronisms, often indefensible testaments to the Senate's irresistible tendency to indulge its Members, especially those with power and rewards to dispense. It inevitably produced more winners than losers. That was a conscious effort throughout, as was an effort to avoid disturbing the barons of the Senate. We wanted them on our side. The Select Committee's logic was capable of giving ground but only to expediencies that were unavoidable and, therefore, understandable.

Foreign Affairs, Appropriations, Finance and Armed Services were undisturbed. Russell Long, Chairman of Finance, had left nothing to chance. Five Members of the Finance Committee served on the Select Committee. Our failure to chip away at its disproportionately extensive jurisdiction was a disappointment and one of the Committee's largest failures. We did not even try. Today, I feel even more strongly that it is important to consolidate international economic policy (monetary affairs, trade and foreign investment)—perhaps in the Banking Committees.

In a few instances where we did try to deprive committees of jurisdictions, we failed. We could not transfer the National Science Foundation from what had become the Human Resources Committee to the new Commerce, Science and Transportation Committee, nor could we get the mass transit jurisdiction transferred out of Banking to the new Commerce Committee with jurisdiction for transportation. We compensated for such failures and inevitable jurisdictional overlaps, by giving the standing committees new comprehensive

oversight jurisdictions. Commerce, for example, had oversight for all of science and all of transportation--a useful tool for enterprising Senators with an interest in dealing comprehensively with complex subjects. The Select Committee also proposed a procedural means by which the Leader could establish ad hoc, temporary committees to cope with matters that fell between cracks or across the many jurisdictional divides. We lost that proposal, but I commend it to you as a means of bringing key members together temporarily to legislate on cross cutting issues of national importance like health reform.

Failures notwithstanding, the Committee's report was a sweeping proposal for reform. Committees were to be reduced from thirty-one to fifteen, committee assignments from an average of eighteen to eight. Chairmanships were spread around by limiting the number each Senator could receive.

On the first day of the 96th congress, Senator Packwood, Senator Brock's successor on the Select Committee, and I introduced a Resolution incorporating the Select Committee's recommendations. By prearrangement with the leadership, it was referred to the Rules Committee with instructions to report by January 19 and with no committee assignments in the meantime for the eighteen newly elected Senators. That was a providential decision which made newly elected Members unhappy, but it built up pressure for action and permitted no more investments in the old committee system.



The hearings in the Rules Committee demonstrated a phenomenon with which you will soon become familiar, if you aren't already. Except for a sacrificial, noble few, Members fight to retain power--but not to take it from their distinguished colleagues. You will win opposition without corresponding support. The witnesses in the Rules hearings, Members and spokesmen for scores of interest groups, by now fully energized, swore their support for reform--but the reform was usually for everybody else. The Capitol switchboards were tied up by irate veterans. We were vilified for being cruel to senior citizens and native Americans. Some of us were condemned for grabbing power. And the reform constituencies didn't, like the Pope, have many regiments. We gave up the low ground, as intended. We had no desire to eliminate Ethics, Intelligence and some of the Joint Committees, and they were restored. But in Rules, we gave up high ground, too.

Five committees were given new leases on life in the Rules Committee. Committee and subcommittee assignment limits were raised from 8 to 11, and in at least one case, jurisdiction was recovered. Senators Magnuson, Hollings and others demanded the return of oceans from the new Environment Committee to their Commerce Committee. They rolled over me in a dramatic appearance before the Rules Committee.

We lost more ground on the Senate floor. That is were the elderly caught up with us and recovered their committee. But when the debate was over, the Resolution was approved 89 to 1, the sole dissenter, a valued friend and chairman who had lost his committee. This can be a painful path you are embarked upon.

The Senate had reduced its committees by a quarter, sub-committees by a third and average committee and sub-committee assignments from 18 to 11. Jurisdictions were rationalized, albeit imperfectly. The minority had received a right to budgets for staff. The leadership's committee referral powers were strengthened and other procedural measures adopted.

That brief recital of history may contain a few pointers, but it is missing the one that is clearest in my mind. We had the unstinting support of our leaders. Senator Byrd made telephone calls, brought chairmen together and presided at meetings where I would brief them, coax them and with his indispensable assistance get them together one on one to resolve conflicts peaceably. At Senator Cannon's invitation, I participated in the Rules Committee markup, in effect as a member without a vote. We managed the Resolution jointly on the floor. At every step along the way, the Select Committee had the strong support of Robert Byrd, first as Rules Committee Chairman and then as Majority Leader, also Senator Cannon and the minority leadership.

In the end, of course, we failed, or we would not be here today. After the reorganization, Senator Cannon and I took turns guarding the reorganization against requests for waivers. The rear guard action resumed, and we began to lose more ground. The life of the Indian Affairs Committee was extended beyond its agreed duration.

Senator Cannon and I left the Senate in 1981, and I have not been back much since. But my strong sense of it is that the reforms, especially the limitations on committee assignments, came undone as the Senate succumbed to its old habit of indulging its Members. The Select Committee had tried to guard against this unraveling by requiring periodic Rules Committee review of the committee system, but I infer that has not worked.

You will need the full support of your leaders, not only for the reorganization but for its preservation, or it will all be for nothing.

When Mike Mansfield was Chairman of the Majority's Policy Committee, it consisted, I believe, of the Leader, the Whip and committee chairmen. When the Policy Committee considered a subject of special interest to some other Member, committee reorganization for example, the Leader would invite him in for a discussion at one of the Policy Committee's weekly luncheon meetings. It was a tight, cohesive group. It settled on policy and then gave the leader who had to implement it, full support. The Majority's Policy Committee expanded under Senator Byrd, but still we would discuss legislative priorities, make decisions and stick with them--and him. I understand that the Majority's Policy Committee in the Senate now consists of about half the Members. That is too large to be cohesive and give the Leader the support he must have if, indeed, he is to lead.

So, my final suggestion is that you recommend to the respective parties that the Policy Committees be streamlined and tightened up to include the chairmen or ranking Members, as

the case may be, the majority and minority leaders, probably the Speaker in the House and a handful more to make these party committees representative. They should be staffed, meet weekly to develop legislative strategies and priorities. Perhaps there is a better way, but they should be firmly committed to the protection of the committee system's integrity. Committee size limits and limitations on committee and subcommittee assignments should be written into the rules--and the rules enforced by the leadership, or some of you will be back here in sixteen years just as I am today.

STATEMENT BY DR. ROGER H. DAVIDSON,  
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APRIL 20, 1993

Members of the Joint Committee: Thank you for inviting me to discuss congressional reorganization, with special emphasis on the committee system. My professional interest in congressional organization goes back 30 years. The mid-1960s were, like the 1990s, an era of ferment on Capitol Hill, with both liberals and conservatives calling for "congressional reform." The Dartmouth College Public Affairs Center conducted a survey of House members' attitudes, which I codirected; my colleagues and I reported the findings in testimony before the second Joint Committee (the Monroney-Madden Committee). I observed that process fairly closely, interviewed most of those involved, and later wrote about the Joint Committee's work.

When committee reorganization was undertaken in the 1970s, I was privileged to serve as a staff member in both chambers. The 1973-1974 House effort was led by Chairman Richard Bolling and Vice Chairman Dave Martin. The Senate inquiry, in 1976-1977, was chaired by Adlai E. Stevenson and cochaired by Bill Brock. I have written histories of those two efforts, as well as analyses of the 1946 and 1970 Legislative Reorganization Acts.

COMMITTEE REALIGNMENT SHOULD BE ADDRESSED

A comprehensive examination of the committee system is long overdue. The first Joint Committee on the Organization of Congress was created in 1945, the second in 1965. The most recent major House and Senate committee realignments occurred in the mid-1970s. As a complex institution operating in a fast-changing environment, Congress needs periodically to reassess the adequacy and adaptability of its structures and procedures. Committee structures and procedures are an inescapable point of departure. As Woodrow Wilson observed in 1884, "Congress in session is Congress on public exhibition, whilst Congress in its committee-rooms is Congress at work."

Although formal reorganization efforts are infrequent, the committee system in fact evolves constantly. Since the momentous reform-era changes of the 1970s, congressional structures and procedures have altered in numerous ways, even though few formal rules changes have been adopted. The Joint Committee's study will provide a valuable historical record of these changes, along with a sharper understanding of problem areas and needed adjustments.

#### Jurisdictional Changes

As public problems shift, so do the agendas and workloads of committees. Some issues that loomed large in the 1970s seem less troublesome today; other topics have far outrun the old jurisdictional boundaries. The committees and their leaders actively promote this process: the best of them display ingenuity in extending their jurisdictions and tenacity in fending off encroachments by others. Nearly every committee, it seemed, wanted a piece of the energy business in the 1970s; today the hot topics would include health care and competitiveness. The Joint Committee needs to survey these de facto shifts in jurisdictional lines and propose language to ratify or modify the changes.

- High-priority issues invite competition as committees maneuver for jurisdictional advantage. Leading areas of overlap among House committees include banking and financial regulation, economic regulation, environmental protection, fiscal policy, international trade, natural resources, and transportation.
- Such overlaps complicate legislative-executive relations, particularly for departments whose diverse missions bring them into contact with a number of congressional committees. Especially affected are such departments as Commerce (5 House and 6 Senate committees), Energy (8 House, 3 Senate), Health and Human Services (6 House, 3 Senate), Housing and Urban Affairs (5 House, 2 Senate), and Transportation (5 House, 4 Senate).
- The budget process adds to the jurisdictional complexity. Authorizations are divided 19 ways in the Senate, 23 ways in the House; appropriations are divided 13

ways; there are 20 budgetary categories. Coordinating these different jurisdictional patterns requires a baffling system of "crosswalks."

The Joint Committee will, I hope, examine committee jurisdictions in detail and draft a comprehensive realignment plan involving both chambers and all types of committees. Such a plan would provide a vehicle for specific negotiations which, I presume, would take place in the rules committees of the respective chambers.

#### Proliferating Committee Assignments

Another topic that demands periodic examination involves the numbers and sizes of committees and subcommittees, and members' assignment levels. Over time, pressures from members tend to drive all these numbers upward.

- \* The 103rd Congress boasts some 251 formal workgroups -- standing, select, special, and joint committees and subcommittees of those bodies. (This does not include seats on party committees or task forces and boards or commissions of various types.) Although this is down somewhat from the 102nd Congress -- mainly because of the House's actions curtailing subcommittees and eliminating four select panels -- it still represents a proliferation of workgroups.

- \* There are some 4100 seats on these committees and subcommittees. The average senator now holds 11 assignments -- 3-4 full committees and 7-8 subcommittees. Forty-three senators had 12 or more such assignments in the 102nd Congress. The average House member holds a total of 6 seats -- 2 committee and 4 subcommittee assignments. In the 102nd Congress, 255 representatives had seven or more assignments.

- \* Today there are over 100 more House committee and subcommittee seats than when the Bolling Committee did its study 20 years ago. Senate panels have nearly 75 more seats than they did in 1977, when the Stevenson Committee pared down assignment levels.

- The chambers tend over time to relax assignment rules, again in response to member pressures. In his testimony before the Joint Committee, Majority Leader Mitchell reported 48 "extra committee assignments." In other words, nearly half the Senate's members hold assignments to which they are not entitled under the chamber's rules.

- Committees and subcommittees expand in size. The 1946 Legislative Reorganization Act established House standing committees of about 20 members in the House and about 13 in the Senate. Today the average House panel has nearly 40 members, the average Senate panel 18. Subcommittees, too, have grown in size -- to an average of 18 members in the Senate, 13.5 in the House.

As a result, members' schedules have become more crowded and their attention more thinly scattered. Especially in the Senate, quorums for business are often hard to obtain. Proxy voting is the norm in both chambers. Hearings and markups are often conducted with only a handful of members. Close observers of Capitol Hill give little thought to this state of affairs; we understand that members have many demands upon their time, and that hearings are not always the most efficient forums for gathering information. But I always wonder about the reactions of citizen witnesses who make the effort to travel to the Capitol to testify about their concerns, only to find themselves speaking to three, or two -- or even one -- committee member. It strikes me as bad politics as well as bad manners.

The sizes, jurisdictions, and workloads of committees and subcommittees should be audited to assess the effectiveness of present structures. The Joint Committee and its staff, assisted by Capitol Hill support agencies and others, has the challenge of reexamining the committees and their operations and recommending appropriate changes. There are no shortcuts or heat-and-serve recipes. Although various plans or models have been proposed, it is not enough just to take them from the shelf and incorporate them in a report. Nor are there any perfect designs; every proposed plan will require tradeoffs and compromises. Fortunately, the history of previous realignment efforts -- especially the Bolling Committee (1973-1974) and the Stevenson Committee (1976-1977) offers some useful guidelines.



Inter-committee Relationships

Today's policy issues spill over even the most carefully crafted jurisdictional lines. Some overlap is useful: one committee's biases may be counterbalanced by another committee's different approach. But excessive overlap can produce delay and gridlock; it can squander not only legislative efforts but also the valuable time of administrators and others who deal with the committees. The Joint Committee could point the direction to eliminate the most glaring overlaps and tidy up jurisdictions, at least in a number of pressing policy areas.

Equally important, Congress needs to employ more flexible organizational strategies for addressing interrelated or crosscutting topics. Current and proposed devices for coordination should be assessed -- for example, multiple referrals; special, select, and ad hoc committees; task forces; overlapping memberships; special oversight jurisdiction; and conference committee membership and procedures. The Speaker should be encouraged to make greater use of ad hoc committees, authorized since 1974 but employed on only three occasions. The Senate's joint leadership should be urged to accept this authority, which was recommended by the Stevenson Committee but was explicitly dropped from the final version of the 1977 realignment package.

An increasingly important form of inter-committee relations is the multiple referral of legislation. Although infrequently used in the Senate, multiple referrals have become a common feature of House deliberations: more than a third of all bills and resolutions introduced in the House are sent to two or more committees. Such arrangements often slow down or kill the legislation, but sequential referrals can enhance the Speaker's power to manage committee scheduling by subjecting the committees to time limits. My impression is that multiple referrals are a very mixed bag: in some cases they are handled routinely by committees with legitimate complementary interests in a given type of legislation; in other cases they reflect excessive overlaps and jurisdictional claim-staking. In any event, I urge that the impact of multiple referrals should be reviewed and recommendations put forward.

Committee/executive-branch relations

Policymaking requires cooperation and mutual respect between Congress and the Executive. A recent National Academy of Public Administration study (Beyond Distrust: Building Bridges between Congress and the Executive), for example, found that Congress is often forced to intervene in administrative matters to remedy Executive failings. Yet all too often legislation is written with little regard to its practical administrative consequences, and parochial oversight can undermine program objectives. All committees should devote explicit attention to how, or even whether, the legislative provisions they draft can effectively be implemented. Workshops should be held to bring committee staffs and administrative specialists together to explore how laws can be made more "user friendly." Committee reports should be required to include "administrative impact statements" that will assure that the committee has taken account of how their provisions can be implemented.

## SOME LESSONS FROM PREVIOUS REALIGNMENT EFFORTS

Let me summarize what I think are the chief lessons to be gleaned from earlier committee realignment efforts. These comments are drawn from my own experience with the House and Senate efforts of the 1970s and my study of the two earlier Joint Committees on the Organization of Congress. I will group these comments into three categories: the research and investigation phase; the design phase of the realignment plan; and the politics of realignment.

Research and Investigation

Both the Bolling and Stevenson committees undertook intensive studies of committee operations. The staffs examined committee workloads, reviewed committee reports, and analyzed areas of conflict or overlap among committees. For the Senate study, formal interviews were arranged with key majority and minority staff members designated by the respective committee chairmen and ranking minority members. The findings were compiled into lengthy reports that provided a valuable historical snapshot and helped lay the groundwork for eventual recommendations concerning optimal numbers and sizes, jurisdictional language, and staffing levels.

Designing the Realignment Plan

Once the research had been completed, members and staff worked to design a comprehensive realignment plan. The House effort included such techniques as: a weekend "retreat" with freewheeling discussions among members and staff; staff markups that produced a staff-authored plan; a full-scale markup conducted by the panel's two most junior members, Paul S. Sarbanes (D-Md.) and William A. Steiger (R-Wis.); and, finally, public committee markups. For the Senate deliberations, the staff prepared three plans -- a minimal-change plan, a middle-of-the-road plan, and a radical plan calling for only five super-committees. The radical plan received the lion's share of the publicity, and so senators were relieved when the committee settled on the middle-of-the-road option as the basis of their deliberations.

Both the House and Senate realignment plans started from premises that strike me as still valid. They were:

- \* The two chambers should have a moderate number of broad-based committees (a range of 12 to 20 seems optimal).
- \* Members' assignments should be reduced -- with the goal of one major assignment for representatives and two for senators.
- \* Committees should have relative parity in workload in order to promote efficiency and attract members.
- \* Committees should have broad jurisdictions with enough divergent subject areas to attract a wide range of members representing disparate constituencies and viewpoints.
- \* Jurisdictional conflicts and overlaps should be substantially reduced. Because perfect jurisdictional lines are impossible, however, major jurisdictional shifts should be concentrated within a limited number of high-priority issue areas.
- \* Committees in the two chambers should, insofar as possible, have parallel jurisdictions.
- \* Political salability of the plan must be kept in mind, but should not become its driving principle.

Committee Realignment Politics

Any proposed changes -- no matter how benign or sorely needed -- can be expected to encounter resistance because they touch legislators' and staff members' individual power bases and careers, not to mention their linkages to outside constituencies and interest groups. Several patterns emerged during the House and Senate efforts of the 1970s that could stand as lessons for anyone attempting to rearrange Congress's internal organization.

- Members quickly fix upon those provisions that affect them directly, even when they have only a vague picture of the reorganization plan as a whole.
- At least when first approached, affected members are often more willing to consider proposed changes than are their staffs or allied outside groups.
- Those who stand to lose power are more vocal than those who stand to gain: assets in jeopardy always seem more tangible than expected benefits.
- Even members and groups expecting tangible benefits from organizational changes tend to be leery of the costs they will incur in rewiring their political networks. I call this the "Replacing-your-Rolodex" phobia.
- Groups bent on protecting established relationships are far more numerous and mobilized than the handful of groups dedicated to "good government" (most of which have shifted their attention to substantive issues anyway).
- The mass media typically show little interest in the reorganization process, but the specialized media cover in detail the imagined impacts upon their client groups.

The chances for organizational change are closely linked to the mix of junior and senior members in the two chambers. Testifying before your predecessor committee in 1965, my colleagues and I declared that "the most pervasive damper on reformist thought and action is the known hostility of the seniority and elective leadership in Congress to many crucial kinds of changes." By contrast, junior members, with less power to lose and less attachment to traditional procedures, are a potent clientele for innovation. The Bolling reorganization plan had the misfortune to surface just before the influx of the "Watergate class" of 1974, whose 92 new

House members might well have put the plan over the top. The Stevenson plan, in contrast, benefited from the 18 new senators who arrived in January 1977 -- the largest freshman class in a generation. It is an optimistic sign, therefore, that this Joint Committee convenes at a moment when there are 110 first-term House members and 12 new senators.

Support of the elected party leaders is also an important element in the success of any reorganization effort. Because of the nature of their positions, these leaders are not usually leading the vanguard for reform. Of all the major reorganization efforts since World War II, only one -- the Bolling Committee in 1973 -- can truly be called a leadership project. Yet leadership involvement is critical. Senate leaders, especially then-Majority Leader Byrd, actively negotiated compromises between the Stevenson Committee and affected senators that produced near-unanimous acceptance of the reorganization plan. The Bolling plan's very different fate was partially due to the failure of the leaders to sponsor and push the delicate negotiations that would have transformed the innovations into ones acceptable to a majority of members. Leadership hostility helped to scuttle the LaFollette-Monroney Committee's farsighted budgetary plan of 1946 and caused a four-year delay in House consideration of the Monroney-Madden Committee's 1966 package.

Leadership involvement in your own efforts is heartening. Inclusion of the four principal leaders as ex officio members is, I believe, unprecedented. Their opening testimony in your hearings indicated not only general support for your work but in a number of instances specific reorganization concerns. I trust their interest and support will continue to be manifested.

A final factor -- and a very potent one, in my judgment -- is the public's critical mood and the expectation that changes must be made in government structures and procedures. No one, and least of all elected public officials, needs to be reminded of the level of public distrust and skepticism. Last year, only 17 percent of those questioned in a national survey approved of the way Congress was doing its job, whereas 54 percent approved of their own representative's performance. Both figures were all-time lows. Of course, no student of public opinion would argue that these numbers reflect a detailed appraisal of Capitol Hill operations, or that a given

reorganization plan would cause citizens to fall in love with Congress. Yet public unrest can be a powerful asset to the reorganization process – an incentive for members to consider making useful and even necessary changes that might not otherwise have received a fair hearing. And it may even persuade segments of the mass media to devote attention to what otherwise would be dismissed as dull organizational matters.

As this Committee considers its recommendations, I suggest that your watchword be: Make no small plans. Begin with a bold blueprint, rather than marginal adjustments to existing arrangements. Considering how much resistance will greet even the most modest proposals, a bold and compelling report will not only best serve Congress's institutional needs but will be the most defensible political course of action. Your recommendations should reflect an overall conception of how committees should confront public issues and how members' schedules should be arranged. Your plan will, I hope, move toward the following goals: reduced jurisdictional overlap and competition; fewer scheduling conflicts for committee meetings and hearings; more coherent jurisdictional clusters; more equalized members and committee workloads; better inter-committee cooperation on crosscutting issues; and simpler linkages between committees and executive agencies. A plan that promises measurable progress toward such goals will, I think, have the best chance of acceptance by members, the media, and interested citizens. Moreover, it will provide ample room for the adjustments and compromises that inevitably must be made. As Senator Stevenson said of the Senate reorganization plan, the committee asked for 140 percent of what they wanted in order to get 75 percent.

#### SOME FINAL OBSERVATIONS

Periodic self-examination is valuable "preventive maintenance" even in periods of political calm. At moments of turmoil it is inescapable. Today's controversy over Congress's role is the most acute, the most troubling, and potentially the most dangerous in recent times. Though triggered by scandals, the public outcry is intensified by deep and growing pessimism about how public policy is made and whether government institutions are capable of putting the nation on the right track. Members themselves are weary, dispirited, and panicky.

While the Joint Committee's recommendations -- which I hope will be bold and wide-ranging -- comprise a necessary and desirable step, they cannot by themselves erase the present discontent surrounding Congress. First, the record of past joint reorganization efforts has been a mixed one. Second, structural and procedural defects are only one element in the present governmental crisis.

The Legislative Reorganization Act of 1946, the product of the LaFollette-Monroney Joint Committee, left an ambiguous record. Its radical budgetary reforms were soon jettisoned by the senior committee barons who in those days dominated the two chambers. The Act's most celebrated feature -- reducing the number of committees and streamlining their jurisdictions -- was undermined by the growth of subcommittees and of members' assignments. Its most enduring contribution, professional staffing, took hold only gradually among the various committees.

The Legislative Reorganization Act of 1970, adopted more than three years after the Monroney-Madden Committee proposed it, was even more a mixed bag of provisions -- "a mosaic you build from lots of little improvements," as Senator Monroney put it. Its fiscal process features were adopted but proved inadequate. Its crucial "committee bill of rights" was watered down (especially in the House) and indifferently implemented, necessitating more radical committee democratization in the 1970s. A broadened mandate for the Congressional Research Service is arguably its most enduring legacy. (A series of significant floor amendments were adopted by the House, but they did not emanate from the Joint Committee's work.)

Today the reform agenda is overflowing. The survey of reorganization options prepared last fall by the Congressional Research Service listed some 184 proposals in 11 different categories. Some of these suggestions are well worth considering. Others are mainly cosmetic and fail to address the underlying problems. Still others -- including some of the most heavily publicized ones -- are downright pernicious and threaten to emasculate Congress's constitutional position. The Joint Committee should give careful, sober consideration to these proposals, and others as well. After all, "reform" is a slippery term. One person's "reform" is another's stumbling

block. Nor is it possible to guarantee that a given innovation will solve the problem for which it was designed, or even whether it will have positive or negative results. Especially in this moment of heated debate, we need to ask tough-minded questions before adopting proposed courses of action.

Structural and procedural changes, moreover, go only part way in addressing the problems faced by Congress. Organizational innovations can help Congress cope with the demands made upon it, but they cannot resolve the political dilemmas we face. More than rules and procedures are required to produce coherent policies and public acceptance. What is needed is leadership in the White House and Congress, along with a clear political consensus on the actions to be taken. Until those elements are present, organizational adjustments will fall short of answering the current demands for reform.





STATEMENT OF  
ROGER L. SPERRY  
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NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

BEFORE THE  
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

ON THE IMPLICATIONS OF  
CONGRESSIONAL COMMITTEE JURISDICTIONS  
ON POLICY OUTCOMES

APRIL 20, 1993

Messrs. Co-Chairs and Members of the Committee:

I am pleased to respond to your invitation to provide our views on the implications of congressional committee jurisdictions on policy outcomes in the federal government. The National Academy is a private, non-profit organization chartered by Congress to advance the effectiveness of government at all levels -- federal, state, and local. My testimony today will be based on several projects the Academy has undertaken in the past several years which have addressed or touched on this matter.

After two years of study, the Academy published early last year a 140-page report entitled, *Beyond Distrust: Building Bridges Between Congress and the Executive*, which addresses Congress's role in shaping and implementing public policy through its relationship with the Executive Branch. This report was prepared by an 18-member panel, chaired by former Congressman Jim Jones, which represented many years of diverse experience in the legislative and executives branches, academia, and the private sector. Copies of the report have been provided to the Committee.

The major purpose of the study was to understand and improve the relations between the two branches and their impact on federal program implementation. Our conclusions and recommendations point to the need for basic institutional reforms in both branches, and we are pleased that Congress has established this Committee to move in this direction.

Put simply, Mr. Chairman, we concluded that basic reforms in Congress and the Executive Branch -- in how they deal with each other and in their structures for doing so -- are urgently needed if meaningful national policy changes are to occur. We found that Congress and the Executive Branch don't trust each other, don't communicate on important issues, and, as a result, paralyze a political system that is becoming more and more unresponsive to America's national and international problems. In urging both branches to reduce the underlying distrust and partisanship that impede action on national policy problems, we said: "both branches need to adapt their behavior and their institutions if the nation is to receive accountable and effective governance to meet the challenges directly ahead."

More specifically, our staff conducted ten in-depth case studies of congressional involvement in program implementation. We were surprised by what we found. Congress was more constructive in policy and program implementation than its critics or the panel initially supposed. Difficult situations were often improved as a result of congressional intervention.

Yet, neither Congress nor the Executive Branch was strengthened institutionally, nor was the overall decision-making system improved.

While we found that Congress often behaved rationally and responsibly, we also found shortcomings in program implementation attributable to both branches. The Executive Branch - because of its own failings -- often wound up with delays, cost inefficiency, program breakdowns, executive refusal to adhere to congressional directions, and "even outright management failures and deceit." Nevertheless, when Congress steps in to implement policy and manage programs -- even though it may be intervening because of problems in the Executive Branch -- accountability for policy implementation and program management often breaks down.

### CONGRESSIONAL POLICY EXPERTISE AND COMMITTEE JURISDICTIONS

Congress and the President are jointly responsible for making government an effective instrument of the people. Our recommendations rest on the central premise that each branch must have appropriate internal capacity to engage the other on the overriding, long-term national problems and improve its capacity for comprehensive and consultative policy development. Congress needs to examine its committee structures and jurisdictions with this goal in mind. Our report says:

Increasing redundancy and jurisdictional overlap in Congress . . . can undermine comprehensive attempts at integrated policy and program development. The redundancy occurs in the recycling of decisions, principally on budget matters, through the authorization, budget, and appropriations processes. The overlap occurs in the competition among committees for jurisdiction over subject matters of constituent interest or national concern. Joint and sequential referrals of bills have proliferated as a result, and the legislative process has slowed to the point of near paralysis on major issues.

#### Policy Implications

Several Academy reports cite the effects of committee jurisdictions on federal agency management and the implementation of policy. A 1988 report on congressional oversight of regulatory agencies noted the diversity and fragmentation of jurisdiction over the Environmental Protection Agency. According to EPA, there were 34 Senate and 56 House committees and subcommittees with jurisdiction over the agency. During the mid-1980s, EPA officials testified an average of 66 times a year. One result, cited in *Beyond Distrust*, is a "highly complex fabric

of environmental legislation in which it is very difficult to identify priorities, reconcile conflicting directives, or discern a comprehensive view."

In a 1991 report on surface transportation organization, we noted that more than 40 committees and subcommittees have jurisdiction over one or more elements of surface transportation. When the Department of Transportation was established in 1967, many hoped and expected that Congress would adjust its committee structure accordingly. However, jurisdictions continue to mirror the individual transportation modes and their associated interest groups.

While Congress deserves praise for enacting a landmark surface transportation bill in 1991, implementation of an integrated approach to solving transportation and associated environmental problems -- the new act's broad goal -- may be hampered by this fragmentation. According to the Office of Technology Assessment, this jurisdictional fragmentation and competition "make it difficult for committees to deal comprehensively with transportation issues, much less to treat the topic as an integrated system."

How legislation is treated by the congressional budget process provides a different example of how jurisdiction affects policy. A case developed for *Beyond Distrust* on the prospective payment system (PPS) for hospitals under Medicare showed how budgetary politics dominated policy development and program implementation. Policy considerations and decisions were shoved into the reconciliation process, where considerations of dollar savings and cost control were dominant. In our report, we observed that:

although the declared goal [of PPS] was to contain federal costs across the entire health system without [adversely] affecting access or quality of care or depriving providers of adequate compensation, these issues cannot be effectively addressed without confronting a wide array of policy concerns beyond the hospital payment system. Congressional and executive actors focused their efforts on the details of the technology of PPS. The budget reconciliation process became the only locus for congressional policy changes, but [the process] does not mesh well the long-term health needs.

Most recently, our February 1993 report on governmental responses to natural disasters noted that congressional jurisdiction over emergency management functions and the Federal Emergency Management Agency is so splintered that no single authorizing committee has the ability or interest to examine either one in their totality. This splintered jurisdiction reinforces fragmentation within FEMA, as well as programmatic authorizations tied to specific kinds of

disasters, such as earthquakes or radiological disasters. We said:

As a result, FEMA has been reluctant to propose a restructuring of its authorizing statutes. Several laws apply to emergency management programs, some with competing objectives and overlapping provisions. The result is a hodge-podge of statutory authorizations providing sometimes conflicting and outdated guidance, which, in [our] judgment, hampers the integration of emergency management functions and slows, as well as materially complicates, the federal response to natural disasters.

These examples contrast with another case developed for *Beyond Distrust* on the Goldwater-Nichols Defense Reorganization Act. Here the House and Senate Armed Service Committees, with primary jurisdiction over the Defense Department, fashioned comprehensive reforms in defense organization and operations, notwithstanding Executive Branch opposition. Congress passed what most have called thoughtful, comprehensive, and coherent reform legislation. In addition, Congress has used the law as a platform for further fine-tuning of defense organization and process.

We noted that these committees are a "possible prototype for broad committee jurisdictions paralleling the responsibilities of executive agencies on broad policy issues." We also said:

There is no guarantee that broad jurisdictional arrangements can be translated to a broad-gauge outlook on policy-making responsibilities. At the same time, organization structures oriented to a broader outlook at least make possible comprehensive policy-making efforts once the leaders of those organizations are committed to proceed.

#### **DEVELOPING BROAD CONGRESSIONAL POLICY EXPERTISE**

In *Beyond Distrust*, we argued that the organization of Congress is "out of sync with the dimensions of the issues facing the country and with the processes of policy implementation in and beyond the Executive Branch. No systematic effort has been made," we said, "to match congressional responsibilities and priorities with a committee structure and professional staff appropriate to contemporary problems and challenges." We recommended that both houses of Congress "develop broad policy expertise, focus legislative and oversight responsibility, reduce the conflicts resulting from committee jurisdictional overlaps, and strike a more productive balance between the value of redundant committee involvement and the requirements of effective decisionmaking."

In the past three months, we have seen a reinvigorated presidency generating an economic plan and broad policy initiatives in health care, welfare reform, national defense and national service. Whatever your views on their merits, these proposals represent the direction sought by our panel toward rebuilding accountability for a broad, ongoing policy agenda that begins to address the nation's underlying problems. The question before your Committee is whether Congress will have the capacity to act on these initiatives or develop effective alternatives of its own.

Today, the task is to exert the leadership and build the necessary capacity to deal with the major policy issues in a rapidly changing national and global environment. We concluded *Beyond Distrust* by stating that:

The challenges . . . demand a long-term commitment to renewal and reform in the legislative-executive relationship. They can be surmounted only if leaders in Congress and the Executive Branch dedicate themselves to transcend partisanship and parochialism and to move from an age of distrust to an era of accountable, effective, and responsive governance.

The National Academy stands ready to assist the Joint Committee, and we will be available to offer specific suggestions for congressional reform as the committee continues its work.

This concludes my statement. I would be pleased to answer any questions.

## ACADEMY REPORTS ADDRESSING CONGRESSIONAL JURISDICTION

Panel report: *Congressional Oversight of Regulatory Agencies: The Need to Strike a Balance and Focus on Performance* (September 1988).

Panel report: *The Executive Presidency: Federal Management for the 1990s* (September 1988).

Proceedings: *Senior Policy Makers on Congress and Policy Management* (February 1989).

Panel report: *Organizing the Administration of Surface Transportation Programs to Meet National Needs* (August 1991).

Panel report: *Beyond Distrust: Building Bridges Between Congress and the Executive* (January 1992).

Testimony: Committee on Rules, U.S. House of Representatives, on H. Con. Res. 192 to establish a Joint Committee on the Organization of Congress (May 1992).

Panel report: *Coping with Catastrophe: Building an Emergency Management System to Meet People's Needs in Natural and Manmade Disasters* (February 1993).

## NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

The National Academy of Public Administration seeks to advance the effectiveness of government at all levels through sound management and counsel on the practical implications of public policy. In its extensive work program, the Academy conducts studies and performs services for the three branches of the federal government, state and local governments.

The Academy was created in 1967 as a nonprofit, nonpartisan, collegial organization. Its congressional charter, signed by President Reagan in 1984, was the first granted since 1863 when President Lincoln signed the charter for the National Academy of Sciences. Since receiving its congressional charter, the Academy has responded to a growing number of requests from various agencies and is undertaking an increasing number of studies on issues of particular interest to Congress.

The unique source of the Academy's expertise is its membership. It consists of more than 400 current and former Cabinet officers, members of Congress, governors, mayors, legislators, jurists, business executives, public managers, and scholars who have been elected as Fellows because of their distinguished practical or scholarly contributions to the nation's public life.

The products of Academy studies represent the views of the participants and not necessarily the Academy as an institution.



**"Committee System Reform"**

Testimony of

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Prepared for Delivery Before the  
Joint Committee on the Organization of Congress

U.S. Congress

April 20, 1993

Nearly twenty years ago, the Bolling Committee, issuing its report to the House to accompany its draft reform resolution, listed eight objectives which guided its work:

- the jurisdictional responsibilities of House committees should be thoroughly modernized.
- the House should be organized to give coherent consideration to broad, pressing national problems.
- the House of Representatives should take steps to limit committee assignments.
- committee jurisdictions should be equalized to afford each member of the House an opportunity to participate meaningfully in decisions affecting the lives of their constituents.
- as creatures of the House, committees should be able to attract a broadly representative membership and embrace a variety of viewpoints on the questions within their jurisdiction.
- concrete incentives for legislative oversight should be provided, along with workable mechanisms for building upon these incentives.
- the House should take immediate steps to develop greater coordination and more professional management for its information resources, supporting services, and physical planning.
- the House should implement a procedure to assure continuous review of jurisdictional assignments and encourage cooperation among committees dealing with related matters.

It's *deja vu* all over again. Indeed, we can go back much further than 1973-74. If one reads virtually any report from a reform panel in the past five decades, the objectives are almost identical. The values that lawmakers and outside observers have expressed as they evaluate the congressional committee system and consider recommendations for reform have not changed. And, sad to say, the driving need they express for reforms to realize those values seems not to flag over the years either.

We largely share those values as well. In this testimony, we will outline our own sense of what a committee system should mean for Congress, trying to provide the Joint Committee with a framework to use when you go about the process of committee system reform and reorganization. We will offer some specific recommendations regarding committee and subcommittee numbers, sizes, assignments, and jurisdictions, as well as committee procedures and committee staffs.

We have a number of specific recommendations to make about substantive jurisdictions and committee shapes; in other cases, we offer a menu of alternatives. But as you will see, we do not provide a detailed blueprint for the allocation of specific jurisdictions, committee by committee. That is neither our mandate nor our interest. Should the Joint Committee decide to opt for a wholesale overhaul of all jurisdictions, blueprints already exist, from the Bolling and Stevenson Committees, that could easily be adapted to contemporary circumstances and issues.

We believe that some significant changes are indeed in order, many coming from the consolidation resulting from a reduction in the number of committees. But we also believe that jurisdictional realignment is only one of many goals for the committee system, much less for the Joint Committee as a whole. There is no perfect

jurisdictional approach that hermetically seals important policy areas in separate committees; overlap is inevitable. The Joint Committee should not shrink from recommending serious jurisdictional shifts where they are compelling and appropriate. But it should be careful not to bank its entire package on a massive and controversial committee reform that itself would alter power relationships in Congress more than it would focus policy agendas or outcomes.

In our view, the most compelling change required in the committee system is to cut sharply the number of committee and subcommittee slots, and the number of member assignments. Nothing would do more to reduce fragmentation in Congress and improve the institution's deliberative capacity. The Joint Committee would be well served also to focus on mechanisms to coordinate major policy issues which have some jurisdiction in several committees, like the ad hoc committee power.

#### What Committees and a Committee System Should Do

Why even have committees? Many legislatures don't. Parliaments have tended until recently not to have a committee system, certainly not anything meaningful. For a legislature that has no real power, where the agenda-setting and substantive decisions are made by a small elite, division of labor is not very important.

Congress is different. As a legislature with more responsibilities, collectively and for its individual members, than any other legislature in history, Congress from its earliest days needed a sophisticated form of division of labor. Permanent standing committees followed soon, and the committee system quickly became the essential organizational feature of the policy-making process. By 1885, when Woodrow Wilson

wrote his famous observation, "Congress on the floor is Congress on public exhibition; Congress in committee is Congress at work," it was already common knowledge.

As the basic structure for a division of labor, the committee system serves several functions for the institution. It allows for simultaneous consideration of many important substantive matters, without having to use shortcuts because of a lack of time. It allows the institution to process legislation even as it brings other issues, not ripe for legislating, into the stream to be incubated, allowing the deliberative process to work. It allows multiple points of access for interests and individuals in society to approach Congress with their concerns. It enables Congress to legislate, investigate and oversee executive behavior across the range of issue areas and executive branch agencies and departments. It creates a means for the development of in-depth knowledge and expertise. And, by structuring committees and creating centers of jurisdiction, Congress can set priorities and indicate areas of greater or lesser importance.

For individual members, the committee system defines careers inside Congress. It provides a means to utilize their talents and interests, a vehicle for career advancement, a way to channel their energies into useful legislative pursuits, even as they develop specialized interests and expertise.

Tinkering with the committee system thus is serious business; it means shaping what the institution does and altering the most basic elements of the lives of legislators. That underscores the need to step back and define what it is we want Congress to do, and then work through how the committee system can contribute to those goals.

We come back here to the overall framework we provided in our first report and in our broader testimony to the Joint Committee in February. Congress needs to be able to set an agenda and to act on it. Congress needs to deliberate, thinking policy options through, integrating public demands, views and needs as articulated by individuals and by interested groups into something broader, a collective judgment that enlarges upon those views.

If an overall agenda-- a roadmap of priorities for a year or a Congress-- can be set by party and rank-and-file members, subject to events and the competing views of the president or the public, it is up to committees to define issues that might fit on that agenda, and then to carry out the plans, through hearings, deliberation, negotiation and markup, to implement it. Jurisdictional alignments are critical here-- if an important priority is too fragmented, or gets no attention at all, it will be ignored or delayed-- but are only one element.

Committees are also critical to the deliberative process. Integrating public viewpoints has to come through the committee system. No substantial give-and-take on the myriad of issues in a modern society can occur with any depth outside a committee and subcommittee system. Genuine deliberation requires the expertise-- substantive, technical, and political-- which the committee system can provide. Real deliberation requires time and attention to detail, which can only come through a meaningful division of labor.

Many years ago, committees in Congress were defined as "little legislatures." No committee system can serve its institution over the long run if its panels are unrepresentative of the institution as a whole. For the expertise and judgment of

members of committees to be heeded, the broader membership must view their efforts as fair-minded, legitimate, and close to what they would have come up with if they had been assigned to the job. Committees that are seen as too close to the interests or issues they oversee, as out of balance ideologically or regionally, will have less importance and less clout in the institution as a whole; their policy areas may suffer and their recommendations may be rejected by the full House and Senate.

Reforms must be especially sensitive to these goals for Congress. When we look at changes in the committee system, we must ask whether they improve Congress' capacity to deliberate, both for the institution and the individual member; whether they improve Congress' ability to identify and highlight important problems in society and to oversee the performance of other institutions, including the executive; whether they are able to act on Congress' agenda with competence, representativeness and appropriate dispatch.

We believe that four major elements should guide your approach to committee reform. First, you should reduce the sizes of committees, the number of slots for committees and subcommittees, and the assignments held by each member. Second, you should reduce the number of committees, and consolidate and partially realign committee jurisdictions, to highlight important emerging policy areas and create a better balance in the workload and attractiveness among standing committees. Third, you should create and/or put more teeth into mechanisms such as ad hoc committees to deal with pressing national policy problems that necessarily cut across committee boundaries. Fourth, you should focus on committee procedures to increase attendance, to improve the quality of information gathering and deliberation, to strike an

appropriate balance between majority and minority rights and responsibilities. At the same time, you should act to improve the allocation of staff resources among and within committees.

#### Committee Sizes and Assignments

Over the past twenty-three years, both of us have watched Congress up close, from the inside and the outside. The ballooning number of committee assignments of members, leading to increasing conflicts in scheduling, a frenetic pace of legislative life and a shorter attention span for members, accompanied by decreasing attendance at committee and subcommittee meetings and hearings, and less real focus on important problems, has been one of the clearest and deepest problems we have seen emerge and grow.

One way to deal with too many assignments and too many committee slots is to reduce the number of committees. Below, we will have specific suggestions for significantly cutting the number of committees in both the House and Senate. While cutting the number of committees will have many benefits, including some immediate effect on the slots members fill on committees, its long-term effect on committee sizes and assignments may in fact be just the opposite. Reducing the number of committees in the absence of other changes, will lead to great pressure to increase the sizes of the remaining committees to accommodate members' desires and needs, and to give party leaders chits to hand out as rewards or incentives.

As we note above, this process has led to sharp and continuous inflation in the sizes of committees and the number of slots members fill. Consider, as one example,



the table below, showing change in House standing committee sizes over the past ten years.

**House Standing Committee Sizes, 1983 to 1993**

<u>Committee</u>	<u>1983</u>	<u>1993</u>	<u>Change</u>
Agriculture	41	45	+10%
Appropriations	57	60	+5%
Armed Services	44	55	+25%
Banking	46	51	+11%
Budget	31	43	+39%
District	11	11	no change
Ed. and Labor	31	39	+26%
Energy and Commerce	42	44	+5%
Foreign Affairs	37	44	+19%
Gov't Operations	39	42	+8%
House Admin.	19	19	no change
Judiciary	31	35	+13%
Merchant Marine	39	46	+18%
Natural Resources	40	39	-3%
Post Office	24	23	-4%
Public Works	48	61	+27%
Rules	13	13	no change
Science and Tech.	41	55	+34%
Small Business	41	45	+10%
Standards	12	14	+17%
Veterans Affairs	33	35	+6%
Ways and Means	35	38	+9%

\*\*\* numbers do not include delegates or the Resident Commissioner for Puerto Rico.

Seventeen committees show increases in size, by an average of 17 percent.

Three committees stayed the same size, and only two decreased, by a combined total of two assignments. Remember that the size of the House did not change at all during this time. This is not simply a phenomenon of the 1980s. The increase since 1953, when the majority Republicans repealed the one committee assignment limitation created in 1946, to the present is even more striking: the total number of assignments rose from 516 to 857, an increase of 66 percent!

Putting the figures a different way, the overall number of seats on House committees and subcommittees has grown from 2,511 in 1982 to 3,177 in 1992, and the average number of member assignments has grown during this same period from 5.7 to 7.2. In the Senate, despite serious restraint in assignments and committee sizes, senators still have an average of 11 committee and subcommittee assignments-- an amount that is unacceptably high.

The Senate example shows how vexing the problem is. The Stevenson Committee put serious limitations on committee and subcommittee assignments for members-- two major and one minor committee, two subcommittees each on the major panels and one on the minor, for a total maximum of eight assignments. But from the day after S. Res. 4 passed, exceptions and waivers began to appear, reaching more than 40 senators-- including most of the members of the Stevenson Committee itself-- within a year. When the Quayle Committee considered problems in the Senate Committee system five years later, it concluded that the best thing the Senate could do would be to enforce its own assignment limitation rules. That modest proposal was evidently not modest enough; nothing happened.

Assignment inflation is a serious problem for Congress. Larger committees have more difficulty deliberating; they spend more time managing bodies and internal conflicts. Committee hearings lose any pretense of real discussion and give-and-take, as they drag on only to give each committee member five minutes to ask questions. More committee members means pressure for more and larger subcommittees, taking the problem to the next level. As committees grow in size, chairmen have increasing difficulty finding consensus and moving from discussion to action. And larger

committees and subcommittees mean more and more member assignments, which in turn means more fragmentation, less attention to detail, and less in-depth work on the part of members.

We believe that the Joint Committee should recommend tough limitations on assignments for members in both houses— written into the rules of the chambers. We would prefer that members be allowed to serve on no more than two committees (one if exclusive) and four subcommittees in the House, and no more than two major and one minor committee, and four subcommittees in the Senate, with exceptions only for the ethics committee and temporary investigative panels. Other exceptions and temporary assignments must end. Committees, except for Appropriations, should be limited to no more than six subcommittees, with no more than four for any non-major panels that remain in existence. But obviously, the recommendation will be empty, even if implemented, without more serious steps to put teeth into assignment limitations that are written into the rules.

We suggest several ways to make the limitations more meaningful. First, committees should be required to report their subcommittee structure and assignments when reporting their rules to the House or Senate. Points of order could then be made against assignments or numbers in violation of the limits. Secondly, committee sizes should be set in the House rules, with small leeway to satisfy party ratio requirements, as they are in the Senate and were in the House until 1975. In current House practice, there is no limit, and the party caucus may add members for pro forma floor ratification, without limitation unless the other party wishes to require a floor vote.

We propose that initial committee assignments to fill a committee's set size be

made by the respective party committees as privileged under the rules; but any assignments in violation of the fixed size would not be privileged and could only be made by unanimous consent, suspension of the rules, or a rules change increasing a committee's size. We recognize that this change would not have a huge effect, since most increases in committee size are done through collusion by both parties and their leaders. But at least the size increases would be publicly aired, and the potential would be there for a reservation or objection.

We would like to see another, tougher change for both houses—namely, that the rules include an overall cap in the number of slots available for committees and subcommittees. If the Senate assignment limits, for example, were indeed two major and one minor committee per senator, along with four subcommittees, that would mean that if every senator filled his or her allotment, there would be 700 slots occupied. Additional leeway would be needed, of course, for ethics or any temporary panels, along with a small amount of slack to meet party ratio needs.

When party leaders met before a Congress to negotiate committee ratios, the first agreement would come on the ratio of overall slots, followed by ratios for each committee. Then, when each party's committee on committees met to make assignments, the slots available to each committee, including subcommittee slots, would be allocated. If the chamber exceeded the cap, then challenges could be raised when the chamber considered committee assignments and chairmanships, or considered committee authorizations or funding resolutions.

This proposal, to be sure, would be difficult to implement or to enforce. But it, and others like it, are necessary to put some roadblocks in front of a process that

inexorably adds to Congress' fragmentation and decentralization.

If Congress does take serious steps to cut the number of panels, assignments and slots, it must be even more sensitive to providing an equitable distribution of power and responsibilities in the institution. We favor some reasonable limits built into the chambers' rules on the number of chairmanships an individual can hold, including, for the House, limiting members to no more than one subcommittee chair or ranking membership; prohibiting chairs or ranking members of full committees from chairing or ranking on a subcommittee on another committee; requiring members serving on the Intelligence Committee to take leaves of absence from another committee, allowing them to retain their seniority rights; and counting subcommittee assignments on Intelligence against each member's total allotment.

There is a fine line between beneficial division of labor in Congress and destructive fragmentation of attention, resources and responsibilities. In our judgment, Congress crossed that line some time ago, and every attempt to pull it back, even where successful, has been short-lived. A part of the problem is simple human nature. If committees, and assignments to them, are valuable commodities, the inclination to give people what they want, through more committees, larger committees, more assignments, and more chairmanships, is almost irresistible.

It is absolutely critical, in our judgment, that Congress cut back on committee sizes and assignments. Once you have done so, it is just as critical that you find ways to resist the nearly irresistible, to keep the problem from reemerging immediately.

Committee Numbers

It may not be obvious why larger committees, more committees and more assignments for members is deleterious to Congress. But there are good reasons why every reform effort since 1946 has strived to cut the number of committees and subcommittees, why most chairmen have tried to reduce, not increase, the sizes of their panels in recent years, and why one would be hard-pressed to find a member of Congress who is content with his or her workload or array of responsibilities.

The goal here is to meet Congress' responsibilities. There may not be one optimal number of committees, but we believe there are too many now. Too many committees means more difficulty setting priorities (especially if every committee believes its priorities are the most important ones,) more difficulty scheduling floor action, too much fragmentation of policy responsibilities and power bases, too many demands for multiple assignments.

If there are too many, it does not automatically follow that the deeper the cut in committee numbers the better. Radical cutbacks would reduce Congress' ability to identify nascent policy problems, reduce innovation, and stifle individual talents. But reducing the numbers, not radically but prudently, would mean that Congress could focus its attention more sharply on things that matter without reducing its ability to innovate and reach out; would permit a modest movement back toward recentralization of authority and initiative; would focus attention on which policy areas should be consolidated or highlighted; and would make it easier to create panels roughly equivalent in workload, responsibilities and attractiveness.

How do you cut the number of committees? First, the Senate should follow the

lead of the House and eliminate select and special committees (excluding intelligence and ethics.) The concept of select committees should not be abandoned by Congress; the ability to focus on a new, emerging and important policy area, whether it be hunger, narcotics control or families, or to investigate allegations of wrongdoing, from Watergate to Iran/contra, is important for the institution. But select committees are, and should be, created for a very limited and finite amount of time, to investigate, hold hearings, issue reports, and spotlight a problem; if it has legs, and can meet the tests of importance and priority, a subject or issue should then be the focus of a subcommittee on a standing committee, or a standing committee itself. It is symbolic of the larger problem in self-indulgence and committee system inflation that select committees are invariably created for one Congress, and inevitably continue for many more.

The Select Committee on Indian Affairs is a good example-- one for which we have particular insight, since Norman Ornstein, as a staff member of the Stevenson Committee, had specific responsibility for it. The Indian Affairs Committee was created out of the Stevenson Committee reforms in 1976-77, to deal with a specific problem. A federal commission on Indian affairs was scheduled to release a wide-ranging report the following year; at the request of then-Senator James Abourezk, the Stevenson Committee deferred for one congress its judgment to put Indian Affairs jurisdiction in the Energy and Natural Resources Committee, to enable a temporary select panel to consider the commission report. Its creation was accompanied by the solemn promise of Senator Abourezk that it would last for one Congress-- and no more. It is bemusing, in a way, sixteen years later, to see current attempts to make this

committee permanent to avoid its elimination-- since it should be exhibit A in why the system has gone out of control.

Select committees mean more panels, more assignments, more fragmentation, more staff, and less focus for the standing committees that have real substantive jurisdiction. They are not the only committees that should be consolidated with other, larger panels to create some disciplined focus in broad-based standing committees with significant workloads and jurisdictions. Small and narrow standing committees, whenever possible or feasible, should be merged into larger and broader committees, to give them more range, breadth and attractiveness to members, enabling them to be more representative and to have more effective means to set substantive priorities.

We recommend first that the House follow the lead of the Senate here. In 1977, the Senate put the jurisdictions of the Post Office and Civil Service and District of Columbia Committees into the Government Operations Committee, turning it into a broader Governmental Affairs Committee, which in turn became a more important, prestigious and representative committee than the one it replaced. The House should do the same.

Both houses should adopt a broader principle to consolidate committees further. The appropriate focus for congressional committees is substantive areas of policy. When committees have client groups as their focus, they tend to be narrower and less representative of the institution as a whole, and to be advocates for their client groups. If that is not universally true-- House Merchant Marine and Fisheries, for example, has been a much more wide-ranging panel under Chairman Gerry Studds than it was under his predecessors-- it remains largely true of the membership of the panels, as a



natural artifact of areas of interest and group dynamics.

We recommend that the House Committees on Small Business, Merchant Marine and Fisheries and Veterans Affairs, and the Senate Committees on Small Business and Veterans Affairs be consolidated into broader committees with compatible jurisdiction. The small business jurisdiction could go to both chambers' banking committees, which have their own client group focus, and need broader areas of responsibility. Merchant Marine and Fisheries could be consolidated with the House Natural Resources Committee and the Public Works and Transportation Committee. The veterans' jurisdiction belongs with the Armed Services panels.

In each case, we recommend that provisions be made for chairmen and ranking members of the smaller panels to be given slots on the new, larger panels, with seniority rights to be determined by the respective party caucuses-- the example of the Senate with Post Office, D.C. and Governmental Affairs would be instructive.

These changes would still leave some narrow committees in place, including House Administration and, for both houses, ethics and intelligence panels. We believe that something should be done with House Administration-- but we are not sure what. One possibility is to split the responsibilities of House Administration among the Rules Committee (making it parallel the Senate Rules and Administration Committee), or the Judiciary Committee and the Director of Non-Legislative and Financial Services. Another is to retain the committee, but to make it a panel with rotating membership with an eight-year limit, to expose more members to its subject matter and to discourage empire-building by a cadre of permanent members in a position to grant or to withhold favors from colleagues.

As for ethics, we have addressed that issue elsewhere, believing that the best solution to a broad and unique problem for Congress is to retain internal ethics committees, but supplement them for specific investigations with panels drawn from a designated pool of outside, knowledgeable people, including especially former members. Intelligence is a special case, where having a broad range of members exposed to the intelligence process and intelligence community is useful for Congress, the Executive and the foreign policy-making process. As a consequence, we do not support creation of a Joint Committee on Intelligence, favoring the two panels as they now exist. However, we do strongly recommend two changes in the intelligence committees. First, Congress should create a joint staff of permanent professionals, patterned on the Joint Tax Committee model, to supplant the larger number of staffers on the House and Senate committees, many of whom in the Senate are designated for individual members.

Second, both chambers rotate membership on the intelligence panels, with House members serving for six years, and senators for eight. We recommend that the House increase its service limit to eight years, and make appointments in such a way that the chairman can serve for at least four years, as previously recommended by Rep. Hamilton, a former chairman of the Intelligence Committee.

Members of the House Budget Committee rotate after six years, while service on the Senate Budget Committee is permanent, leading to periodic complaints that the House panel may be at a disadvantage vis-a-vis the more experienced Senate membership. But we feel the House had the right idea in exposing a broad cross-section on members to the budget process. We recommend that the Senate adopt the

House practice of rotation.

The Joint Committee also needs to address the issue of joint committees. We believe that permanent joint committees do not generally work as legislative entities; the disparities in chamber numbers, time commitments and outlooks make joint panels singularly ineffective. To be sure, the only joint committee focused on a substantive area is the Joint Economic Committee. Joint Economic has a special history, and a unique role, and its retention would be reasonable and defensible. But we must be perfectly frank: we would not lose many hours of sleep if it were eliminated and its broader economic focus, including its oversight of the Economic Report of the President, were given to the two chambers' budget committees.

The other permanent joint committees exist for other reasons. The Library and Printing Committees act as coordinators for functions that are within the purview of the legislative branch as a whole, not the House or Senate separately. The Joint Taxation Committee is effectively a staff holding operation to serve the House Ways and Means and Senate Finance panels.

Is it really necessary to have congressional committees, with assignments and requisite responsibilities, to handle these functions? We think not. The library and printing functions, in our view, could be handled by administrative panels consisting of appropriate congressional officers, overseen by the joint leadership. The printing function itself needs a careful look: is it really appropriate for the legislative branch to have jurisdiction over most executive branch printing, via the Government Printing Office? We believe that Congress should have responsibility for congressional printing, with that responsibility handled administratively. It should transfer direct control

over executive branch printing to the executive.

The Joint Tax Committee's staff truly is one of Congress' success stories, with its consistently first-rate, non-partisan professional team. But it need not be organized as a separate congressional committee. We recommend that the Joint Tax Committee be turned into a Congressional Revenue Office, parallel to the Congressional Budget Office, or as an alternative, subsumed into CBO.

If Congress implemented these changes, we would be left with 16 committees in the Senate and 17 (or 18) in the House. That would be an impressive, even staggering-- accomplishment-- but it would not be enough. You also need to consider the jurisdictions, figuring out where change would be both feasible and desirable and would improve the policy-making process and its outcomes.

#### Jurisdictional Changes

As we have emphasized, we are not advocates of a radical overhaul of committee jurisdictions, moving small and large pieces to and from all committees. We do not believe that such a change is feasible politically, and just as important, we do not believe that it can deliver, in policy terms, what would be promised. We do, however, believe that some serious changes in committee jurisdictions should be considered, along with those that flow from the consolidation of select, joint and narrow committees recommended above.

The tests we set are fourfold. Jurisdictional changes should make committees more equal in breadth and workload; they should make substantive sense by consolidating currently divided jurisdiction in important comprehensive policy areas;

they should identify and pull together important new policy areas; and they should not punish arbitrarily committees that have been assertive and effective and reward those that have been narrow or slothful.

An imbalanced committee system, where a handful of committees are highly active and universally desirable, while others are desirable only to a narrow segment of the legislature and others consistently fail to attract the full complement of members, is unhealthy for policy and process.

It is clear that both houses suffer to some considerable degree from this problem, although the Senate did act in 1977 in ways that ameliorated the situation considerably. We believe it is desirable to improve the balance and attractiveness of a number of House committees, including Banking, Government Operations, Education and Labor, Judiciary and Foreign Affairs, and to reduce to some degree the range and breadth of jurisdictions of Ways and Means and Energy and Commerce. But, in keeping with the fourth test above, we do not believe that the latter two committees, among the most admired and effective in Congress, should be altered dramatically without careful thought about what the consequences would be for the jurisdictions removed.

We would, however, urge the Joint Committee to consider the following: remove railroads from Energy and Commerce and shift the merchant marine part of Merchant Marine and Fisheries to consolidate transportation jurisdiction into Public Works and Transportation. Remove trade from Ways and Means and put it together with other international economic jurisdiction (including both imports and exports) in a Foreign Affairs and International Economics Committee. Make comparable changes in

international economics in the Senate. Consolidate jurisdiction over drugs and narcotics control in the Judiciary Committee. Consolidate family policy in a broadened Education and Labor Committee. Broaden the Agriculture Committee into a Committee on Agriculture, Nutrition and Hunger. Take unemployment compensation from Ways and Means and put it in Education and Labor.

We do not pretend that these are new or innovative suggestions; many of them were made by the Bolling Committee and its successor, the Patterson Committee. But they are even more timely, and should be more possible.

We are frankly more vexed about what to do with the Banking Committee. A case can be made to dismantle it. Among the major committees, Banking and Agriculture are the most clientele oriented. Its jurisdiction over banks could go to Energy and Commerce, pulling together financial institutions and markets. International financial institutions could join international economics at Foreign Affairs. Housing might become part of a broadened and diversified (and renamed) Education and Labor panel.

But a case could also be made to strengthen Banking, broadening its appeal so that it could attract and retain more of the best lawmakers in the House. In this case, Banking might become the focal point for international economic policy, including trade; or it might become the center for financial institutions, paralleling its Senate counterpart by taking securities from Energy and Commerce. However, the need to strengthen Foreign Affairs, and the substantive case for putting international economics in with foreign policy, is strong. And the long history of Banking's accommodation to the savings and loan and banking industries, combined with the

admirable watchdog role the Energy and Commerce Committee has played overseeing the securities industry, make us hesitant to recommend this change. In the end, we have come down on the side of only marginal changes in Banking's jurisdiction, but this is clearly an area the Joint Committee should revisit.

#### Ad Hoc Mechanisms

Even if the Joint Committee had a carte blanche to rearrange jurisdictions as it wished, there would be substantial overlap in broad and important policy areas, and there would be emerging issues ignored or left unidentified by the committee system. To pull all health jurisdiction together, for example, would mean doing violence to jurisdiction over taxation, education, science, veterans, the Pentagon, and other areas. However desirable it is to have a tidy process in which only a single committee readies legislation for the floor, each chamber must have mechanisms and strategies for dealing with the fact that several committees will often demand and merit a piece of the action on pressing policy problems.

We have two proposals for the House in this regard, although it should be noted that they basically do not require any rules change:

1. Make more frequent use of the ad hoc committee authority that now exists, under which the Speaker can propose to the House the creation of a temporary panel, with members drawn from a range of standing committees and a chair designated by the Speaker, to address an important policy matter comprehensively and quickly. We would like to see the Joint Committee formally endorse the utility of the ad hoc approach, and recommend that it be used for health care reform, for example.

2. Stiffen multiple referral practices, by regularly putting on time limits, and by creating the use of an *amicus curiae* process for referrals, in which secondary committees would not have the relevant bills directly referred to them, but would have the right to make their views known by filing "friend of the court" reports to the House floor as long as their briefs did not delay or prevent the movement of legislation from the core committee to the floor.

For the Senate, we have similar recommendations to cope with the inevitable delays, duplication of effort and turf wars that result when policy problems cut across jurisdictional boundaries. The Majority Leader should be able to propose, through privileged, non-debatable motions, the creation of ad hoc committees on matters involving two or more standing committees, as well as on a few important policy matters that generate such broad interest that a single committee cannot capture the variation in opinion. The Joint Committee should do more than propose this power; it should strongly urge the Leader to use it.

#### Committee Processes and Staff

The committee system is more than assignments and jurisdictions; it is the equivalent of the central nervous system of the Congress. The Joint Committee should thus focus on every aspect of its operations. We have addressed some of those issues elsewhere, including proxy voting, minority rights, and innovative information gathering. We will elaborate a bit on some of them here.

One of the real problems in Congress is that few meetings or hearings of committees and subcommittees have anywhere near the full complement of members



attending. Hearings become more spectacle than substance when only the chairman is present to hear testimony, or members come in for thirty seconds to register attendance, and then leave, never to return. Key debates on important issues take place with two or three lawmakers there to hear them; then votes on the amendments are decided by proxies cast for members who have no idea what the votes were about, or the arguments pro and con. It is no wonder that minority members, and many majority lawmakers, are frustrated with the blanket use of proxies in House committees.

As we made clear in earlier testimony, we do not, for several reasons, favor the complete elimination of proxy voting, although we do favor changes. But some methods have to be found to encourage members to show up to committee and subcommittee meetings and hearings. There is no deliberative process if no one shows up to deliberate. Cutting assignments and thus reducing scheduling conflicts would help. Giving committees designated days for holding hearings and meetings, designed to minimize conflicts for those with two assignments, is also highly desirable. We also strongly favor publication and widespread dissemination of committee and subcommittee attendance and voting records; voting attendance matters greatly to members for floor votes-- perhaps a way can be devised to make it significant politically for committees. The Joint Committee should consider whether some type of recorded committee quorum call might be used to encourage better attendance.

It is concern over the deterioration of the deliberative process that also led us to recommend the experimentation in committees with different forms of information gathering, including seminars, roundtables, and debates. We also strongly favor an

"early bird" requirement for each committee-- questioners of witnesses called in the order in which they arrive at a hearing, not by strict seniority. Many committees now apply such a rule, to uniformly positive reaction.

We do not have a detailed recommendation to make about committee staffs, because there is no useful blanket reform. Some committees may be overstaffed; others are understaffed. We do not believe generally that Congress's overstaffing is centered in the committee system. Some staff cutbacks will occur naturally as committees and subcommittees are pruned and eliminated. Large additional cuts are not necessary.

We do have one major caveat to that generalization. Both the House and the Senate in the past two decades have greatly expanded the committee staff available to all rank-and-file members, known as "associate staff" or, for the Senate, "S.Res. 60" or "S.Res. 4" staff. We believe these staffs should be cut back substantially. As much as possible, staff resources on committees should be at the center, in the full committee and the subcommittees, available to all members but responsible primarily to chairmen and ranking members. The excessive decentralization of staff resources on committees and subcommittees has contributed, in our judgment, to the difficulty committees and their leaders often have at forging consensus and moving to action. We do not want to see an era of committee dictators-- as our earlier recommendation to provide the Speaker of the House the authority to declare a chairmanship vacant at any time makes clear-- but we do want to see committee leaders, like party leaders, have greater capacity, along with accountability, to set an agenda and act on it.

First Do No Harm

The recommendations we have made to improve the committee system may not satisfy critics intent on radical restructuring of Congress, but we are convinced they would strengthen the institution and make it better able to meet its objectives. The Joint Committee must do more than propose positive changes in congressional organization and procedure, however; you must also help the House and Senate avoid embracing reforms that would weaken the institution and bring on more problems than they solve. An important part of your responsibility is to educate your colleagues and the public about the benefits and costs of proposed reforms and, where necessary, to speak forcefully against proposals with surface popular and press support that would seriously harm Congress.

Our prime example of the latter is the proposal to eliminate the appropriations committees. A coalition of interests, including members of authorizing committees, deficit hawks, and average citizens angered by "pork", have chosen to focus on these committees as ripe for reform. Many have suggested that the appropriations committees should be abolished in order to eliminate what they argue is a redundant layer in the budget process. Authorizers eagerly support the idea, arguing that they have the expertise to better determine funding levels for programs falling under their jurisdictions.

The fact is that the appropriations committees are an essential part of Congress' division of labor. Contrary to conventional wisdom, appropriators are not ardent purveyors of pork. They are not saints, either, but they see their job as searching for economies and efficiencies in the administration of federal programs. Having the

authorizing committees perform the appropriations function would not only be difficult for them to accomplish, it would also not be very good for policy outcomes. In the current process, the separation of authorizations from appropriations provides an extra check and balance on spending. It is worth remembering that one major reason appropriations jurisdiction was limited in the 1880s was that members of authorizing committees wanted greater control over allocating benefits through the appropriations process; the record number of freshman members who sought seats on the House Public Works and Transportation Committee this year persuades us that the lessons of the 1880s are relevant to the 103d Congress. There is no reason to believe that an allocation of appropriations jurisdiction to authorizing committees would be in any way more fair or efficient than the current process, and it might well be worse.

Eliminating redundancy in the budget process is a laudable goal. But the main reason that the budget process is complex is not the product of the number of committees involved but rather the fundamental complexity of the task they must perform. Legislating a budget for a nation of 250 million people with a \$6 trillion economy is the work of Congress, with or without appropriations committees. Eliminating the appropriations committees will not make that task any easier.

STATEMENT OF THE HONORABLE LARRY COMBEST  
BEFORE THE JOINT COMMITTEE ON THE  
ORGANIZATION OF CONGRESS  
MARCH 16, 1993

MR. CHAIRMAN, THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE THE JOINT COMMITTEE TODAY. I WOULD LIKE TO OFFER SOME THOUGHTS ABOUT A FEW IMPORTANT MATTERS WITH RESPECT TO THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE, ON WHICH I HAVE THE PRIVILEGE OF SERVING AS RANKING MINORITY MEMBER.

I WOULD LIKE TO DISCUSS SOME USEFUL REFORMS REGARDING THE SIZE AND COMPOSITION OF THE HOUSE INTELLIGENCE COMMITTEE AND ALSO THE RULE GOVERNING TERMS OF SERVICE BY MEMBERS ON THE COMMITTEE. I WOULD ALSO LIKE TO DISCUSS CONCERNS ABOUT THE GROWING PROBLEM OF THE APPROPRIATIONS FOR INTELLIGENCE ACTIVITIES WHICH HAVE NOT BEEN AUTHORIZED OR IN AMOUNTS IN EXCESS OF AMOUNTS AUTHORIZED.

FIRST, LET ME TURN TO MY THOUGHTS ON THE SIZE AND COMPOSITION OF THE HOUSE INTELLIGENCE COMMITTEE. ORIGINALLY, THE INTELLIGENCE COMMITTEE HAD 13 MEMBERS. SINCE ITS CREATION IN 1977, IT HAS STEADILY GROWN TO ITS CURRENT SIZE OF 19 MEMBERS, AN INCREASE OF MORE THAN 68 PERCENT.

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THIS SIZE ENTAILS SOME DISADVANTAGES. IT COMPLICATES SCHEDULING COMMITTEE ACTIVITIES AND MAKES DELIBERATIONS MORE CUMBERSOME AND TIME-CONSUMING. THESE ARE MORE SERIOUS DRAWBACKS THAN MIGHT APPEAR TO THE CASUAL OBSERVER. THE SENSITIVE NATURE AND OFTEN GREAT COMPLEXITY AND SOPHISTICATION OF THE SUBJECT MATTER THE INTELLIGENCE COMMITTEE DEALS WITH PUT A PREMIUM ON MEMBERS BEING PRESENT AND BEING ABLE TO MAXIMIZE THE EFFICIENCY OF THEIR MEETINGS. THAT IS FAR MORE DIFFICULT FOR A COMMITTEE OF 19 MEMBERS THAN ONE WITH 13. BECAUSE OF THE NATURE OF THE INFORMATION INVOLVED, MEMBERS WHO CANNOT FIT A PARTICULAR MEETING INTO THEIR SCHEDULE ARE UNABLE TO TAKE READING MATERIAL HOME AND CATCH UP ON WHAT THEY MISSED. THEIR CHANCES OF GETTING "UP TO SPEED" AND STAYING THERE ARE ADVERSELY AFFECTED, AND THE QUALITY OF OVERSIGHT MAY SUFFER. I FEAR THIS "FALLOUT" FROM THE SIZE OF THE INTELLIGENCE COMMITTEE MAY WELL HAVE CONTRIBUTED TO A PROBLEM REFERRED TO BY FORMER DCI GATES IN A SPEECH IN JANUARY. HE EXPRESSED CONCERNS ABOUT MEMBERS' ATTENDANCE AND THE PROBLEM THAT, ". . . THERE ARE TOO MANY INSTANCES OF MEMBERS OF OUR COMMITTEES HAVING IMPORTANT MISUNDERSTANDINGS, MISCONCEPTIONS OR JUST WRONG FACTS ABOUT U.S. INTELLIGENCE . . .".

SECONDLY, A COMMITTEE WITH 13 MEMBERS NECESSARILY ENTAILS A REDUCED RISK OF LEAKS, INADVERTENT OR NOT, THAN A 19-MEMBER BODY. IT GOES WITHOUT SAYING THAT THE FEWER PERSONS WHO KNOW VERY SENSITIVE AND HIGHLY CLASSIFIED INFORMATION, THE LESS LIKELY IT IS TO GO BEYOND THE ORIGINAL GROUP.

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I HAVE LONG BELIEVED THAT LEGISLATIVE OVERSIGHT OF INTELLIGENCE OUGHT TO BE AN AREA WHERE WE SHOULD EMPHASIZE BIPARTISANSHIP AS MUCH AS IS HUMANLY POSSIBLE. THAT WAS A GOAL OF THE HOUSE WHEN THE HOUSE INTELLIGENCE COMMITTEE WAS FIRST CREATED. HOWEVER, I AM AFRAID THAT THE REGULAR PARTY RATIOS APPLIED TO THE HOUSE INTELLIGENCE COMMITTEE, NOW 12 DEMOCRATS AND SEVEN REPUBLICANS (NOT INCLUDING EX-OFFICIO MEMBERS), MILITATE AGAINST THAT GOAL. I BELIEVE WE COULD GIVE NEW LIFE TO THAT GOAL BY SETTING THE MEMBERSHIP AT AN EVEN NUMBER, PERHAPS 12 OR 14, EQUALLY DIVIDED BETWEEN MAJORITY AND MINORITY MEMBERS. SUCH A SYSTEM HAS GENERALLY WORKED SATISFACTORILY IN THE CASE OF THE ETHICS COMMITTEE. BIPARTISANSHIP SHOULD FLOW MORE EASILY FROM SUCH AN ARRANGEMENT IN THE AREA OF INTELLIGENCE OVERSIGHT. FORMER, AND FIRST, CHAIRMAN OF THE HOUSE INTELLIGENCE COMMITTEE, EDWARD BOLAND ONCE COMMENTED THAT HIS PREFERENCE WHEN THE COMMITTEE WAS SET UP WAS TO HAVE SUCH A PARITY RULE. REGRETTABLY, HIS ADVICE WAS NOT FOLLOWED.

IF PARITY TURNS OUT TO BE A CONCEPT WHICH THE MAJORITY LEADERSHIP OF THE HOUSE FINDS IT SIMPLY CANNOT LIVE WITH, THEN I WOULD PROPOSE, ALTERNATIVELY, A 13-MEMBER COMMITTEE WITH A SEVEN-SIX, ONE-VOTE MAJORITY. THAT IS ESSENTIALLY THE ARRANGEMENT ON THE SENATE SELECT COMMITTEE ON INTELLIGENCE WHICH HAS AN EIGHT-SEVEN RATIO. MOST KNOWLEDGEABLE OBSERVERS SEEM TO AGREE THAT THE SENATE INTELLIGENCE COMMITTEE HAS GENERALLY ENJOYED A GOOD RECORD FOR BIPARTISANSHIP UNDER THAT SYSTEM. SUCH A ONE-VOTE-MAJORITY RATIO WOULD PROMOTE BIPARTISANSHIP ON THE HOUSE INTELLIGENCE COMMITTEE BUT STILL

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GUARANTEE THE HOUSE MAJORITY LEADERSHIP A MAJORITY ON ANY MATTER ABOUT WHICH IT MIGHT FEEL STRONGLY.

MORE THAN ANYTHING ELSE, THE RULE REQUIRING ROTATING MEMBERSHIP ON THE HOUSE COMMITTEE, WHICH LIMITS MEMBERS TO NO MORE THAN SIX CONSECUTIVE YEARS OF SERVICE, INHIBITS EFFECTIVE OVERSIGHT. THE ISSUES AND PROGRAMS ARE SO COMPLICATED, AND GETTING MORE SO AS TIME PASSES. MOREOVER, IT IS HIGHLY UNLIKELY THAT NEW MEMBERS ON THE COMMITTEE CAN HAVE HAD ANY SIGNIFICANT PREVIOUS EXPOSURE TO THEM. THESE FACTS COMBINE TO LIMIT THE PROPORTION OF ANY COMMITTEE MEMBER'S TENURE DURING WHICH HE HAS THE NECESSARY FAMILIARITY WITH AND UNDERSTANDING OF THE PROGRAMS TO CONTRIBUTE VERY EFFECTIVELY TO TRULY THOROUGH OVERSIGHT. THE RULE ALSO PREVENTS THE DEVELOPMENT OF ANY INSTITUTIONAL MEMORY BY THE MEMBERS THEMSELVES. FOR THOSE WITH ANY SIGNIFICANT EXPERIENCE ON STANDING COMMITTEES, THIS SHORTCOMING IS READILY APPRECIATED. THE CURRENT RULE IS THE OUTGROWTH OF INITIAL CONCERNS THAT MEMBERS OF THE INTELLIGENCE COMMITTEE MIGHT BE TOO EASILY "CO-OPTED" BY THE INTELLIGENCE COMMUNITY. OVER THE YEARS, THAT FEAR HAS PROVED GROUNDLESS. THE MAJORITY AND MINORITY LEADERSHIP OF THE HOUSE HAS TRIED TO CAREFULLY SELECT MORE SEASONED MEMBERS FOR SERVICE ON THE INTELLIGENCE COMMITTEE WHO TEND TO TAKE THEIR OVERSIGHT RESPONSIBILITIES VERY SERIOUSLY.

AT A BARE MINIMUM, THE TERM LIMIT FOR THE HOUSE COMMITTEE OUGHT TO BE RAISED TO EIGHT YEARS, LIKE THE COMPARABLE SENATE LIMIT. BUT, I WOULD URGE THE JOINT COMMITTEE TO GIVE VERY



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CAREFUL CONSIDERATION TO A LONGER TERM, TEN YEARS OR EVEN LONGER. IT IS PERHAPS EVEN TIME NOW TO RECONSIDER WHETHER EXPERIENCE DOES NOT SUGGEST THAT THERE BE NO TERM LIMIT. I HOPE THAT THE JOINT COMMITTEE WILL HAVE AN OPPORTUNITY TO HEAR FROM SOME OF THE PAST CHAIRMEN AND RANKING MINORITY MEMBERS OF THE INTELLIGENCE COMMITTEE ON THIS MATTER. I RECALL THAT IN RECENT YEARS SEVERAL FORMER CHAIRMEN OF THE HOUSE INTELLIGENCE COMMITTEE, INCLUDING CHAIRMAN HAMILTON, HAVE EXPRESSED CONCERN ABOUT THIS TERM LIMIT ARRANGEMENT IN THE HOUSE. SEVERAL TESTIFIED BEFORE THE HOUSE RULES COMMITTEE IN THE 101ST CONGRESS. FORMER DCI GATES ALSO HAS SINGLED OUT THIS SITUATION AS A SERIOUS PROBLEM IN THE OVERSIGHT PROCESS. HE RECOMMENDED THAT THE ROTATION RULE BE ABANDONED OR ". . . AT A MINIMUM THE PERIOD OF SERVICE SHOULD BE EXTENDED SUBSTANTIALLY."

LASTLY, I WOULD LIKE TO INDICATE MY GROWING CONCERN OVER THE PROBLEM OF APPROPRIATIONS IN EXCESS OF AUTHORIZATIONS. THIS SITUATION HAS GROWN MORE TROUBLESOME FOR THE INTELLIGENCE COMMITTEES AND THE INTELLIGENCE COMMUNITY, PARTICULARLY IN THE LAST TWO YEARS OR SO. IT IS COMPLICATED BY THE FACT THAT A STATUTE (SECTION 504 OF THE NATIONAL SECURITY ACT OF 1947) PROHIBITS OBLIGATION OR EXPENDITURE OF FUNDS FOR INTELLIGENCE ACTIVITIES UNLESS THOSE FUNDS HAVE BEEN SPECIFICALLY AUTHORIZED AND APPROPRIATED. THEREFORE, WHEN WE HAVE APPROPRIATIONS FOR PURPOSES NOT PROVIDED FOR IN AN AUTHORIZATION BILL, OR IN EXCESS OF AMOUNTS AUTHORIZED IN THAT LEGISLATION, IT PLACES THE INTELLIGENCE COMMITTEES AND INTELLIGENCE AGENCIES IN A DIFFICULT POSITION. IT FORCES THE INTELLIGENCE COMMUNITY TO GO

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THROUGH THE DIFFERING AND TIME-CONSUMING, NON-STATUTORY REPROGRAMMING PROCEDURES OF THE INTELLIGENCE AND APPROPRIATIONS COMMITTEES (AND SOMETIMES THE ARMED SERVICES COMMITTEES) IN AN EFFORT TO COMPLY WITH INCONSISTENT SPENDING MANDATES BETWEEN THE APPROPRIATIONS AND AUTHORIZATION ACTS. THIS PUTS A SEVERE BURDEN ON THE INTELLIGENCE COMMUNITY'S ABILITY TO MANAGE EFFECTIVELY THEIR BUDGET AND TO DEAL PROMPTLY WITH SOME HIGH PRIORITY MATTERS. THIS IS A PROBLEM ABOUT WHICH DCI WOOLSEY AND HIS PREDECESSOR, MR. GATES, HAVE EXPRESSED THE MOST SERIOUS CONCERN AND EXASPERATION. IT ALSO PUTS THE AUTHORIZING COMMITTEES IN AN AWKWARD POSITION IN ANOTHER RESPECT. WE MUST TACITLY ACCEPT THAT ENACTMENT OF THE APPROPRIATIONS BILL, WITH A RULE WAIVING POINTS OF ORDER AGAINST APPROPRIATIONS NOT AUTHORIZED BY LAW, HAS THE EFFECT OF IMPLICITLY WAIVING THE STATUTORY RESTRICTION ON USING FUNDS NOT SPECIFICALLY AUTHORIZED.

WHILE THE STATUTORY SITUATION MAY MAKE IT WORSE IN THE AREA OF INTELLIGENCE, THIS PROBLEM IS CERTAINLY NOT UNIQUE TO THE INTELLIGENCE COMMITTEES. IT IS EXPERIENCED BY MOST AUTHORIZING COMMITTEES TO ONE DEGREE OR ANOTHER. IT IS A PROBLEM WHICH NEEDS TO BE DEALT WITH ON A PRIORITY BASIS. PERHAPS A FIRST STEP WOULD BE FOR THE HOUSE RULES COMMITTEE TO BE MORE DISCRIMINATING IN GRANTING WAIVERS TO APPROPRIATIONS BILLS CONTAINING UNAUTHORIZED APPROPRIATIONS. OF COURSE, THERE ARE NUMEROUS TIMES WHEN AN AUTHORIZATION BILL PASSED BY THE HOUSE HAS NOT YET FINALLY BECOME LAW, AND FOR THAT REASON, ALL OR MOST OF THE APPROPRIATIONS IN AN APPROPRIATION BILL ARE NOT

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AUTHORIZED BY LAW. BUT PERHAPS IN SUCH CASES, RULES COMMITTEE WAIVERS COULD BE LIMITED TO APPROPRIATIONS ONLY TO THE EXTENT AUTHORIZED IN AN AUTHORIZATION BILL WHICH HAS AT LEAST PASSED THE HOUSE. DOUBTLESS THAT WILL BE DIFFICULT TO ENFORCE IN THE CASE OF INTELLIGENCE AUTHORIZATIONS AND APPROPRIATIONS LEGISLATION BECAUSE OF THE CLASSIFICATION SITUATION. PERHAPS THE NATURE OF THIS PROBLEM AS IT APPLIES TO INTELLIGENCE ULTIMATELY IS ANOTHER ARGUMENT FOR THOSE PROPOSING THAT WE DO AWAY WITH THE SEPARATE APPROPRIATIONS PROCESS AND RETURN THAT JURISDICTION TO THE AUTHORIZING COMMITTEES. IN ANY EVENT, I HOPE THE JOINT COMMITTEE CAN RECOMMEND A WISE AND WORKABLE SOLUTION TO THIS DISRUPTIVE SITUATION IN THE LEGISLATIVE PROCESS.

IN CONCLUSION, I WANT TO THANK YOU AGAIN FOR AFFORDING ME THIS OPPORTUNITY TO AIR MY CONCERNS AND THOUGHTS ON THESE MATTERS.

TESTIMONY OF THE HONORABLE DAN ROSTENKOWSKI (D., ILL.) CHAIRMAN,  
COMMITTEE ON WAYS AND MEANS, BEFORE THE JOINT COMMITTEE ON THE  
ORGANIZATION OF CONGRESS  
APRIL 22, 1993

I wish to thank the Joint Committee, its Co-Chairs and Vice-Chairs for the opportunity to testify before you today. My remarks will focus primarily on the committee system in the House of Representatives.

I have served twelve years as the Chairman of the House Committee on Ways and Means, and I am proud of the Committee, its history, traditions, and accomplishments. I am especially proud of what the Committee has been able to accomplish in my years as its Chairman.

But I do not appear before you to protect or defend the Committee which I chair - although I will do that as effectively as I can when needed. Rather, I ask you to view me as a student of the committee process in the House for the past thirty-four years. Indeed, since my appointment to the Committee on Ways and Means in 1964, I have been continually involved in the committee selection and appointment process: first as a member of the Democratic Committee on Committees; and then as a member of the Steering and Policy Committee of the Democratic Caucus.

Having been involved with the committee system for so many years, I believe these are problems which need to be addressed and I have some suggestions for solutions.

I would first like to point out that House Committees exist only as tools of the House and that their principle function is to help the House conduct its business. There is no other reason for committees to exist. As such, the standard against which committees must be judged is whether or not they serve the interests of the House.

This view should be mere common sense but sometimes we seem to forget it; Committees seem to have become ends unto themselves, rather than means to an end.

During my experience of selecting members for committees, I have been concerned chiefly with the manner in which members are appointed to committees and the types of members we elect to the various committees. All too often these days, the election process is nothing but a popularity contest in which a member's background, views and politics are not taken into account in trying to construct a committee that adequately represents the whole House of Representatives. Let me be blunt: the most popular members are not always the most effective. Good lawmaking sometimes means rejecting fashionable ideas and saying "no" to colleagues. These are actions bound to put popularity at risk, and members who care most about their popularity are going to avoid taking them if they can.

Appointing members to committees on the basis of popularity does not help the House forge effective solutions to the pressing issues of the day. In fact, it results in legislation which, more often than not, avoids critical problems and tough solutions.

Committees have also become arenas for advocates rather than forums for discussion, deliberation, and decision. We have all seen the farm state member who simply "has" to get on the Agriculture Committee or the urban member who "has" to get on Education and Labor.

Both of them want to represent the folks back home. But let's apply the critical standard: is the House well served by a committee system which is loaded with advocates of a particular viewpoint? The undeniable answer is "no". Can you imagine an urban member being told he'll have to serve an apprenticeship on the Agriculture Committee? Again, the answer is "no," but the House, and ultimately the American people, are hurt because the legislative product is all too often unbalanced. We need more legislators and fewer advocates in committees. The selection process should do all it can to insure this result.

Next, let me turn to the subject of committee size. Twenty years ago, there were 679 committee slots. Today, there are 869, a 28% increase. But the critical question is: has the growth in the size of committees helped the House of Representatives do a better job? In my opinion, the answer is clearly "no".

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In fact, I would say that the House is worse off as its members are spread thinner, and each member spends less time on the critical issues he or she faces in committee.

If increasing committee size has had a negative effect on the House, how has it happened? The answer is simple. Individual members want to be seen as being important; they want to be involved in more things; they want more things to list on the letter-head. In short, they want what they perceive to be in their own individual interest. But no one has asked what's in the best interest of the House and, having concluded that the quality of our deliberations matters much more than the number of us deliberating, no one has tried to prevent committees from adding more and more members.

Again, the institution would be served by a reduction in the size of committees, but individual members would feel aggrieved. I ask you, which is more important?

I accept the fact that there may be competing goals here. In point of fact, the tension we feel here is unavoidable. Do we value efficiency more than democracy? Should members know a lot about a little, or a little about a lot? How do members balance the needs of their particular constituencies against national priorities?

There are no absolute answers to any of these questions. Instead there are constant adjustments. You are here today because of a widespread belief that the reforms of the 1970's introduced

too much democracy and ultimately hampered efficiency. And those who, like myself, call for greater efficiency must accept the fact that it will inevitably limit internal democracy.

I also think that the proliferation of legislative service organizations and issue-specific caucuses has exacerbated this trend towards members as advocates. Advocates should not be supported in any way with taxpayer funds. Members should see themselves as legislators, not as members of this or that advocacy group who know the answers before the debate begins. Advocates have their place within the legislative process but they should not be based within the Capitol complex or funded with House funds.

I have also become concerned in recent years about the amount and quality of oversight work we do in the committees. The House looks to the Committees not only for legislation, but also for effective and continuous oversight of the laws and programs within their jurisdiction.

This latter responsibility has been all too frequently ignored as members seek the glamour of legislation rather than the tedium of oversight. Ask yourself how often you have issued a press release trumpeting the fact that a government program has been made more efficient as a result of your oversight work. Similarly ask yourself what kind of answer you would get if you turned to a committee with jurisdiction over a particular agency and asked if



it was a well-run agency, what problems it had, and what the agency's plans were to fix them? I'm sure the answer you would get in virtually every instance, from virtually every committee, is : "We don't know." Can't we do better than this? Shouldn't the House demand better from its committees? Don't the American people deserve more from the House?

I feel it is incumbent upon me to also comment on committee jurisdiction. Again, the standard must be what is in the best interest of the House; how can it most efficiently and effectively conduct its business?

. This standard must result in an examination from time to time of whether or not we have the right number of committees and if the jurisdiction of the various committees continues to make sense. After all, the problems facing the Nation change over time, and the committees must be able to change in order to help the House meet those new challenges. I'm sure we can all point to areas of jurisdictional overlap or confusion. For example, over the past several years, it has come to my attention that the jurisdiction concerning the use of federal guarantees to enhance quasi-private activities, exposing the federal government to financial risk, is not clear. However, I feel compelled to point out that there is potentially no more explosive issue relating to the reform of the operations of Congress than committee jurisdiction. Indeed this one issue doomed the work of the last two reform efforts.

My advice to you in this area is: "Go slow!" If there is a real problem with committee jurisdiction, you may want to suggest changes. However, I would urge you not to make recommendations simply because the current committee jurisdictional lines do not conform to some intellectually elegant model. The standard of proof that there is a real problem in this area has to be very high. I would hate to see the valuable work that this committee will do in all areas of your broad mandate fail solely as a result of proposed changes in committee jurisdiction.

Up to this point my testimony has been long on analysis and short on solutions, so let me turn to some specific proposals.

With regard to the issue of the size of committees, I would recommend that you attempt to prevent further increases in committee size. I would, in fact, aim for decreases. I would accomplish this by computing the number of slots necessary to insure that all members can serve on at least two but no more than two committees. After having factored out the exclusive committees and the leadership, I estimate that this would yield approximately 750 committee slots, a seven and one-half percent decrease from what exists today, not the two percent increase we had this year.

In addition, I would limit a member to no more than two subcommittees per committee, a decrease in 2% in the number of current subcommittee slots. If committees were not allowed to increase the number of subcommittee slots which they now have, subcommittee slots would decrease by 10%.

Members frequently complain about being spread too thin. Decreasing committee size and further limiting the number of slots addresses this complaint directly. I believe that this is an instance where the interests of the individual members and the House coincide. We would all gain if the size of committees and the number of subcommittees were reduced.

With respect to the committee selection process, the role of popularity must be reduced significantly. We must strive to see that a balanced mix of viewpoints and politics results from the selection process. To accomplish these goals, I would propose that the initial nominations be made by relatively small, autonomous, and semi-permanent bodies within each party caucus. Only such groups could ensure the furtherance of the House's best interests, instead of the furtherance of individual members' careers.

I'm well aware that such a proposal would be controversial because it may limit an individual's chance of getting his or her choices. However, I fear that if the trend towards popularity continues, we ultimately will have a system where the Washington Post publishes a daily schedule of committee and subcommittee meetings and members simply decide which ones they want to attend that day. This would result in a system in which legislation is proposed by interested advocates and is reported out, almost unanimously, whether or not it represents sound national policy. In fact, I'm not sure that we're far from this type of system right now.

Finally, concerning oversight, I think that the reforms I have suggested concerning committee size and the number of subcommittee slots would force members to pay closer attention to their committee work and that greater oversight work would result. In addition, House rules could require annual oversight reports from the committees with a specific requirement that recommendations for improved programmatic administration be included, as well as review the results of previous recommendations. Ultimately, the rewards in this institution for doing effective oversight compared to legislative activity must be increased. However that is easier said than done.

In conclusion, if I can leave you with only one thought, it is this: you should analyze the committee system and evaluate proposed changes from the perspective of the committees as tools of the House and focus on the what is the interest best the House and how the House can best discharge its responsibilities to the American people. We might differ on the merits of particular proposals, but if you keep these goals uppermost in your minds, I am confident that your recommendations will bring about improvements in the operation of the committee system and ultimately the legislative product of the House.

**STATEMENT OF REPRESENTATIVE JAN MEYERS (R-KS)**  
**RANKING MINORITY MEMBER**  
**OF THE**  
**HOUSE COMMITTEE ON SMALL BUSINESS**  
**BEFORE THE**  
**JOINT COMMITTEE ON THE REORGANIZATION OF CONGRESS**  
**APRIL 22, 1993**

Mr. Chairman and Members of the Committee, I thank you for this opportunity to appear before you today. My name is Jan Meyers and I am pleased to serve as the Ranking Minority Member of the House Small Business Committee. It is more than appropriate that we in the Congress take a very long look at ourselves at this point in our Nation's history. Processes that have served us well in the past are no longer an efficient way to develop and implement policy responsive to the needs of today's America. Our government, including Congressional committees, has become too big and too bureaucratic. The result is a legislative process that undermines the good intentions of legislative proposals.

I believe the most important role of government today is preserving the ability of businesses to thrive and prosper. While some may feel such a view is extreme, let me explain. Think about how reliant we are in this country on business. Not only does business provide jobs, services, and products for our citizens, but, to a large extent, they carry out the bulk of our social programs. They must ensure equal opportunity in their hiring and promotion practices. They must contribute and collect various taxes for things like social security and medicare. We want them to offer health insurance coverage to their workers and their families. They must provide time-off with benefits coverage and job protection so people can meet their family obligations. All of these wonderful programs, created by government, place the responsibility for implementation, and often for footing the bill, squarely on the shoulders of those who voluntarily decided to open a business.

As part of your overall mandate to develop recommendations for reorganizing Congress, I urge you to step back and take a look at what our policies have wrought on business. Then look at all of your options for changing the committee structure with the vital need to promote and protect business, especially small business, in mind.

Let me emphasize that I am in strong support of Congressional reform and propose two major changes in the organization of our committees. First, I believe committees could be further downsized. Five subcommittees, or in some cases even four, should suffice for most committees. The Small Business Committee should be downsized by a similar amount. Secondly, I believe the Small Business Committee should be retained, with its legislative and investigative jurisdiction substantially and appropriately broadened.

In recent years, the Small Business Committee has reduced its funding to a reasonable level, and maintained a two to one Democratic/Republican staff ratio. One of the things I have

tried to accomplish since becoming Ranking Republican member is further reducing the number of staff persons and funds spent for minority operations of the Committee. My commitment to running a "lean and mean" Committee is exemplified by the fact that I have reduced the number of staff positions from 13 to 8, and cut salaries from the previous Congress, saving approximately \$300,000. Mr. Chairman, reform really begins with us, and reform has already begun in the Small Business Committee.

Reform that eliminates the only Committee in Congress which provides a forum and focus for the problems of small business, our nation's job supplier, is not a positive step, however. Our nation's 20 million small businesses employ almost 56 percent of the private work force, contribute 44 percent of all sales, and are responsible for 47 percent of GNP. They will create 75 percent of the 43 million jobs we will need over the next 25 years, and are responsible for 67 percent of our country's initial job opportunities. Small businesses produce twice as many innovations as larger firms.

Women own slightly more than 30 percent of all U.S. businesses, almost all of them small, and will own 50 percent of the nation's small businesses by the 21st century. Minority-owned small businesses generate \$60 billion in gross receipts annually and provide 836,000 jobs to working Americans.

Vital, growing small businesses, then, mean jobs, innovations and opportunities. As such, small enterprises must be advanced and defended on every front for our economy to prosper and expand.

Unfortunately, the small business community, much like the Congressional Small Business Committees, has a lot of cheerleaders but few real die hard supporters when push comes to shove. In today's campaign climate small business is certainly not a major player when it must compete with big business and labor. Are you aware that although small business encompasses the entire spectrum of commerce and industry in the country, the legislative jurisdiction of our Committee is limited basically to one law -- the Small Business Act?

I would like to briefly explain the important work carried out on a daily basis by our Committee, often against great odds as we work outside our Committee's legislative jurisdiction in our oversight capacity to change public policy for the better. More detail on our activities is contained in my longer written statement which I request be made part of the record. Then I will make some general comments about the Small Business Committee and the Library of Congress document the Joint Committee provided to every member of Congress.

While I will not go into much detail about the various SBA programs at this point, I would like to highlight our recent activities regarding the 7(a) Loan Guarantee Program as an

example of our ongoing efforts.

We are currently working with the Clinton Administration in an attempt to provide \$6.6 billion in guaranteed loan authority for fiscal year 1993. As you know, approximately \$50 million in appropriations are scored for each \$1 billion in government guarantees, thus the \$6.6 billion will cost the government \$330 million. According to the SBA, the \$330 million in expenditures should provide loans to 26,000 small enterprises and create or preserve 639,000 jobs. I want you to know that comes to \$516 per job.

One also wonders where this nation would have been in recent years without this lending program. Banking laws and regulations have constrained our nation's banks more stringently in recent years in attempts to enforce safety and soundness, but perhaps we have gone too far. Even in the best of times you are not going to find very many banks extending great credit to small business. We, at the Small Business Committee, have been pointing this out for years.

Our Committee over the years has been the driving force behind many major laws, such as the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act. The Paperwork Reduction Act requires all federal agencies to eliminate unnecessary paperwork requirements and requires agencies to consider the impact of any new requirements. The Regulatory Flexibility Act requires all federal agencies to consider the impact of proposed regulations on small business. The Equal Access to Justice Act allows individuals, such as small businesses, who have successfully defended themselves in a lawsuit brought against them by the federal government to recoup their attorney's fees and other expenses. In addition, we have pressed other committees to amend laws, from the Export-Import Bank Reauthorization to the False Claims Act, which is a whistleblower statute. Much of our Committee's effort mirrors the words of the Small Business Act, to "aid, counsel, assist, and protect" small business concerns.

I would now briefly give you two examples of how our Committee operates to perform our mission.

Anyone in business can tell you that our nation's tax system is one of the most complex and burdensome known to mankind. Despite this, small business has a very difficult time getting its voice heard before Congress. In an effort to get something done, our Committee approached the Internal Revenue Service and asked them to revamp the Payroll Tax Deposit System. After a year of effort, the IRS issued a proposed rule. Surprisingly, just about everyone involved in the process approved the proposal, except for some Small Business Committee members and segments of the small business community.

The IRS' original revision would have done little to reduce



the \$1 billion per year penalties that small business was paying because of the twisted rules. Therefore, we at the Small Business Committee pressed the IRS for further change. A public hearing was held at the Treasury Department. The IRS took our public concerns to heart and rewrote the rule to create a truly simple and workable payroll tax deposit system. While all of this effort, needless to say, received little if any press and/or notoriety, millions of businesses and tens of millions of employees were helped.

Years ago, our Committee began the Small Business Innovation and Research Program in an effort to direct 1.25 percent of the federal government's extramural research and development budgets for exclusive competition among small businesses. This also left a 98.75 percent set-a-side for the nation's universities and federal laboratories, to the tune of \$15 billion annually.

Last year, when it was time to reauthorize the law, other committees of the Congress said we could reauthorize, but not increase, the small business percentage. This was despite the fact that 10 years of studies had shown that small business was performing admirably. No one was doing any studies about the 98.75 percent of research money set-aside for universities and federal labs. However, subsequent problems revealed in that program indicate that further oversight was desirable.

Due to the efforts of the Small Business Committee, we now have up to 2.5 percent of our taxpayers' research dollars going for real usable products. Without our Committee's efforts, the figure would be going down, not up, despite the record and the merits of the case. These have been only two of many, many examples of what we on the Small Business Committee spend our time doing.

A couple of other important activities that spring to mind when considering Small Business's action are repeal of Section 89 and the auto-log debacle. Both legislative proposals with good intent, but disastrous consequences for small business. I must say, perhaps immodestly, that without the dogged determination of our Committee to fix those problems, they may still be in place, with all their harmful side effects, today.

I hope that I have shown that much of the Small Business Committee's work is not centered around passing volumes of laws. Much of our work is done outside of our Committee, working with the regulatory agencies to improve those guidelines and implementing rules.

However, to perform even better, our Committee should have an expanded jurisdiction-- urban and rural economic development and human resources issues would be one good place to start. Members need only recall the flurry of legislative activity surrounding the Americans with Disabilities Act, a concept I supported, as did most of the members of the House. Our

Committee had no say in that activity. As a result, a law was passed with vague legislative language, and implementing regulations so voluminous, that a flood of incredible litigation is already underway. I would hope you are hearing from your small business constituents on this subject to the extent that I am.

Turning to the study prepared by CRS, I reiterate that I support the initiative to reform Congress, but our question has to be: What is the intent of our reform? We need to make Congress a vehicle for improving our nation and that means improving opportunity and the economy. That is impossible without small business.

The people in our districts are looking to us to fix the way we do business. I agree that we have a unique opportunity to accomplish that goal, but our idea of reform has to be more than making some expedient cuts in a few small committees and then running back to our districts to tout ourselves as reformers. The overwhelming cry I hear from my constituents is, "give us less government". A reform proposal that does nothing to trim the large, powerful committees and the spending-driven ways of recent decades is no reform at all.

You asked us for suggestions so let me offer a few:

1. Is it possible to merge the Committee on Ways and Means with the Joint Economic Committee and the Joint Committee on Taxation? These committees are somewhat duplicative and meant to accomplish the same end.

2. Is it possible to merge the Committee on House Administration with the Joint Committee on Printing and the Joint Committee on the Library, eliminating these last two as separate Committees.

3. Add travel and tourism and urban and rural economic policy development, to the Small Business Committee's legislative jurisdiction. Rename it the Committee on Small Business and Economic Development. This will tell the country that we recognize that the best economic program is not just housing projects and highways but real small business growth, as well.

Mr. Chairman, I admire the work the CRS staff did in forming the scholarly option paper. They have done an excellent and creditable job, under the circumstances. I do believe, however, that the formal letter request for the paper should be made public so all members can ascertain exactly what proposals are on the table. For example, I was told that at Tuesday's hearing the CRS witnesses under questioning said they had developed some models which were not included in the paper we received. I would be interested in reviewing all proposals.

I can understand why we are not included in all of the

models prepared by CRS, such as proposals A and B, which are budget-process-driven reform models, or those in which the number of Committees are radically reduced. And I should point out that Small Business is not eliminated in all of the CRS models. However, certain plans in which small business is given short shrift do not reflect the real world. In the real world, our government makes business and the free enterprise system possible, and business makes taxes possible.

Mr. Chairman, I'd like to conclude by saying that reform of an institution, such as Congress, that is fraught with tradition and strong opinions is not an easy task, and I offer my admiration, and my sympathies, to those who have been charged with this difficult task. Melding wide-ranging points of view into a plan for real reform no doubt requires some degree of discomfort. But as the popular advertisement states: No pain, no gain.

However, I must strongly reiterate my point that eliminating a committee like Small Business, in lieu of making real, substantive changes in Committees in which most money and staff is concentrated is simply tinkering around the edges. Rolling up your sleeves and delving into those issues, I believe, is the only way to develop a meaningful reform proposal.

The Small Business Committee has not indulged in pork barrel spending or worked to draw huge PAC donations to members' coffers. We have not reached for unearned power or engaged in battles over "turf." We have, however, gone about our business as best we could, doing all we could to protect and promote our nation's most valuable resource -- small business.

What the Committee realizes, and what all of Congress should realize, is that our Nation's small business owners, in dedicating all their energy and talents to the creation of jobs, innovations, and wealth, do not have the time or the resources to be constantly vigilant to the spread of government into the free workings of their business.

You know them as well as I do: They are the hard-working constituents who cannot afford full-time Washington lobbyists and lawyers. Rather, they make their appointments to meet us back home in our districts. Or maybe they make that once-a-year trip to Washington with others from their industry, where they get a one of those "briefings" on issues, and make office visits in the House and the Senate. Then it's back home to tend to business, hoping their message got through, and that Members will heed their opinions and advice in the coming year.

With this picture in mind, let me say to you: If ever there was a constituency that needed a voice in Congress, it is this nation's 20 million small enterprises who, day-in and day-out, do the work of keeping our economy free and effective. The work of the Small Business Committee is to make sure their voice is heard

when government is too busy to listen, and entrepreneurs too busy to remind them.

Thank you for the opportunity to present my views before this distinguished panel, and I welcome any questions or comments you might have.

## APPENDIX A

Accomplishments of the Small Business Committee

While our work in assisting small business is far from complete when one contemplates the larger issues to be tackled -- the stifling encroachment of more mandates and rules, taxation, the economy, and true health care reform, to name just a few -- the Small Business Committee can claim victory on some important issues that will help small enterprises do what they do best: Create the jobs, products and services our country needs as we move into the 21st century.

o **Small Business Innovation and Research:** In 1982, Congress created the Small Business Innovation and Research (SBIR) program to promote and utilize innovations created by small enterprises and bring them to the commercial marketplace. To do this, Congress directed federal agencies with extramural R & D budgets to dedicate up to 1.25 percent for exclusive competition among small businesses.

Last year, Congress passed, and the President signed into law H.R. 4400, a bill to extend the program into the year 2000, gradually raise the amount dedicated to small businesses to 2.5 percent, open up two other funding sources in the Department of Defense, and make other improvements in the program that will help small businesses help our country meet the growing competition of a global economy. At its new heights, SBIR will fund \$800 million in applied research annually.

The Small Business Committee did not undertake this task lightly. Over the last ten years, at our direction, the Government Accounting Office and the Small Business Administration took the SBIR program, poked it, dissected it, slid it under a microscope -- and found that the federal government had actually created a program that worked.

No scandals were uncovered about misappropriated funds, about taxpayers' dollars going for yachts or dinners or fancy houses rather than research and development. The GAO confirmed that SBIR money wasn't thrown at silly, unworkable ideas dreamed up in laboratories with little or no practical value. The SBIR program has prompted federal agencies to direct taxpayers dollars to high-quality, dramatically innovative ideas and products that will find their way to the commercial marketplace -- creations that have improved and will continue to improve our quality of life here at home and our ability to compete abroad. In fact, nine SBIR developed technologies were utilized by the U.S. in Desert Storm. The creations and their companies are as follows:

- o **Command and Control Technology for the Marines**  
**Accurate Automation Corporation**

- o **Field Deployable Antenna**  
Astron Corporation
- o **Decision Support System for Logistics Planning**  
LB & M Associates, Inc.
- o **Image Compression for Secondary Image Dissemination**  
Optivision
- o **Processing Intelligence Information by the U.S. Army**  
Symbiotics, Inc.
- o **Interactive Video Linked Computer System Displaying Work**  
**Procedures**  
Information Laboratories
- o **Newly Developed Codes Delta AZD & POSTZD to Perform**  
**Bombing Damage Assessment by Air Force**  
Intellisys Corporation
- o **Rapid Thermal Anneal Process Developed in Phase I Award**  
**to Increase Flat Panel Brightness**  
Planar System
- o **A number of Temperature/Conductivity/Depth Profiling**  
**Instruments Were Used for Sound Velocity Measurement**  
Sea-Bird Electronics, Inc.

While the Committee on Science, Space and Technology helped reauthorize the program, I think it is fair to say that without the creativity and diligent oversight of the Small Business Committee, this acclaimed program would not be helping this country and its workers today.

o **Small Business Administration Funding:** In 1990, Congress passed H.R. 4793 (PL 101-574), authorizing SBA loans through FY '93. As you all know, however, the increased capital reserve requirements for lenders and the maze of other federal banking regulations have sparked a credit crunch that has blocked small businesses from the loans they need to survive and expand.

Because of the credit crunch, the demand for SBA guaranteed loans has soared. Banks have been reluctant, if not effectively prohibited, from extending credit to small firms across the country. It has been clear that sufficient guarantee authority would be needed to meet program demand and help keep small firms alive.

The Small Business Committee has met, and will continue to meet this challenge by ensuring that sufficient funds are available to help small businesses keep their doors open for

workers and customers alike.

As an example, our committee is working to provide \$6.6 billion in guaranteed loan authority for fiscal year 1993.

The taxpayers do not spend \$6.6 billion to operate the 7(a) SBA loan guarantee program. Under the federal government's budget process ("Credit Reform"), each guarantee program requires direct appropriations to "drive" the program and to protect against taxpayer liabilities in the future (the 7(a) program currently has a loss rate of just 2.14%).

For the SBA program, \$50 million in appropriations are scored for each \$1 billion in government guarantees. At the \$6.6 billion guarantee level, the government will spend, or set aside, about \$330 million under current program guidelines.

According to the SBA, the \$330 million in expenditures should provide loans to 26,000 small enterprises. Better still, the SBA estimates that \$6.6 billion in guaranteed loans will create and preserve 639,000 American jobs. That comes to \$516 per job. If the President's proposals for the program are adopted, the appropriations level drops to \$23 million per \$1 billion in guarantee authority. This equates to \$241 per job.

o **Payroll Tax Deposit Rules:** Small businesses are required to deposit with the government the taxes they withhold from employees' checks according to a system prescribed by the IRS. Over the years, the system developed into a wholly unintelligible mess that cost small businesses close to a billion dollars each year in penalties and interest -- funds that could have been invested in business improvement and jobs. On May 18, 1992 the IRS issued a proposal to revamp the deposit system. However, the revisions did not offer true reform by making the system simple and fair.

The Small Business Committee stepped in to help create a system that could work, spending close to four months to persuade and cajole the IRS to do what was right for small enterprises.

To their credit, Treasury and the IRS took our concerns and comments, and those of the small business community, to heart. The final rule, published on September 24, 1992 incorporated these changes and, as a result, offers a truly simple, workable deposit scheme that will allow small business owners to comply with ease, certainty, and confidence.

o **Exports for America:** Forward-looking thinkers agree that the ability to expand our economy, create business opportunities, and raise the standard of living for American workers rests in our ability to expand our export markets abroad.

If past is prologue, we must note that from 1986 to 1990,

U.S. merchandise exports contributed 40 percent to the rise in our Gross National Product. In 1990 alone, about 84 percent of GNP growth was due to exports. All these trends are accelerating.

While this is good news, we must also recognize that we haven't even tapped our potential. In fact, our current trade policies may well be blind -- and thus an impediment -- to the largest source of exporting opportunities: small business.

If small business is the fastest growing segment of our domestic economy, it follows that small business should be the fastest growing source of exports. Unfortunately, this is not the case.

Consider this: Only about 100,000 U.S. firms are now actively exporting, and less than 2,000 firms, or one percent of U.S. businesses, account for 70 percent of U.S. exported manufactured goods. Indeed, just 100 U.S. companies account for about 50 percent of all U.S. exports of such goods. This suggests that the focus of our trade policy is far too narrow.

Indeed, fully 90 percent of the American manufacturers capable of exporting are of small and medium size. We have to ask: Why aren't they exporting? Could our government be neglecting a tremendously promising opportunity for growth?

I suspect it's a problem of vision. The large, obvious trade issues affecting our nation's two million farms and 7,000 big companies command a great deal of attention. However, there are numerous trade policy and negotiation issues that stifle the ability of small enterprises to export to other countries -- minute barriers and problems that aren't easily seen on the radar screen, much less highlighted in seminars and in the press. It is the smaller "niche-market" enterprises that have the least amount of time, money, and political sophistication to ferret out these problems and press for a solution. More than any other segment of our economy, they depend on their government to identify and eliminate these barriers.

Yet within this Congress, only the Small Business Committee is assigned exclusively to the crucial task of protecting and promoting export opportunities for small enterprises -- the other committees concentrate on the larger issues.

For example, last September, the charter of the United States Export-Import Bank expired. Thanks to the work of the Small Business Committee, the reauthorizing legislation contains two amendments aimed specifically at bolstering the Bank's support for small exporters.

One amendment requires the Bank to count only the financing it provides "directly" to small exporters in its small business set-aside calculation, and to omit from the equation subcontract



dollars small firms receive from large, Exim-financed businesses that don't involve them directly in exporting.

The second amendment requires Eximbank to provide information and training on its financing programs to personnel of federal, state, and local agencies engaged in export finance. Eximbank will also have to report on its progress toward the creation of regional offices that will be more accessible to small exporters that need loans, guarantees, or insurance to support their business abroad.

By maintaining the Small Business Committee, we can ensure that these kind of issues are attended to and can take the first step towards new horizons in the export market for small business.

o **Food Labeling Requirements:** November, 1991, the Food and Drug Administration published proposed regulations in accordance with the Nutrition Labeling and Education Act of 1990 to revamp the government's requirements for food labels. The Small Business Committee submitted comments to the FDA requesting an extension of at least one year for compliance, thereby allowing small food producers to spread the costs of label disposal, ingredient analysis, attorney's fees, new label designs and printing over a reasonable time frame and stay in business.

The Committee's efforts resulted in a proposal, drafted by the Office of Management and Budget and the FDA, that provides for a fairer, broader small business exemption.

o **Women-owned Businesses:** On December 5, 1991, H.R. 2629, "The Women's Business Development Act" was signed into law. The Act continues funding for Small Business Administration programs that provide training, counseling, technical assistance, and loan programs for women entrepreneurs. H.R. 2629 represents our Committee's commitment to promoting business opportunities for women and its recognition of women as an emerging and significant force in the future of small enterprises.

The Small Business Committee also continues to promote minority enterprise opportunities, like the SBA's microloan program which helps the less fortunate start home-based enterprises without foregoing all other government assistance needed to survive until the business produces income. In addition, we continue to offer our attention to the larger issues facing our nation -- health care reform, franchising regulations, tax policies and small enterprises, product liability reform, and down the list of thousands of issues that touch small businesses.

## APPENDIX B

## HISTORY OF FEDERAL INVOLVEMENT WITH SMALL BUSINESS

The first federal involvement with small business came in 1941. Tensions were mounting overseas and small businessmen found they could not obtain materials to produce goods, effectively being shut out of government contracts by large companies. With a flurry of letters to Washington, D.C. asking for solutions to these problems, the 77th Congress realized there was a need for a small business committee.

Representative Wright Patman (D-TX) introduced a resolution authorizing an investigation of national defense programs and their relations with the small business community. On December 4, 1941, just three days before the attack on Pearl Harbor, the resolution passed through the Congress and a Select Committee on Small Business was created.

The Select Committee immediately looked into the war efforts' effect on small businesses. The Committee created the Smaller War Plant Corporation (SWPC) on June 11, 1942. The SWPC's functions were to: 1) aid small businesses in securing contracts and subcontracts from the government; 2) take on procurement contracts from the government and subcontract to small firms; 3) encourage large businesses with government contracts to subcontract to small firms; 4) make loans to businesses for defense and civilian purposes; 5) take inventory of productive facilities that could be used in the war effort; 6) approve war production pools; 7) sell or lease equipment and land to small enterprises; 8) aid small businesses in obtaining materials needed to produce their goods and services; and 9) help manufacturers solve production problems.

The SWPC remained in place until the 83rd Congress when President Eisenhower founded the Small Business Administration. This agency assumed the jurisdiction of the SWPC along with the loan functions of the Reconstruction Finance Corporation. The SBA also broadened its scope to assist retail establishments, service institutions, and manufacturers not working in defense programs. The main focus of the SBA was to give financial assistance to small firms, assist small enterprises in receiving government contracts and subcontracts, and to provide technical and managerial advice and support to the small business community. The SBA became a permanent agency in 1958.

Every Congress since the 77th has recognized the need for a small business committee and voted to re-establish the Select Committee until the 92nd Congress. In 1971, the House removed the temporary status and the Permanent Select Committee on Small Business was born. In 1975, the 94th Congress enacted legislation simply renaming the committee the House Committee on Small Business.

Statement of  
Congressman George Miller  
Chairman  
Committee on Natural Resources  
  
Before the Joint Committee  
on the Organization of Congress

I appreciate having this opportunity to offer my thoughts about the future structure and organization of the Congress.

I don't think there is much question that reform of congressional organization and procedures is warranted. Structure alone does not explain the failure of the Congress to address or resolve major policy questions. But our world has become too complex and too fast-paced to permit traditional legislative practice and organization to serve as a bulwark against the legitimate concerns of the American people.

Clearly, any dispassionate analysis mandates that we reform archaic committee organization and jurisdictions. They not only delay legislation, but require that we address complex issues in a piecemeal fashion that often is totally at odds with our substantive knowledge of a particular subject.

In the case of natural resources, scientists have long understood, and policymakers are beginning to agree, that proper management and protection requires a focus on a complete ecosystem rather than the manipulation of individual components or boundary lines on a map. Yet today, land management, for example, is divided among three committees, water resources are

subject to the authority of three committees, and species protection is addressed by another committee.

Energy policy provides another example, with nuclear power, offshore energy and alternative energy development being distributed among three or more committees.

Committees must be able to comprehensively address the areas of their jurisdiction: sending land management to one committee, fish protection to another, wetlands to another, timber to another makes it very challenging, to say the least, to do justice to public resource policy. And it makes it almost impossible to incorporate into policy the scientific data that is increasingly telling us we must alter our traditional ways of addressing these issues in order to meet our objectives.

I recognize that, were a reorganization plan along these lines chosen, the Committee on Natural Resources would gain in some areas of jurisdiction and lose in others. That would serve these respective issues, and the American people, well, in my view.

I prefer drawing clear lines of jurisdictional authority to the alternative plan of consolidating committees into supercommittees. With such concentration comes the potential for mischief: fewer members knowledgeable about complex subjects; a more limited, and targeted, group subjected to outside pressures and influences; greater difficulty in securing attention for legislation introduced by a Member not serving on the Committee with jurisdiction.

Severely restricting Committee membership also may have the unintended result of parochializing Congress by compelling members to serve only on the Committee that is most connected to their particular district, and forcing them to forgo more national concerns. In addition, such a limitation could result in certain committees being dominated by Members who are most politically vulnerable to the very interests they are supposed to oversee.

Let me raise some additional ideas on how to expedite House action in instances involving multiple referrals because of shared jurisdiction, and especially joint referrals.

A joint referral cannot be allowed to frustrate House action because of the unwillingness of one of the committees to act. We all know of cases where a bill referred to two or more committees is precluded from consideration by the full House because one of the committees refuses to consider the measure.

I propose that one of the committees sharing a joint referral reports the measure favorably, the bill should become a candidate for floor consideration within a reasonable period of time -- say 60 calendar days -- unless the another committee of jurisdiction votes against reporting the bill. Mere inaction by a second committee would not longer be sufficient to frustrate the legislative process. This reform would give one of the affected committees the opportunity to accelerate consideration of the bill, but respects the equivalent authority of any other

committee with jurisdiction that votes against sending the measure to the full House.

Lastly, I do want to say that critics often exaggerate the degree to which structural impediments frustrate the legislative process. In many cases, the complexity of issues, and the strategic gamesmanship inherent in any human activity -- politics, sports or business -- all play at least as great a role as the organizational flaws, and probably more.

Experience shows that where there is leadership from the Executive Branch and Congress, we possess the capacity for expeditious and sweeping action. I would cite as an example last year's Energy Policy Act and this year's budget resolution.

Lastly, let's remember that structural changes are not limited to committee organization and jurisdiction. The Senate, for historical reasons we all understand, offers important legislation no such guarantees. Instead, a small minority -- even a single senator -- can "hold" a bill up for months. The use of the modernized filibuster similarly accords to a single individual the ability to frustrate the will of the overwhelming majority.

These devices have a long tradition, I realize, and I less than optimistic they can be altered. but truth be told, they belong to the past; they are the enemies of open debate and honest legislation. They constitute parliamentary blackmail, not the legitimate defense of states or citizens, and the Senate should replace them with procedures that fully protect the right

of the minority to participate and request votes, but that does not continue to accord to the minority the ability to derail the entire process. No individual in the Congress, and no unrepresentative minority, should possess that power.

Again, I wish to thank the members of the joint committee for this opportunity to present my views. I remain ready to offer the Committee whatever assistance I may be able to provide during your important deliberations.

**TESTIMONY OF SENATOR PATRICK LEAHY  
BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS  
APRIL 27, 1993**

Much has been said lately about the "gridlock" in Congress. Political ideologies aside, it is clear that the legislative process has been slowed down by the differing committee jurisdictions.

**HOUSE AND SENATE JURISDICTIONAL ISSUES**

This process is slowed, in particular, by the number of bills requiring sequential and joint referrals in the House. For example, the 1990 Farm Bill conference had 104 House Conferees from eight different House committees while the Senate had only five conferees, all from the Agriculture Committee. The size alone of these conferences makes it often impossible to come to a timely resolution of differences. In addition to overlapping jurisdictional problems in House-Senate conferences, there are also jurisdictional problems among Senate committees.

**SENATE JURISDICTIONAL ISSUES**

The Committee on Agriculture, Nutrition and Forestry, which I chair, has overlapping jurisdiction with other Senate committees in three principal areas. These three areas are forestry, food safety and financial instruments.

**Forestry**

Both the Committee on Agriculture, Nutrition and Forestry and the Committee on Energy and Natural Resources have jurisdiction over forestry matters. The overlapping jurisdiction appears to arise from the fact that the Forest Service was part of the Department of Interior before it was transferred to the Department of Agriculture in 1905.

The Committee on Agriculture has authority over "forestry, and forest reserves and wilderness areas other than those created from the public domain." The Committee on Energy and Natural Resources has jurisdiction over "public lands and forests, including farming and grazing thereon." Thus, the Energy Committee's jurisdiction is limited to Federally owned forests.

When the issue of the overlapping jurisdiction between the two committees is brought up, some argue that if jurisdictional duplication is eliminated, jurisdiction should be concentrated in the Energy Committee. This presumption arises from the wide press coverage given to Federally owned forest issues in the West. In fact, only 21% of all forest land in the United States is in public ownership, both State and Federal. The bulk of non-public land is also located in the East. Including all forestry jurisdiction in the Energy Committee would



build a public lands western bias into forestry matters at just the time that timber production is shifting from publicly owned lands in the west to privately owned lands in the east.

The referral of wilderness bills has been worked out by the Parliamentarian so that proposed wilderness areas on lands that have always been a part of the public domain are referred to the Energy Committee. Proposed wilderness areas located on land which were acquired by the Federal Government are referred to the Agriculture Committee.

A review of the comparative activity between the two committees also indicates that the Energy Committee deals with far more legislative matters than the Agriculture Committee. If the Senate wishes to equalize workload, it would argue for consolidating all forestry jurisdiction in the Agriculture Committee.

### **Food Safety**

The second major area of overlapping jurisdiction is food safety. Jurisdiction over food safety is shared among three committees, the Committee on Agriculture, Nutrition and Forestry, the Committee on Labor and Human Resources, and the Committee on Commerce. The Committee on Commerce's jurisdiction relates only to the inspection of fish. The split jurisdiction on food safety issues has prevented action on a comprehensive fish inspection system in spite of the direct interest of the Majority Leader in passing such legislation.

The two committees with the primary food safety jurisdiction are the Agriculture and the Labor Committees. The Agriculture Committee has jurisdiction over the "inspection of livestock, meat, and agricultural products." It also has jurisdiction over "human nutrition" and "home economics." "Home economics" is the term used to describe the process of teaching consumers about food preparation and use. "Food from fresh waters" and "school nutrition programs" are also within the Agriculture Committee's jurisdiction. The committee has also consistently received referral of legislation related to the use of pesticides.

The Labor Committee's jurisdiction over food safety is derived from the reference to "public health" in the Senate Rules.

This year, the Senate will be faced with decisions related to the "Delaney Clause" which forbids even trace amounts of cancer causing chemicals including pesticides in processed food. Issues related to this matter will involve both the Labor and Agriculture Committees.

As with forestry issues, if the Senate wishes to consolidate jurisdiction to equalize the workload in the Senate, food safety jurisdiction could be consolidated in the Agriculture Committee, or perhaps a newly named "Committee on Food, Agriculture and Forestry." In the 101st Congress, the Labor Committee received referral of 374 bills while the Agriculture Committee received 199 bills.

## Financial Instruments

The third area of perceived jurisdictional conflict involves financial instruments. Since at least the beginning of this century, the Committee on Agriculture has considered bills related to the commodity futures markets. These markets began as a means to limit risks in agricultural products and Federal oversight was limited to agricultural commodities until the mid-1970's. More recently, active regulated futures markets have emerged for a wide array of products including not only agriculture but also energy and energy products, metals, commodities and securities indices, insurance, pollution rights, lumber, foreign currencies, and a variety of financial instruments and interests.

During this period, the Agriculture Committee has been called upon to investigate many issues and crises involving futures markets. Recent decades have seen in depth investigations ranging from the London option trading scams of the mid-1970's, silver corner of 1979-1980, and the Chicago FBI "sting" of 1989 which resulted in indictments of 46 floor traders to the 1987 stock crash and the recent controversies involving off-exchange "derivative" products such as "swaps" and hybrid securities. These inquiries have resulted in the committee reporting several major bills, now law, covering futures markets in all commodities across-the-board, including the recent Futures Trading Practices Act of 1992.

I am proud of our committee's record of accomplishment in this difficult and complex area. It gives us a strong basis for continued work as markets evolve into the 21st Century.

Since the late 1970's, some conflicts have arisen over futures-related issues between the Banking Committee and the Agriculture Committee. These conflicts are based on the Banking Committee's very important interest in securities and financial markets, some of which have economic ties to actively traded futures markets. Generally, we have worked through these issues in a cooperative manner, and I would have every intention of continuing in this manner.

I would advise strongly, however, against any proposals to fragment jurisdictional responsibility for futures markets among individual Senate committees which oversee specific commodities. If oversight over futures were divided by commodity subject jurisdiction, at least four Senate committees would receive authority over some part of this market: Agriculture for farm goods, Banking for securities, Energy for crude oil and energy products, and Environment for pollution rights. Coherent policy-making would become impossible. The committee's record of strong industry-wide consumer protection legislation could fall by the wayside.

I believe that we should keep jurisdiction and oversight for commodity futures markets in the Committee on Agriculture which has a proven record of accomplishment in this area. Even if Congress should consider ideas to merge or reorganize Federal financial regulatory agencies in coming years, the Agriculture Committee's authority for futures should be maintained so as to assure continued effective oversight of the futures element of the financial

picture.

This approach also has the benefit of maintaining a parallel structure with the Appropriation's Committee on this matter. The Commodity Futures Trading Commission is funded in the Agricultural Appropriations Bill.

#### **THE BUDGET, THE AUTHORIZING COMMITTEES AND THE BYRD RULE**

The Senate rules related to reconciliation matters are operating in a way that is undermining the ability of the authorizing committees and the Senate to properly consider authorizing legislation.

In this year's budget resolution there are several instances in which the budget resolution directs the House's authorizing committees to make changes in authorization law in addition to instructing those committees to change direct spending and revenue law. The corresponding Senate authorizing committees did not receive instructions to change authorization law.

Unequal reconciliation instructions place the Agriculture Committee and the Senate in a very weak position in relation to the House when the conference on the Budget Resolution occurs. The House version of the Budget Resolution will contain legislative language on a number of matters which the Senate's version of the resolution will not include. Thus, in conference the Senate will be dealing with a position fully developed by the House, while the Senate has no position whatsoever.

I have inquired with the Budget Committee about why the House authorizing committees received reconciliation instructions to change authorization law, while the Senate's committees did not. The Budget Committee informed me that under section 313 of the Congressional Budget and Impoundment and Control Act of 1974, (the so called "Byrd" Rule), the same legislation could not be reconciled to the authorizing committees in the Senate because it would be considered extraneous.

Authorization legislation is considered "extraneous" under the Byrd Rule if the Budget Committee has decided that an account the proposed legislation affects is "discretionary." Only the Appropriations Committee can be credited with savings in that "discretionary" program. The program can be called "discretionary" even though authorizing legislation mandates that a program operate in a certain manner. Thus, if the authorizing committee changes the law it has written to achieve the savings required by the budget resolution in such a "discretionary" account, the authorization committee's change would be considered "extraneous" under the so-called Byrd rule.

An example of this problem involves the proposal President Clinton has made to reduce spending for rural electric cooperatives. Authorizing legislation long ago set the rate of REA loans at 5 percent. The subsidy itself, which is the difference between the Federal

Financing Bank rate and the 5 percent statutory rate, is considered a discretionary item and is thus scored against the Committee on Appropriations. However, to effect fully the change in the program recommended by the President it will require a change in the authorizing legislation which requires that such loans be at the 5 percent rate. If the authorizing committee attempts to make this change in the Reconciliation Bill for 1994, its legislation will be considered extraneous and subject to a sixty vote point of order. If, on the other hand, the change in the interest rate is made by the Appropriations Committee, it would be acting in violation of Rule 16 which prohibits authorizing legislation on an Appropriations Bill. It may be technically possible to draft such a change in the law to be in strict conformity to Rule 16. However, by drafting the law in this manner it would certainly violate the sense of rule 16 and the proper relationship between authorizing committees and the Committee on Appropriations to include such a change in an appropriations bill.

I would like to see a procedure developed which permits the Senate authorizing committees to include authorizing legislation in a Reconciliation bill. This procedure would only apply if the Budget Resolution has directed the House's authorizing committees to make changes in authorizing laws.

#### **LIMIT ON COMMITTEE MEMBERSHIP**

Lastly, we should consider not allowing a Senator to serve on more than three committees. It should not make any difference whether they are three select committees, "A" committees, "B" committees or any combination. Whatever the combination, a Senator should not be a member of more than three committees.

STATEMENT OF SENATOR FRANK MURKOWSKI  
April 27, 1993

I appreciate your invitation to share my views. Having served as Vice Chairman of the Select Committee on Intelligence, and as Chairman and now Ranking member on the Veterans' Affairs Committee, I will discuss four specific matters in the context of reform of the committee system.

First, if a goal of congressional reform is to encourage greater bi-partisanship, I believe the Intelligence Committee can serve as a model for achieving this goal. The committee was structured, both in terms of membership and in terms of staffing, to strongly encourage the majority to confer with the minority in the following ways:

- \* The committee has a Chairman and a Vice Chairman. The Vice Chairman has been expected to act in the absence of the Chairman. Under the Chairmanship of Senator Boren, it was our practice that decisions in writing, such as responding to re-programming requests from agencies, needed the signatures of both the Chairman and Vice Chairman.

- \* Another key structural feature of the Intelligence committee is that there is only a one-vote margin. I do not recall a single party-line vote during my time on the committee.

- \* Finally, the majority and minority share two important staff components: the budget and audit staffs. These

staffs, particularly the budget staff, are expected to serve the needs of all members of the committee, regardless of party.

In sum, I believe bi-partisanship should be stressed in foreign affairs, national defense and intelligence, and the Senate Intelligence Committee can serve as a model.

In the context of the Veterans' Affairs, the committee is not structured like the Intelligence committee, but there exists a spirit of bi-partisanship because of the attitudes of the committee leadership. Furthermore, the subject matter is not typically tied to party ideology. Veterans did not serve their country as Republicans or Democrats, and their service and sacrifice should be repaid on the same, non-partisan basis.

This brings me to my second point: whatever reform you undertake, you should maintain the Senate and House Veterans' Affairs committees and not meld their functions into other authorizing committees. I urge this not to protect turf, but to stress that the Veterans' committees authorize enormous budgets (\$35 billion for health care and benefits), and they work with and hold nomination hearings for officials who administer a huge department that runs the free world's largest health care and benefits system with a civilian workforce of over 250,000 people. I have reviewed the testimony of Senator Rockefeller on this point, and he will elaborate more fully on the need to maintain

the Veterans' committees. I am firmly and fully in support of his views and arguments. I will simply add that we are at a crucial time in fashioning a national health care plan, and our committee is spending a great deal of time and effort to decide how the health care of our veterans will fit into the national plan. This would be a particularly inappropriate time to do away with the Veterans' Affairs Committee.

A third item I would like to discuss is the importance of congressional oversight. Again relating to my experience on the Intelligence Committee, it is safe to say that the vast majority of our work was basic oversight, rather than legislating. Yet, oversight for many committees is not stressed enough, and committees are not necessarily structured to accomplish meaningful oversight.

The Intelligence Committee, under Senators Boren and Cohen, formalized one method of oversight by establishing an audit staff, shared by both the majority and minority, and managed by the two staff directors. The Director of Central Intelligence accepted the importance of the staff and gave access to whatever programs were under review. The results of the audits were referred to the Director of Central Intelligence under letters signed by the Chairman and Vice Chairman, thus stressing the importance of the staff's oversight work. Recommendations of the audit staff have been taken very seriously, and implemented. While I cannot discuss in open session the various programs that

were reviewed by our audit staff, I can say here that they represented important systems that typically cost large sums of money.

I stress the importance of an audit staff for oversight because Congress must pay serious attention today to controlling costs. The scarce funds we appropriate must be spent carefully and wisely. This is not to say that Inspectors General in the various agencies are not useful. They serve a different purpose, however, and have different reasons to examine programs than do congressional committees. Our responsibility is to make sure agency programs meet the expectations we establish, and that our spending decisions make sense in the overall context of agency missions.

Senator Rockefeller and I have given some thought to establishing an audit staff for the Veterans' Affairs Committee, and we may make such a proposal to the Rules Committee next Congress. In the meantime, I urge your committee to consider the importance of audit staffs as you examine the congressional committee system.

A fourth, and final, matter I would like to discuss relates to the jurisdiction of the Senate Select Committee on Intelligence. Unlike the House Intelligence Committee, the Senate committee's jurisdiction does not include tactical military intelligence. While I cannot discuss the funding for military intelligence in open session, suffice it to say that it



is a large component of the overall intelligence budget. The Senate Armed Services Committee has jurisdiction over this account, and this causes enormous difficulties in terms of oversight and budgeting. For example, it is exceedingly awkward for Senate Intelligence committee negotiators to deal with their House counterparts in a conference, when we are not empowered to discuss tactical military intelligence in the context of the overall authorization for the intelligence community.

This is a problem that Senator Boren and I discussed directly with the Armed Services Committee last year when we advocated a change in jurisdiction as part of an intelligence reorganization bill. Our proposal did not prevail, yet I urge this committee to take a careful look at making sure that the jurisdictions of Senate committees align with those of House committees.

I appreciate this opportunity to share my views.

## Statement

of

Senator John D. Rockefeller IV  
Chairman  
Committee on Veterans' Affairs  
U.S. Senate

before

The Joint Committee on the Organization of Congress

April 27, 1993

Chairmen Hamilton and Boren, Vice-Chairmen Dreier and Domenici, and members of the Joint Committee, I am enormously pleased to be appearing here before you today, together with my friend, the Veterans' Affairs Ranking Minority Member, Frank Murkowski, to discuss the "structure of, and the relationship between, the various standing, special, and select committees of Congress", at least with respect to the Senate Committee on Veterans' Affairs.

At the outset, I commend you for your effort on behalf of all of us who labor in the Legislative Branch. There is a strong sense around the country that government is not working, including the Congress. Much of that sentiment seems to me to be grounded in myth and misunderstanding. But there is also some validity to the public's distress. Surely we can do our business more effectively and more efficiently. Your work is essential to bringing about useful changes so Congress does a better job.

I also have to commiserate with you on the part of your charge that you are pursuing at this point, namely, the overall question of the current committee structure of the Congress. I suspect that most, if not all, of the Chairmen and Ranking Minority Members who will appear before you will be quick to point out that, whatever systemic problems may exist with the current committee structure, their committee is functioning as intended and surely should be maintained. And, not to keep you in suspense, I will make precisely that argument and hope that my presentation will persuade you to agree.

It cannot be easy to sort through the many impassioned defenses of at least a part of the status quo to find those elements that are functioning well and those which should be changed.

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I am a new chairman, having assumed the chairmanship of the Senate Veterans' Affairs Committee at the beginning of this Congress. I was appointed to the Committee at my request in 1984, when I first came to the Senate. Over the years that I have served on the Committee, I have served under various alignments -- first, in the minority with a Republican President, then in the majority with a Republican President, and now, during this Congress, as the chairman with a Democratic President.

Believe me, I prefer the current situation over all the others I've experienced.

But I also feel that the variety of experiences while on the Committee have given me some insights into how it operates in different circumstances and, I hope, prepared me to some degree to function as its chairman.

One thing that I have witnessed first hand is the bi-partisan nature of our Committee, as well as the strong bi-cameral relationship we have with our counterpart in the House. We generally succeed in this regard because, whatever our differences in preferred approaches to a given issue, we are unified in our commitment to meet the needs of the nation's veterans and their survivors. Of course, the very nature of the legislative process and the relationship between the legislature and the executive does lead to times when the spirit of bi-partisanship is strained if not broken.

As you may know, our Committee is relatively new, having been established in 1971, pursuant to a recommendation by a predecessor Joint Committee on the Organization of the Congress. And I want to put emphasis on this point -- the main reasons for the Committee's establishment then -- the recognition that the complex and costly range of veterans benefits and services, the vast majority of which are under the purview of a single Executive Branch entity, should be dealt with by a single committee, and the desire to create a parallel structure with the House, where the Veterans' Affairs Committee was established shortly after World War II -- remain valid today.

I think the fact that the two Veterans' Affairs Committees have directly parallel and congruent jurisdiction is a very important point and I urge you to give that factor significant weight as you evaluate what committee structure to recommend. Indeed, I think that our committees could be a model for other House and Senate Committees. Any proposal to change the current situation, unless it were done in directly parallel ways in each House, could easily result in the sort of split and overlapping jurisdiction between the two Houses that so many believe is counterproductive to effective legislative activity.

With specific reference to the jurisdiction of our two Committees, I think that it is important to note that, while it may appear that our jurisdiction is narrow, being limited as it is to veterans matters, there is a great variety of issues under that rubric that command our time and attention.

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Our Committee carries out an extensive legislative agenda which, during the last Congress, resulted in the enactment of 24 new public laws on matters ranging from issues associated with the Persian Gulf War to a major reform of the VA's program that benefits widows and dependents of those veterans who die from injuries incurred in service.

During the course of the 102nd Congress, the Committee held 31 days of hearings, including three days on the needs of Persian Gulf War veterans, two days on the health-care needs of women veterans, and five days on VA health care issues.

We are responsible for the confirmation of nominees to 21 positions -- 13 in VA, 7 on the Court of Veterans Appeals, and one in the Department of Labor.

I think it is important to discuss some of the Committee's history at this point, in further support of the role we play and the need for our continued maintenance.

Since its establishment in 1971, the Committee has been an effective advocate for adequate funding levels for veterans medical care. Following landmark hearings beginning in early 70s which exposed the horrible conditions in VA medical centers that were greeting returning Vietnam veterans, the Committee undertook efforts to increase the funding and staffing for the health care system. More recently, based on the work of the Committee to document the disturbing shortfalls in medical care funding, Congress, during the last 10 years alone, increased the Administration funding requests for medical care by a total of more than \$3 billion.

The Committee has exercised great leadership on issues related to veterans exposed to Agent Orange and radiation during their service, including the landmark Agent Orange Act of 1991 and the efforts in the mid-80s that revealed the enormous health hazards to which the government knowingly exposed servicemembers who participated in the nuclear weapons testing program. The Committee's work on these issues has had broader effects in pushing the frontiers of scientific knowledge about all environmental hazards, such as radon, dioxin, and other radiation as discussed in the most recent NAS report on the biological effects of exposure to ionizing radiation (BEIR V).

Before discussing the range of veterans benefits and services that are administered by the Department of Veterans Affairs, which is what explains the Committee's level of activity, I think it is important first to discuss the overall mission of VA and of the Veterans' Affairs Committees, for it is that mission, and the need to fulfill it, that is, in my view, the greatest single argument for maintaining the Veterans' Affairs Committees.

Stated simply, the mission of the Veterans' Affairs Committees and of the Department of Veterans Affairs is to ensure that we as a nation honor the commitments

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to those who served us, often in times of need, and often at great sacrifice to themselves. Too often, this commitment, this obligation to those who answered the nation's call, gets lost or forgotten. Sometimes issues relating to the appropriate benefits and services for those who served, those who defended us, get lumped with other obligations of government, as though all things the federal government does should be on an equal footing. Plainly, this is not so and we must never diminish the obligation that is owed to those who served in the Armed Forces.

President Lincoln, perhaps the President with the greatest sense of the depth and immediacy of that obligation, spoke of it this way in 1864

All that a man hath, will he give for his life. While all contribute of their substance, the soldier, the soldier puts his life at stake and often yields up in his country's cause. The highest honor then is due the soldier.

These words ring no less true today. Indeed, as we stand on the threshold of a new era, as the Cold War seems truly to be over, we should pause to recall how we came to be here. We should pause and remember those who served -- from the World Wars, through Korea and Vietnam, to the nation's most recent conflict, in the Persian Gulf -- and reflect on what their service has gained for us all and on what they are owed by a grateful nation for that service.

We must keep faith with those who served, for that's the sort of a people that we are. And, on a far more pragmatic level, we must honor the commitments to those who served in that past so that those who are considering entering service today know that promises made to them today will be kept when their service ends.

To fulfill this fundamental obligation, we as a nation have established a wide range of veterans benefits and created the Department of Veterans' Affairs to administer those benefits. And it is the Veterans' Affairs Committees that oversee the VA to ensure that the job is being done in ways that the Congress intends.

This task of overseeing VA is an enormous job and is a key reason supporting the maintenance of a single veterans' affairs committee. Let me note briefly some facts about the VA to give some sense of the order of magnitude of the job of oversight.

VA employs over 250,000 employees, including over 200,000 in the health-care system. To take just one facet of that enormous workforce, let me note that, of that number, there are over 33,000 nurses. This makes VA the largest single employer of nurses in America and, thereby, a key force in the development and advancement of that profession.

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By virtue of those who might qualify for benefits, VA has a potential impact on approximately one-third of the U.S. population, including over 26 million veterans and over 50 million dependents and survivors. There are few areas of American life that VA does not touch and influence.

The Department distributes monetary benefits -- principally, compensation for veterans with current disabilities related to their service and pension for needy, totally disabled wartime veterans -- totalling over \$16 billion annually.

It operates the nation's largest health-care system -- equivalent to about 450 average-size community hospitals -- which furnished inpatient care to over 1 million veterans and over 23 million outpatient episodes in fiscal year 1992. The VA health-care system is also involved in training physicians and other health-care personnel and VA research is a vital national resource. As I will discuss in more detail in a moment, the VA health care system must play a significant role as we prepare to reform our overall health care system.

VA directs a popular and effective program of education benefits that includes the Montgomery GI Bill which has over 1.4 million currently enrolled active-duty beneficiaries. The World War II GI Bill has often been called one of the most far reaching, significant government programs ever for the changes it created in access to higher education for so many.

It also manages a home loan program which has made it possible for over 13 million veterans and their families to achieve the American dream of home ownership.

If nothing else, I hope this brief description of the VA suggests that there is a need for significant level of focused activity in the area of veterans affairs, both in terms of legislative activity to improve, update, or otherwise modify existing programs and, far more importantly in my view, in terms of oversight activity. And, as I will discuss in more detail in a moment, I have seen no suggestion of a better way to do that than through the existing structure of the two Veterans' Affairs Committees.

As I just noted, the present activity on health care reform being led by the First Lady's Task Force is a key example that demonstrates the utility of the current structure. VA's health care system is immense and, as such, is deeply involved in many aspects of our nation's present approach to meeting the health care needs of our citizens. The question of the role that the VA system is to play under health care reform is a very complex and politically sensitive one.

If, as I suspect will happen, the President's health care reform plan incorporates a system of managed competition, I would favor including VA as an active participant in that system and, in so doing, ensuring that it has the tools to be competitive. However, stating the desirability of that result, on the one hand, and developing a scheme

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whereby that may happen, on the other, are very different matters and a lot of hard work will be entailed to reach the desired end.

Many questions -- such as, to whom will VA furnish care under national health care reform, how will the costs of VA-furnished care be covered, what services will VA offer, and the like -- will occupy the two Veterans' Affairs Committees for many months and will entail significant hearing activity. Indeed, our Committee has already held three hearings just to collect background information in anticipation of the President's announcement of his plans for reform.

While there will certainly be differences within and between our Committees on the many issues relating to VA's role under national health reform, I am convinced that we will develop a workable compromise that will maintain the system and integrate it into the overall plan.

On the other hand, if our Committees did not exist and VA health care was under the jurisdiction of some other Committee or Committees that deal with general health issues -- and I have some familiarity with such a committee, through my service on the Finance Committee -- I fear that issues relating to VA could be lost in the shuffle and the VA system, and consequently veterans, could be mistreated in the process.

Also, if VA health care was under a committee dealing with general health issues, concerns about the system might well not be considered in connection with other VA benefits -- for example, under current law, veterans with service-connected disabilities are accorded a priority for VA health care, a result that I am satisfied is correct. As a consequence, our Committee looks at issues relating to service connection in the context of the potential impact of any new legislation on the health care system, a result that would likely be lost if the jurisdiction for veterans matters was divided among several committees.

As important as our Committee's legislative responsibilities are, and I am convinced that they are significant, our oversight role is much more vital. While I am satisfied that the two Committees carry out a significant level of oversight -- through contact with constituents and employees over the phone, in correspondence, and through site visits; by utilizing VA's IG and GAO to carry out specific studies and investigations; by major oversight letters to the Department; and by oversight investigations and hearings -- I am concerned that we must do more.

As you know and appreciate, oversight is very labor intensive. Our Committee has traditionally had a very small staff and it just got smaller when funding was reduced earlier this year. The Committee staff now has a total of 22 positions compared to the House Committee's staffing of 44 positions. When this staffing is placed against the demands for work effort, to include legislative activity as well as the

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need for oversight effort, the paucity of the available resources becomes painfully evident.

Taking virtually any aspect of VA -- the quality of VA health care, problems with the timeliness of the process by which claims are adjudicated, VA's construction or procurement programs, the Department's efforts to utilize new information management technology, just to name a few -- the critical need for increased, focused oversight by our Committee is evident. This becomes even more evident when the dollar value of the various VA programs is put in the balance. Surely the ratio of our Committee's staff size to the size and budget of the programs the Committee should oversee is one of the most out-of-balance of any committee in either House. However, with the existing limits on staffing, there is little that can be done to make significant changes.

While both the IG and GAO can and do play a role in oversight activity, both have drawbacks. With GAO, there is frequently a long lead time before a particular investigation can be completed and reported upon. In addition, it is not always possible to be certain that the individuals carrying out a particular oversight effort fully understand or appreciate the Committee's concerns.

The IG, on the other hand, while frequently having a good sense of the specifics of a particular issue, is handicapped by virtue of reporting both to the head of the Department as well as to the Congress. Also, I have been frustrated by the fact that there does not appear to be a good mechanism to have the IG's work, either in general or on a specific investigation, reviewed. Without some ability to check on the work product, it becomes difficult to place great reliance on the findings and recommendations that may result.

As part of your overall effort, I urge that you look closely at the committee oversight role and propose various ways that this part of our work might be improved.

In connection with preparing to appear here today, I reviewed the various options for committee reorganization that were prepared by CRS and sent out by the Committee as an enclosure to an April 1, 1993, letter. Before I comment specifically on the option paper, I want to reiterate and reemphasize the points I made earlier about why I am satisfied that the two Veterans' Affairs Committees should be retained as is, regardless of whatever other changes are made in the committee structure.

The first point that supports this point is that the subject matter that constitutes our jurisdiction -- veterans benefits and services -- is complex and significant in terms of its cost and human implications. While the matters with which we deal are extensive in their scope -- ranging from health care to compensation, insurance to education, rehabilitation and other readjustment matters to burial benefits, and any number of other matters -- they are tied together by the notion that they constitute the nation's response to those who served us all in the armed services.



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These matters do not fit into any other single committee's jurisdiction, a fact that is demonstrated by the various options suggested in the CRS document. This point can also be demonstrated by looking at where veterans matters were being addressed in the Senate prior to the establishment of our Committee in 1971. At that point, three other committees -- the Labor and Public Welfare, Finance, and Interior Committees -- all exercised some jurisdiction. Aside from demonstrating the need for a single committee, which I believe this history does, it is interesting to note that there was no involvement by the Armed Services Committee, although some today suggest that placing veterans affairs under that committee is logical and appropriate.

As I noted earlier, the vast majority of veterans' benefits and services are under the purview of a single Executive Branch entity, which, in my view, should be overseen by a single committee in both Houses. The fact that the two Veterans' Affairs Committees have directly parallel and congruent jurisdiction is a very important point and I again urge that you give that factor significant weight as you evaluate what committee structure to recommend. Any proposal to change the current situation, unless it were done in directly parallel ways in each House, could easily result in the sort of split and overlapping jurisdiction between the two Houses that so many believe is counterproductive to effective legislative activity. The alternative that has been suggested by some -- of continuing to keep all veterans matters together and establishing a veterans affairs subcommittee on another committee -- makes little sense to me. Is the point of such an action to demonstrate that these issues are of little consequence? That hardly seems like the message that anyone would want to send.

Let me turn to the specifics of the CRS option paper. I realize that the options presented in that paper were just that -- options -- and that the Committee did not endorse, or indeed, even analyze, the material presented. As a consequence, I did not carry out an exhaustive review myself but instead looked through the materials to find how the Veterans' Affairs Committees and the issues we now deal with were addressed in the different options. Without making too much of that review, I do note that I was struck by a couple of points.

First, the very different ways in which the various options propose to deal with veterans issues ratifies my view regarding the appropriateness of retaining the existing structure. Of the fourteen options presented, six of the models call for that result, albeit with some minor variations, including a change in the Committee's name in one. Of the remaining eight, three would address most veterans issues in connection with national defense matters and four would have these matters included with others under the rubric of human resources. One, Plan B, seems to leave veterans issues out entirely, except for veterans' housing, which is shown under the Commerce & Housing Committee.

Leaving aside the model that suggests that there is no future requirement to address veterans issues, I think the various options demonstrate, if nothing else, the

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cross cutting nature of the issues that the existing Veterans' Affairs Committees deal with. And should continue to deal with.

Should there be serious consideration to abolishing our Committees -- and let me be absolutely clear, I do not advocate nor support such a result -- I believe that veterans matters should be handled by whatever committee has jurisdiction over national defense matters. To combine veterans affairs matters with other issues under the heading of human resources would be to miss the nature and extent of the obligation to those who served in the armed forces of which I spoke earlier.

The second general thought that I had after reviewing the impact of the options on veterans matters was that there were some anomalies among the various options. As I already noted, one option seems to have left veterans matters out entirely. A second, Plan K, which is described as intending to "pattern the House committee system more on the model of the Senate", places veterans issues under the Armed Services Committee. This surely gives me, as a member of the Senate Committee, some pause. I was also struck that, despite the fact that there is a Veterans' Affairs Committee today in the Senate, when the total number of Senate standing committees is sixteen, a Veterans' Affairs Committee does not show up under the various number-based options until there are thirty-seven committees per chamber. Finally, I was struck by Plan M, which is described as creating a committee structure that is "parallel with appropriations subcommittees."

While I have not been a chairman long enough to have had sufficient experience to comment on the relationship between the authorizing process and committees, and the budget and appropriations process and committees, and while I have a good personal and working relationship with Senator Mikulski, the Chair of the VA, HUD, and Independent Agencies Appropriations Subcommittee in the Senate, I was struck by the apparent lack of any basis, other than historical, for VA being tied to HUD and the various independent agencies. It is clear that this result stems from the Department's prior status as an independent agency, the Veterans' Administration, and not from any substantive linkage. Whether that prior arrangement made sense or not, it may be worth reconsidering that tie now that VA is a department.

Some have advocated the creation of a VA-only subcommittee on the Appropriations Committees. While that would simplify matters in terms of establishing a clear, separate source for funding that was coincident with the authorizing committee, such a result seems unlikely to me. I urge that, as you wrestle with the overall issue of the relationship between authorizing and appropriations committees, that you give consideration to VA's current placement and, if some change seems desirable, that you consider placing VA with DoD.

Before closing, I have a few side issues that I wanted to mention to you.

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First, notwithstanding the concerns I raised a few moments ago about GAO in the oversight process, it has been my experience that the Congress is well supported and well served by GAO and by the other Congressional agencies -- CBO, CRS, and OTA. Our Committee has had a particularly strong relationship with OTA, dating back to 1979, of relying on OTA's expertise to pass on the validity of statutorily mandated studies.

Second, one element of our Committee structure that warrants some mention is that we do not have subcommittees. From 1971, when the Committee was established, until 1978, the Committee did have subcommittees. However, given the small size of the Committee and what were seen as extra demands on the members to participate in subcommittee activities as well as in full committee activities, subcommittees were abolished. While this results in more full committee hearings and, frankly, some fewer number of hearings than I might otherwise wish to hold, it has generally been successful.

Finally, with reference to committee jurisdiction issues, there is one anomaly in the current Senate Rules, which shows up repeatedly in the various options developed by CRS, whereby matters relating to veterans housing are listed as being under the jurisdiction of the Banking, Housing, and Urban Affairs Committee. As a practical matter, while our Committee maintains a close working relationship with the Housing Subcommittee of the Banking Committee on federal housing programs, jurisdiction over veteran housing matters has always been exercised by our Committee. As you carry out your review of committee matters, I urge you, unless you find some reason to decide otherwise, to recommend that the Senate Rules be revised to reflect this reality.

I thank you for this opportunity to appear before you today. I again commend you for your dedication and commitment to improving the way we do what we were elected to do. I of course stand ready and willing to assist you in any way appropriate.

TESTIMONY OF CONGRESSMAN TONY P. HALL  
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

April 29, 1993

Mr. Chairman and members of the Joint Committee, I appreciate having the opportunity to appear before you today. I am pleased to be joined by my friend and colleague Bill Emerson, who is also a member of this committee and who was the Ranking Minority Member of the Select Committee on Hunger.

Until March 31st of this year, I had the honor of chairing the Select Committee on Hunger. As you know, on that date, this select committee was allowed to expire. I had wanted the Select Committee on Hunger to keep operating until the Joint Committee on the Organization of Congress had the chance to recommend comprehensive reforms which would include how best to handle the issues the Hunger Committee addressed. Although the Select Committee on Hunger no longer exists, I would urge the Joint Committee to find a way to fulfill its mission.

The Select Committee on Hunger was created in 1984 to provide a coordinated focus on a wide variety of both domestic and international hunger-related issues. Matters we considered crossed the jurisdictions of some ten standing committees. Individual standing committees did good work on different hunger issues, but until the Select Committee on Hunger was established, there was no single committee that looked at the whole picture.

With the death of the Hunger Committee, the standing committees with legislative authority will continue to deal with their separate pieces of the hunger pie. But the focus, the leadership, and the special institutional voice the Select Committee provided will be lost.

Take the issue of domestic hunger. Obviously, this is a problem we all want to solve. But, if we were to sit down to develop a plan to end hunger, who would write it? Right now I can't answer that question. The Agriculture Committee could report the Mickey Leland Childhood Hunger Relief Act, but that only affects the Food Stamp program. Similarly, the Education and Labor Committee could expand the School Lunch and School Breakfast programs and the Ways and Means Committee could overhaul AFDC, but these programs too are only pieces of the puzzle. This type of fragmentation makes it nearly impossible to address the issue of domestic hunger in a comprehensive manner.

Over and above this problem is the fact that hunger and similar human needs issues take a backseat to the flashier issues that committees with jurisdiction also handle. Let's face it, hunger issues win neither acclaim nor votes. If given the choice between considering the needs of the poor or stimulus projects, naturally most of us would choose to focus on the latter, in deference to the people who put us in office. I sympathize with this choice, but that does not mean that we simply can ignore the hungry. Human needs issues demand nothing less than some sort of a committee of their own, so they need not compete with other issues, and so Members need not make such difficult choices.

There are two options the Joint Committee realistically could consider regarding jurisdiction over hunger-related issues.

First, you could rethink the current categories for the legislative or authorizing committees. For example, you could form a new Committee on Infrastructure which would include roads, bridges, housing, public buildings, communication operations, and transportation networks. This would involve combining functions that are now under the jurisdiction of Public Works, Energy and Commerce, and Banking.

Similarly, you could create a new Committee on Human Needs, which would generally address issues like hunger, nutrition, poverty, and development. This committee would address certain matters that currently are handled by Agriculture, Banking, Education and Labor, Ways and Means, and Foreign Affairs. The Committee on Human Needs could have a Domestic Subcommittee and an International Subcommittee.

The Human Needs Committee would focus on the alleviation of hunger and poverty, both in the United States and overseas. It would handle relief programs and assistance programs, but also would seek to address the underlying causes of hunger and poverty. This means that its jurisdiction would have to encompass issues like welfare reform and international development.

The proposed Committee on Human Needs would resemble the old Select Committee on Hunger, but it would have real legislative authority and a more expansive mandate. It would operate under a tight budget and a small staff, and it would only need the two subcommittees I mentioned.

My experience with the Select Committee on Hunger has convinced me that you don't need to have a big bureaucracy and a large staff to get things done and move the issues. I believe the Select Committee model is something that can be applied to a permanent legislative committee. I think we could follow this example, not only on human needs, but on other issues as well.

If it is not feasible to start with a clean sheet of paper and recast the current legislative committee structure, then I would argue that you should take another look at the idea of a select committee. Possibly such a committee could be a joint committee with House and Senate membership.

Some have questioned whether it makes sense to have select committees since they do not have legislative authority. I found that not having to report legislation and not having to deal with a fixed legislative schedule gave the Select Committee on Hunger considerable flexibility. We could examine issues that fell between cracks. We could supplement the work of the standing committees. We could look at cross-jurisdictional matters. We also had the time to perform the kind of oversight that often escaped the legislative committees. Most importantly, we provided a forum for ideas and issues that simply would have escaped Congressional attention if we weren't around.

There was a myth that because we could not report bills we were not involved in legislation. However, we drafted a 177-page blueprint for fighting domestic and global hunger, the "Freedom From Want Act." We drafted innovative, asset-based anti-poverty legislation and we introduced an emergency WIC bill that passed in four days. We were not just some legislative think tank, we were an active part of the legislative process, working closely with the standing committees and through Floor amendments to pass our initiatives.

We established an award-winning record on the smallest budget of any committee. This committee saved lives. Yet we fell victim to the push for so-called "reform" and maneuvers relating to committee funding. There was never any real debate about the quality of our work or about the wisdom of having select committees.

I hope this Joint Committee now will hold that debate. I urge you to review our accomplishments and consider the contributions we were able to make as a select committee. The full range of our domestic and international hunger-related issues cannot be transferred in their entirety to any one standing committee. The best approach would be to revise current jurisdictions and establish a new Committee on Human Needs. The

next best approach would be to create a Select Committee on Human Needs, without legislative jurisdiction, but with a mandate to provide the focus, leadership, and coordination on these issues that is missing from the legislative committee structure.

The response I received to my recently-concluded three-week hunger fast shows that the American people will respond to the problem of hunger if we enlist their help and provide leadership. I ask your support for the creation of a committee that will have the focus and the heart to harness the clear public interest in ending hunger.



BILL EMERSON  
MEMBER OF CONGRESS  
8TH DISTRICT, MISSOURI

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HOUSE COMMITTEE ON  
PUBLIC WORKS AND TRANSPORTATION

SELECT COMMITTEE ON HUNGER

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TESTIMONY OF REPRESENTATIVE BILL EMERSON  
BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS  
April 29, 1993

Mr. Chairman:

I appreciate the opportunity to testify here this morning. I've spent the last three months on the other side of the dais, and I know that this Committee has heard me speak to these matters before. I feel so strongly about this issue, however, that I wanted to speak from this side of the table; I appreciate the Committee's willingness to hear me one more time.

In deciding how to proceed with reform recommendations, this Committee will study past successes and past failures. One past experience which the Committee would do well to study is the recent experience with House select committees. In some eyes, the elimination of the select committees may have been a success; others, including the two Members seated before you now, would disagree. But whether one views the ultimate result as desirous or not, one must concede that the process -- the means through which the select committees were eliminated -- was a failure.

This is the time for reform in the Congress; the very existence of this Joint Committee is testament to that fact. The mood of the country is ripe for reform, and with 110 new Members who came to Washington this year with a promise of reform, I am

optimistic that this Committee will recommend -- and that this Congress can pass -- a big and bold package. At the same time, we should undertake reform in a careful, deliberative manner. This Committee was established to do exactly that.

The abolition of the select committees was anything but careful and deliberative. It was a result of arrogance on one side of the aisle and an intemperate thirst for victory at all costs on the other. From the beginning, many Members raised the point that committees which were created to last for two years should not continue to exist in perpetuity. This is probably true, but it must be kept in mind that these select committees were created for a reason. The select committees came into being upon the recognition that our existing committee structure was not equipped to deal with issues of hunger, of drug abuse, of aging, and of children. Ideally, the select committees should exist until one of two things occurs: either the problem no longer exists, or we've made changes to our committee structure so that there is an adequate means to deal with the problem. In the case of the Hunger Committee, hunger did not go away; nor did the House make provision to deal adequately with the issue.

Given these facts, and given the fact that this Joint Committee was created, the sane and logical course of action would have been to reauthorize the Select Committees for one year, and then allow the Joint Committee to decide the fate of

the select committees and of the oversight jurisdiction they possessed. In what I can term nothing but misguaging, the House leadership rejected this offer of compromise and decided it would reauthorize the selects for two full years, notwithstanding the mandate of the Joint Committee. When the full House declined to reauthorize the first select committee put before it, the leadership quickly reconsidered its previous rejection of the compromise position. I am still of the belief that this compromise position would have been the wisest course to follow. The first vote on the Narcotics Committee left all four selects wounded; blood was in the water. The smell of victory for early reformers was too enticing to refuse, and the compromise -- initially offered by Mr. Solomon and supported by the Republican Members at large -- was effectively abandoned by many in my own party. The issue never again came before the full House, and the select committees were allowed to wither and die without the courtesy of a vote.

Mr. Chairman, I look back on how the issue of select committees was handled, and I'm frankly embarrassed by the entire situation. I believe it reflects poorly on both sides of the aisle and on the House as a whole. The Joint Committee should pay close attention: This is a classic example of how not to reform the committee system. Regardless of the merits of the issues, it is clear that the process failed. We in the Congress are charged with doing the people's business, and we should make

decisions about jurisdiction -- about what issues are "front burner" and what issues are not -- with thoughtful reflection and due deliberation. Reforming the committee system is about enabling us to do our work more effectively; it is not about issuing press releases back home to say that we have saved the Congress from itself.

There are valuable lessons to be learned here about the importance of process, as I have just described. In addition to the procedural matters I have raised, I would also like to comment briefly on the subject matter that comprised the Hunger Committee's jurisdiction. I mentioned earlier that the hunger is still with us; so, too, should our efforts to combat hunger remain in the foreground. This is a fact that the Joint Committee should consider when it looks at jurisdictional issues. I have with me an excellent statement prepared by the Hunger Coalition, and I would like to make this statement part of the record of this proceeding. Hunger issues cut across the jurisdiction of several other committees, most frequently Foreign Affairs, as the Chairman well knows, and Agriculture. If the existing committee structure is retained in large part, we would do well to consider the creation of an Ad Hoc committee, such as those suggested by Messrs. Mann and Ornstein, to deal with hunger issues. Would this send us right back where we started with the select committee? Perhaps. More efficient, in my belief, would be a system which recognized the importance of hunger as a part

of its permanent structure. I support the incorporation of hunger issues into standing committees with legislative jurisdiction; my only reservation is that with our current committee structure, hunger has not received the attention it merits. Hopefully, this Joint Committee will remedy that problem.

Again, I appreciate the opportunity to testify before you today. I'll be pleased to answer any questions you may have.

**STATEMENT OF THE HONORABLE GERALD B. SOLOMON  
BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS  
APRIL 29, 1993**

Mr. Chairman and members of the Joint Committee:

I am grateful for this opportunity to appear before you in my capacity as the ranking minority member on the House Rules Committee to give my perspectives on the committee system.

On February 4th of this year, I presented a written statement for your record expressing some of the overall reform priorities I think this joint committee should address. These were taken primarily from our House Republican rules reform package offered on the opening day of this Congress and subsequently introduced by our Republican Leader as H. Res. 36.

Among other things, I called in that statement for --

- setting a legislative agenda and timetable at the beginning of each year for the consideration of major legislation;
- moving to five-day work weeks to ensure that we implement that agenda in a rational way, rather than cramming everything into the final weeks of a session;
- rationalizing committee jurisdictions, redistributing the workloads more equitably, abolishing joint bill referrals and reducing the number of member committee and subcommittee assignments;
- abolishing proxy voting and one-third quorums for bill mark-up;
- establishing a more systematic approach to oversight by committees; and
- restoring the delineation between the authorizing and appropriating functions.

In summary of that earlier statement, it was my feeling then, as it is now, that the Congress can do a better job of legislating if we manage our workloads, individual responsibilities, and legislative timetable in a more rational and efficient manner.

I say all this in full recognition that democracy was never intended to be completely efficient. But surely within the inherent inefficiencies of such a system, we can do a better job of setting priorities, delegating responsibilities, and legislating in a conscientious and deliberative fashion.

Today I want to turn in my testimony to what I perceive as the decline in deliberative democracy and what is needed to restore that critical element in a system such as ours. I offer these views not only as the ranking Republican on the Rules Committee, but as the chairman of our leadership's Task Force on Deliberative Democracy in the House which released its first report last week on the dangerous decline of deliberative democracy.

At first blush it might seem that deliberative democracy is in direct conflict with the goal of a more efficient legislative system. But I would strongly argue that they need not be, and that indeed it is the existing inefficiencies in our system that have been most responsible for undermining deliberative democracy.

The reason for this is quite obvious when you think about it. It is precisely because we do not establish clear priorities and timetables for committee and floor action at the beginning of a Congress that we find ourselves short-circuiting democratic process in order to rush legislation through the subcommittee, committee and floor stages.

From my perspective on the Rules Committee, I see this nearly every week. The leadership will scout the committees to determine what bills may be ripe for action within the next week or two, and then order those committees be prepared to take their bills to the floor by a specified date.

Committees must then accelerate their timetables for mark-up and reporting, meaning that the most crucial stage of a committee's process is often perfunctory and rushed. If the minority should demand its three-days for filing views, it is often scorned as somehow slowing down the process and contributing to gridlock.

Because the minority most often exercises this right under a rule established by your predecessor joint committee in the 1970 Legislative Reorganization Act, it then becomes necessary for the committee to ask for a waiver of another three-day requirement established in that same Act, and that is the requirement that the report be available to Members for at least three-days before the bills is considered on the floor.

It has not been unusual in this session for a report to be filed the day before or the day of the Rules Committee meeting on the bill, and for the bill to be brought to the floor on the very next day before the printed report has even been available to Members for one day. By my count this has happened in seven out of the first 10 rules granted by the Rules Committee this session.

And, in another instance, where a committee was put on an even shorter time-frame by the leadership, it decided to have the Rules Committee discharge it rather than go through the inconvenience of a mark-up, report, and the opportunity for the filing of views.

Further compounding this anti-deliberative trend, the Rules Committee has increasingly been issuing so-called restrictive rules which drastically limit the amendment process on the House floor. In 10 out of the first 10 rules issued in this Congress, only a limited number of amendments were allowed: in two of those instances, no amendments were permitted, and in two others only one amendment was allowed.

In most cases, the rules allow for an up or down vote on an amendment after limited debate. Unlike the normal five-minute rule in which amendments are subject to further amendment and debate to flesh out their weak points and test them against possible alternatives, the debate is framed in a take-it-or-leave-it, often partisan context.

By framing the debate on bills in this manner, there has been a decided shift from attempting to improve legislation through true deliberation to protecting those bills against any serious challenge, no matter how flawed the bills might be.

While restrictive rules are often defended on grounds of legislative efficiency and rational time management, they are more a manifestation of inefficiencies and time management problems occurring elsewhere in the system. They are often an attempt to compensate for or even cover-up those other failings, and as a consequence only contribute to bad policy.

There often seems to be an attitude that it is better to have a bill on a particular subject than it is to have good legislation. The important thing seems to be the public perception that we are acting expeditiously on a matter than that we are acting prudently on it. In trying to demonstrate that we are capable of ending gridlock, we are forfeiting the kind of deliberative democracy on which the survival of our system so depends.

Former Speaker Sam Rayburn put it so well back in 1942 when he said:

Not all the measures which emerge from the Congress are perfect, not by any means, but there are very few which are not improved as a result of discussion, debate and amendment. There are very few that do not gain widespread support as a result of being subject to the scrutiny of the democratic process.

And yet, Mr. Chairman, that scrutiny of the democratic process, which is what real deliberation is, is being sacrificed for the sake of political expediency.

Let me hasten to add this is not a partisan critique. It has been attested to in the non-partisan testimony of scholars Tom Mann and Norm Ornstein when they appeared before you back on February 16th. To quote from their statement:

We see nothing wrong with the use of restrictive rules for managing debate, in a limited number of cases, so long as they allow sufficient deliberation on the major proposals and adequate participation by a broad range of members pursuing their representative interests on behalf of their constituencies.

And they went on to testify:

An open rule should not be perceived, as it increasingly may be, as an aberration, a luxury the House cannot afford. The increasing practice of the Rules Committee majority of routinely announcing on the floor that a rule on a forthcoming bill might be restrictive, and providing a deadline for members to submit amendments they might wish to offer, represents a disturbing trend which should be rolled back.

And they concluded that while "the majority developed various rationalizations for its actions," these rationalizations "constitute a disregard for minority rights, the rights of individual members, and a dismissal of the constructive role which the minority or other dissenters can sometimes play in offering alternatives and point out flaws in a pending measure."



A final element in this decline of deliberative democracy is the frequency with which we waive a third three-day requirement, and that is that conference reports be available for three days before they are voted on. It is not unusual for Member to not even have a copy of a voluminous conference report, and yet be forced to vote on it in the interest of recessing or adjourning by a time certain. This has come back to haunt us in numerous ways when embarrassing goodies are later found to have been buried in such reports.

In conclusion, Mr. Chairman, while I realize that this Joint Committee may be reluctant to weigh-in on something that may seem to be a prerogative of the majority leadership, I nevertheless think you do have a responsibility to consider the implications of such anti-deliberative practices on the overall legislative process and the resulting policies they produce.

If your ultimate recommendations ignore this decline in deliberative democracy and what it portends, then you will have failed to live-up to the promise your name implies of improving the organization of the Congress so that it can fulfill its primary responsibility of legislating for all the people.

It seems to me one of the greatest services this Joint Committee can render is to reemphasize in its final report the wisdom of adhering to those rules and reforms enacted by your predecessor reform committees that were designed to ensure a more rational, informed, and deliberative process.

There is no need to reinvent the wheel or adorn it with all sorts of fancy new hubcaps. We simply need to get back to the basics of the originally-designed legislative wheel and its hub of deliberation, that have served us so well for over two centuries now.

At this point in the hearing record, Mr. Chairman, I ask unanimous consent to include the full report of our Republican Leadership Task Force on Deliberative Democracy in the House entitled, "The Decline of Deliberative Democracy in the House."

**REPUBLICAN LEADERSHIP TASK FORCE  
ON DELIBERATIVE DEMOCRACY  
IN THE HOUSE**

Gerald B. Solomon, Chairman  
James H. Quillen  
David Dreier  
Porter Goss  
Robert Walker  
Bob Livingston



Dan Burton  
Jim Saxton  
Scott Klug  
Lincoln Diaz-Balart  
Deborah Pryce  
Robert H. Michel, ex officio  
Newt Gingrich, ex officio

**THE DECLINE OF DELIBERATIVE DEMOCRACY  
IN THE PEOPLE'S HOUSE**

The First Report  
of the House Democracy Project  
April 21, 1993

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**Listing of Amendments Not Made in Order (by Bill) by the Rules Committee in the 103rd Congress**

## EXECUTIVE SUMMARY

Deliberative democracy is in a state of dangerous decline in the House which, if not reversed soon, will result in the passage of ill-conceived and ill-considered legislation that will ultimately produce a further erosion of public confidence in the Congress. The electorate's mandate for change does not extend to making change for the sake of change, or to ending gridlock by putting deliberative democracy under a strong-arm hammerlock.

- Committees are becoming more partisan and perfunctory in their consideration of legislation, thereby precluding efforts to fashion bipartisan, consensus bills that truly represent the House and the American people.
- There has been a general breakdown in the committee system in the House due to multiple subcommittees, Member assignments, and tangled jurisdictions, necessitating such phantom legislative devices as proxy voting, one-third quorums and "rolling quorums." And such phantom legislating detracts from collective and deliberative decision-making. Congress in its committees is no longer "Congress at work," but "Congress hardly working."
- On 7 out of 9 reported bills coming through the Rules Committee in this Congress, the three-day availability requirement for reports has been waived and ignored, denying Members of both parties the opportunity to be fully informed of the provisions of major bills before they vote on them.
- The percentage of restrictive rules which limit amendments has increased from 15% in the 95th Congress, to 66% in the 102nd, and thus far in the 103rd Congress stands at 100%.
- To date in the 103rd Congress, only 32 amendments have been made in order on the 10 bills cleared by the Rules Committee, even though 163 amendments have been submitted.
- Only 21 House Members have been blessed by the Rules Committee with the opportunity to offer floor amendments, meaning the other 414 Members and the roughly 248-million people they represent have been disenfranchised during the critical amendment process in the House.
- There is an increasing tendency to waive the three-day layover requirement for conference reports, again preventing informed debate and votes at the final stage of the legislative process, often to the later embarrassment of the Congress when hidden-goodies are discovered after a bill is enacted.

When Members are elected to Congress with the expectation that they will be exercising their rights as lawmakers on behalf of their constituents, only to be told they may not fully exercise those rights on the House floor, something has gone radically haywire with the constitutional scheme of things. While the majority party always has the right to establish the rules and legislative agenda for the House, it should recognize the need to place responsible limits on those powers which permit all Members to fully participate in the a truly deliberative democratic process and of all the people to be fully represented in their national legislature.

**THE TOP TEN DEMOCRAT DODGES & DENIALS****(Amendments blocked by the Rules Committee from floor consideration)**

- A balanced budget constitutional amendment to the debt limit bill;
- A statutory line-item veto amendment to the debt limit bill;
- A freshman Democrat expedited rescission amendment to the debt limit bill;
- A ban on HIV-positive immigrants from permanent admission into the U.S., to the NIH bill;
- Retention of the prohibition on homosexuals in the military unless changed by law;
- A mandatory removal of persons from voter registration rolls if they have not voted in 50-years, to the "motor voter" bill;
- A prohibition on non-citizens from registering to vote, to the "motor voter" bill;
- A requirement that economic stimulus spending not be obligated until off-setting reductions have been made;
- A government-wide rescission of 747 projects worth \$1.963 billion, to the emergency supplemental appropriations bill;
- Deletion of the BTU energy tax revenues from the budget resolution.

**THE DECLINE OF DELIBERATIVE DEMOCRACY  
IN THE PEOPLE'S HOUSE**

**Introduction**

It is in the Congress that the varied needs and interests of the people find expression. It is in the Congress that out of the clash of contending opinions is forged the democratic unity of a democratic people. Too many people mistake the deliberations of the Congress for its decisions....

\* \* \*

Common consent in democratic government springs from common understanding. It is out of the airing of conflicting opinions in hearings, debates, and conferences that a people's Congress comes to decisions that command the respect of a free and democratic people.

Not all the measures which emerge from the Congress are perfect, not by any means, but there are very few which are not improved as a result of discussion, debate, and amendment. There are very few that do not gain widespread support as a result of being subject to the scrutiny of the democratic process.

--**Speaker Sam Rayburn**  
Texas Forum of the Air,  
Radio Address, Nov. 1, 1942

The above words of Democratic Speaker Sam Rayburn, during the early days of World War II, sum-up the essence of our democracy and the central role of Congress in mediating the competing opinions and interests of the people to forge a national consensus and unity.

The heart of this process is perhaps best captured by the phrase, "deliberative democracy" -- the full and free airing of conflicting opinions through hearings, debates, and amendments for the purpose of developing and improving legislation deserving of the respect and support of the people.

Deliberation is nothing more than the careful consideration of alternatives before reaching a decision. It is, as Rayburn put it, the "scrutiny of the democratic process." Without it, that process would be blind, uninformed, and driven by popular passions or political imperatives rather than by informed debate and analysis.

The Republican Leadership Task Force on Deliberative Democracy in the House was created out of a growing concern that deliberative democracy was being sacrificed on the altar of political expediency.

Therefore, the first priority of the Task Force's House Democracy Project was to conduct an assessment of the state of deliberative democracy at this point in the 103rd Congress. The scope of our inquiry has been, and will continue to be, all stages of the legislative process -- from subcommittee hearings to the final adoption of conference reports.

It is the conclusion of this first report that deliberative democracy is in a state of dangerous decline which, if not reversed soon, will result in the passage of ill-conceived and ill-considered legislation that will ultimately produce a further erosion of public confidence in the Congress.

We are acutely aware that the people in last year's elections voted for change and an end to gridlock. But we do not think that mandate extends to making any change for the sake of change, or to ending gridlock by putting deliberative democracy under a strong-arm, hammerlock.

If democratic processes are not preserved as we work together for necessary and realistic changes, that change will not long enjoy the public support and respect that only deliberative democracy and consensus-building can produce. In short, the people are the ultimate losers in any attempt to short-circuit the deliberative process simply to create the perception that we are quick-change artists.

### **The Committee System**

"Congress in its committees," as Woodrow Wilson once put it, "is Congress at work." Committees are the "workshops" or "mini-legislatures" of the legislative branch where the need for legislation is developed through hearings, and the options for legislative solutions are aired through testimony, discussion and amendments. The legislative product that finally emerges from this rigorous committee process is likely to be a fairly representative and balanced piece of legislation that can survive the full scrutiny of the full House, pretty much intact.

Or, at least, that's how it is all supposed to work. However, for a variety of reasons, which have been well-documented elsewhere, the committee system no longer works that way. Some would say it barely works at all. Authorizing committees are squeezed-out by the budget and appropriations processes, and strangled by their own tangled lines of jurisdictions with other committees and subcommittees.

Moreover, with Members spread so thinly with multiple committee and subcommittee assignments, committees must resort to phantom legislative devices such as one-third quorums, proxy voting and "rolling quorums" to get any work done. If Wilson were to observe the committee system today he might conclude that, "Congress in its committees is Congress hardly working at all" -- at least not well or as originally intended.

When committees are called-upon by the leadership to bring important legislation to the floor, it is often without adequate notice, preparation, or deliberation, and the final product often reflects the haste with which such legislation is processed. It is little wonder, then, that committee chairmen more and more frequently want to protect their bills from the heat of debate or the critical light of amendments when they reach the House floor. They would not likely survive the battering of sustained deliberation.

The Task Force is troubled by early reports from some committees that markup sessions are more perfunctory and partisan and less deliberative than in previous Congresses. Amendments offered by minority members tend to be dismissed out of hand and voted down along party-lines without serious debate or attempts at compromise.

While this disturbing new attitude may be due in part to the fact that many bills being considered in the early part of the session are retreads from the previous Congress, and are supported in their existing form by the new President, this does not relieve the Congress either of its responsibility to the 110 new Members to reopen debate and inform and educate, or of its responsibility to itself to preserve its independent status as a coequal branch and its deliberative process that guarantees that status.

The Task Force does take strong exception to the way in which the so-called "expedited rescission" bill was handled, or mishandled, at the committee level. The Government Operations Committee is to be commended on holding a hearing on this and other alternatives earlier this year.

But, when the time came to markup the bill, the committee waited until two days before it was scheduled for floor consideration to tentatively schedule a markup. However, when the chairman was informed that the minority would exercise its rights under House Rules to offer amendments and file minority views, the chairman decided to call-off the markup and allow his committee to be discharged by the Rules Committee.

And, what was ultimately made in order by the Rules Committee was a bill that had not been previously referred to the Government Operations Committee plus a majority substitute that hadn't even been testified to at the Rules Committee hearing. The substitute was simply plopped on the Rules Committee's doorstep following a full day of hearings, shortly before the rule was to be reported.

The lack of proper committee deliberation and reporting may explain in part why the rule was initially withdrawn, after nearly an hour of debate, for lack of support.

The Task Force hopes that such committee bypasses are an aberration and not a new pattern to avoid critical committee deliberations, including minority amendments and views, that are such an essential part of the legislative process in the House.

### **The Three-Day Layover Requirement**

One of the most important House Rules in terms of guaranteeing deliberative debate by the House on reported bills is the so-called three-day layover requirement. It states quite simply that the House cannot consider a bill until the committee report on it has been available to House Members for three-days (excluding Saturdays, Sundays and legal holidays).

When this requirement was made a part of House Rules by the Legislative Reorganization Act of 1970, the Joint Committee on the Organization of Congress that drafted the rule explained the need for it in its 1965 final report as follows:

Finally, there must be time for the report to be studied. A bill that cannot survive a 3-day scrutiny of its provisions is a bill that should not be enacted. Proper consideration must be given to important legislation, even in the closing days of a session. The world's most powerful legislature cannot in good conscience deprive its membership of a brief study of a committee report prior to final action. (p. 13)



Nevertheless, there is an increasingly disturbing tendency of the leadership to schedule floor action on bills only a day or two after the report is filed -- meaning the same day the report is first available to Members, or the very next day.

Thus far in the 103rd Congress, waiving the three-day layover requirement has been more the rule than the exception. Of the nine bills reported from committees that have come through the Rules Committee, seven have been taken up in the House prior to the third day of report availability:

- Family and Medical Leave (H.R. 1): reported, Feb. 2, 1993; passed House, Feb. 3, 1993;
- National Voter Registration (H.R. 2): reported, Feb. 2, 1993; passed House, Feb. 4, 1993;
- Unemployment Compensation (H.R. 920): reported, Feb. 23, 1993; passed House, Feb. 24, 1993;
- Hatch Act Amendments (H.R. 20): reported, Feb. 22, 1993; considered on Feb. 23rd, and failed under suspension of rules, Feb. 24th; later passed under a rule, March 3, 1993;
- NIH Revitalization Act (H.R. 4): reported, March 9, 1993; considered, March 10, 1993; passed, March 11, 1993.
- Emergency Supplemental Appropriations (H.R. 1335): reported, March 15, 1993; considered by House, March 17, 1993; passed House, March 19, 1993;
- Concurrent Resolution on the Budget (H. Con. Res. 64): reported, March 15; considered by House, March 17, 1993; passed House, March 18, 1993.

In short, the House has ignored its three-day report availability requirement 77% of the time on reported bills coming through the Rules Committee. The previous high was in the 101st Congress when the three-day layover requirement was waived on 23 occasions comprising 16% of all rules (see Table 1 in the Appendix to this report.)

The Task Force strongly urges the majority leadership to reverse this trend and enforce the three-day layover requirement so as to enable Members to better understand what it is they are being asked to vote on.

### **Restrictive Rules**

The most serious encroachment on the deliberative process in the House has been the limitation on House floor amendments through special rules or order of business resolutions reported from the Committee on Rules.

As can be seen from Table 2 in the Appendix to this report, the trend from open to restrictive rules has been growing gradually over the years. Whereas in the 95th Congress (1977-78) only 15% of the special rules limited House floor amendments, in the 102nd Congress the percentage had risen to 66%, and, thus far in the 103rd Congress it is 100%.

To emphasize just how important special rules are, one must keep in mind that most minor, non-controversial legislation is considered under other procedures -- either unanimous consent or suspension of the rules. Special rules are used only for major, controversial bills and involve substantive policy issues and differences.

The fact that the majority leadership has brought every major bill to the floor under a restrictive amendment process in this Congress is clear evidence of its disdain not only for the rights of the minority and individual members, but for deliberative democracy and the rights of all the people it is designed to represent.

Efforts to portray complaints about restrictive rules as mere partisan, procedural whining and bickering ignore the larger institutional and constitutional issues at stake, not to mention the partisan taint such procedural constraints self-inflict on the legislative products of such a process.

As Table 3 shows, two major bills have been completely closed to any amendments -- the unemployment compensation and debt limit bills. And two other bills, the motor voter and emergency supplemental appropriations bills, allowed for only one amendment each.

And, in the latter instance, the only amendment made in order to the supplemental was not one of the 37 submitted to the Rules Committee. Instead, it was an un-filed amendment by the chairman of the Appropriations Committee that was never offered on the House floor. See Table 4 for a comparison of restrictive amendment processes on supplemental appropriations from the 95th through 102nd Congresses. Of the 11 restrictive instances, five were under a suspension of the rules (requiring a two-thirds vote for passage), and six were under special rules. Of the six under special rules, only two supplementals were completely closed to amendment.

The Task Force is especially outraged by any attempts to limit amendments to appropriations bills since this directly undermines the House's constitutional authority over the purse strings of government. To prohibit even amendments to cut or eliminate spending in an appropriations bills is a subversion and derogation of that authority and cannot be allowed to continue.

Had the House been able to make some reasonable changes in the supplemental appropriations bill initially, it might not have reached the impasse it did in the other body for so many weeks. Moreover, the Administration's initial take-it-or-leave it, all-or-nothing-at-all approach to this \$16.2 billion spending bill is a direct slap at the constitutional prerogatives of the Congress.

While it is not the purpose of this Task Force report to rehash all the specifics of the special rules fights that have marked and marred floor debates in this 103rd Congress from its inception, it should be evident that something is dreadfully wrong with the deliberative process in the House when only 32 amendments have been made in order to the 10 bills considered out of 163 amendments submitted (see the final section of the Appendix for a listing of amendments not made in order by the Rules Committee in this Congress). That comes to an average of 3.2 amendments made in order per bill. Only 21 individual House Members have been blessed by the Rules Committee with the opportunity to offer floor amendments. That means that the other 414 House Members and the roughly 248-million Americans they represent have been disenfranchised during one of the most critical stages of the legislative process.

Among the 131 amendments denied by the Rules Committee, the following ten are perhaps the most egregious examples of "Democrat Dodges and Denials:"

- A balanced budget constitutional amendment to the debt limit bill;
- A statutory line-item veto amendment to the debt limit bill;
- A freshman Democrat expedited rescission amendment to the debt limit bill;
- A ban on HIV-positive immigrants from permanent admission into the U.S., to the NIH bill;
- Retention on the prohibition on homosexuals in the military unless changed by law;
- A mandatory removal of persons from voter registration rolls if they have not voted in 50-years, to the "motor voter" bill;
- A prohibition on non-citizens from registering to vote, to the "motor voter" bill;
- A requirement that economic stimulus spending not be obligated until off-setting reductions have been made;
- A government-wide rescission of 747 projects worth \$1.963 billion, to the emergency supplemental appropriations bill; and
- Deletion of the BTU energy tax revenues from the budget resolution.

This trend in denying Members the right to offer floor amendments bespeaks the extent to which deliberative democracy is in decline in this new Congress. Whereas an open amendment process served the House well for two centuries in ensuring that the best possible legislation was hammered out in the fires of free and open debate, the restrictive amendment process today is designed purely to ensure that the committee-reported bill will survive intact, regardless of its quality or need.

Even when amendments are made in order, they are usually characterized in partisan terms and offered for an up-or-down vote rather than the free give-and-take that occurs under an open amendment process. Not only does this stiffen the lines of debate, but it hardens the walls of the legislation against any chance for improvement and compromise.

The abuse and overuse of restrictive rules is not a mere partisan complaint by the minority party. Congressional scholars Norm Ornstein of AEI and Tom Mann of Brookings testified before the Joint Committee on the Organization of Congress on February 16th of this year that "restrictive special rules should not become the norm" and "should be used only when absolutely necessary." And they went on to characterize the frequency of the use of restrictive rules as "a disturbing trend which should be rolled back."

While "the majority has developed various rationalizations for their actions," Ornstein and Mann went on. "Taken together, however, they constitute a disregard for minority rights, the rights of individual members, and a dismissal of the constructive role which the minority or other dissenters can sometimes play in offering alternatives and pointing out the flaws in a pending measure." That is what deliberative democracy should be about.

While this attitude of the majority today that there is no need to compromise with the minority, in the long-run it will find that it cannot deny the rights of individual legislators because they are backed by the legitimate concerns, interests and opinions of millions of people they represent. The walls of the House are permeable to the voice of the people, and eventually that volume will build and seep through.

#### Other Concerns

The Task Force takes note in passing of two other items that pose further threats to deliberative democracy in the House and which will be subject to further monitoring and comment in our next report.

First is the tendency to waive the three-day layover requirement for conference reports, or, in the alternative, to accept Senate amendments without further debate or amendment in order to avoid going to conference. In the case of the Family and Medical Leave Act (H.R. 1), the House took this one step further by adopting a special rule that, upon its adoption self-executed the adoption of the Senate amendment to the House bill -- in other words, sent the Senate bill on to the President without a separate debate on, or amendment to, the substance of the matter by the House.

The House and Senate have been repeatedly embarrassed over the years by conference reports on voluminous pieces of legislation which have been voted on before even properly printed or distributed, let alone understood. Only after their enactment have some of the provisions come back to haunt the Congress.

Deliberative democracy is just as important at the end of the legislative process as it is at the formative subcommittee stages or the amendatory floor stage. In fact, the case can be made that it is even more important that Congress be fully informed and deliberate on that final product since that is the version that will become law.

The second item of concern the Task Force wishes to raise in this section is the threat to curtail or terminate so-called "special order" periods of debate at the end of each day when Members may speak on any subject they wish.

While objections have been raised against such special orders on grounds of cost and utility, the Task Force takes issue with such attempts to place a price tag on free speech or to devalue the content of that speech. It is especially important to the minority that such periods be preserved because it does not set the legislative agenda and therefore is otherwise often precluded from discussing subjects of interest to it -- including bills which may be bottled-up in committees.

But, it should also be pointed out that special orders are not solely for the use or benefit of the minority. Individual Members of the majority party are also frequent users of this free speech period and their rights are just as important as those of the minority.

While special orders may not be perceived as having a direct bearing on the deliberative process tied to passing bills, they nevertheless can be considered as part of the deliberative process to the extent that they are concerned with discussing broader national issues or unreported legislation for which there may be growing public support.

### Conclusions

The Task Force on Deliberative Democracy in the House finds that deliberative democracy is in a state of serious decline in this 103rd Congress for a variety of reasons. These include the breakdown in the authorizing committee system, the number of Member committee and subcommittee assignments that militate against conscientious legislating, tangled committee jurisdictions and multiple bill referrals, and a hardening of partisan lines at the committee and floor levels that make deliberation and compromise difficult if not impossible.

While many of the above factors have been present in varying degrees in previous Congresses and reflect underlying structural and procedural defects that must be addressed by current reform efforts, there is a disturbing acceleration of the decline in this Congress due to the majority's strong desire to demonstrate it has broken gridlock, no matter what the costs or results. Unfortunately, the cost has already been the decline of deliberative democracy, and the natural result will likely be the decline in the quality of our laws and public support for them.

The drastic curtailment of House floor amendments is but one piece of the overall picture, though certainly the most dramatic and distressing element in the decline of deliberative democracy. When Members are elected to Congress with the expectation that they will be exercising their rights as lawmakers on behalf of their constituents, only to be told that they may not exercise those rights on the House floor, something has gone radically haywire with the constitutional scheme of things.

While the majority party in the House has always had, and should always have, the right to establish the rules and the legislative agenda for the Congress, it should at the same time recognize the need to place responsible limits on the exercise of those powers -- limits which clearly recognize the right of all Members to fully participate in a truly deliberative democratic process and of all the people to be fully represented in their national legislature.

TABLE 1.  
 WAIVERS OF THREE-DAY LAYOVER REQUIREMENT  
 FOR COMMITTEE REPORTS ON LEGISLATION

<u>Congress (Years)</u>	<u>Total Rules Granted<sup>1</sup></u>	<u>3-Day Layover Waivers<sup>2</sup></u>	<u>Waivers as Percent of Total</u>
96th (1979-80)	244	19	8%
97th (1981-82)	145	9	6%
98th (1983-84)	184	10	5%
99th (1985-86)	142	13	9%
100th (1987-88)	147	16	11%
101st (1989-90)	140	23	16%
102nd (1991-92)	127	18	14%

Sources: Survey of Activities of the House Committee on Rules, 96th-101st Congresses; "Notices of Action Taken," House Committee on Rules, 102nd Congress.

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<sup>1</sup>This figure includes all order of business resolutions providing for the original consideration of measures by the House. It does not include rules for conference reports.

<sup>2</sup>This figure covers all rules in which clause 2(L)(6) of House Rules XI is specifically waived against a measure. It does not include blanket waivers which may also cover violations of the three-day layover requirement for committee reports.

**Table 2.**  
**OPEN VS. RESTRICTIVE RULES**  
**95TH - 103RD CONGRESSES**

Congress (Years)	Total Rules Granted <sup>a</sup>	Open Rules # (%) <sup>b</sup>	Restrictive Rules # (%) <sup>c</sup>
95th (1977-78)	211	179 (85%)	32 (15%)
96th (1979-80)	214	161 (75%)	53 (25%)
97th (1981-82)	120	90 (75%)	30 (25%)
98th (1983-84)	155	105 (68%)	50 (32%)
99th (1985-86)	115	65 (57%)	50 (43%)
100th (1987-88)	123	66 (54%)	57 (46%)
101st (1989-90)	104	47 (45%)	57 (55%)
102nd (1991-92)	109	37 (34%)	72 (66%)
103rd (1993-94)	10	0 (0%)	10 (100%)

**Sources:** Rules Committee Calendars & Surveys of Activities, 95th-102nd Congresses;  
"Notices of Action Taken," Committee on Rules, 103rd Congress, through Apr. 19, 1993.

#### **FOOTNOTES**

- A. Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.
- B. Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.
- C. Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Table 3.

**OPEN V. RESTRICTIVE RULES**  
103RD CONGRESS

<b>RULE NUMBER DATE REPORTED</b>	<b>RULE TYPE</b>	<b>BILL NUMBER &amp; SUBJECT</b>	<b>AMENDMENTS SUBMITTED</b>	<b>AMENDMENTS ALLOWED</b>	<b>DISPOSITION OF RULE &amp; DATE</b>
H.RES. 58 2/2/93	MC	H.R. 1: FAMILY & MEDICAL LEAVE	30	3	PQ: 246-176 A: 259-164 (2/3/93)
H.RES. 59 2/3/93	MC	H.R. 2: NATIONAL VOTER REGISTRATION ACT	19	1	PQ: 248-171 A: 249-170 (2/4/93)
H.RES. 103 2/23/93	C	H.R.920: UNEMPLOYMENT COMPENSATION	7	0	PQ: 243-172 A: 237-178 (2/24/93)
H.RES. 106 3/2/93	MC	H.R. 20: HATCH ACT AMENDMENTS	9	3	PQ: 248-166 A: 249-163 (3/3/93)
H.RES. 119 3/9/93	MC	H.R. 4: NIH REVITALI- ZATION ACT OF 1993	13	8	PQ: 247-170 A: 248-170 (3/10/93)
H.RES. 132 3/17/93	MC	H.R. 1335: EMERGENCY SUPPLEMENTAL APPROPS	37	1 (not submitted)	A: 240-185 (3/18/93)
H.RES. 133 3/17/93	MC	H.CON.RES. 64: BUDGET RESOLUTION	14	4 (1 not submitted)	PQ: 250-172 A: 251-172 (3/18/93)
H.RES. 138 3/23/93	MC	H.R. 670: FAMILY PLANNING AMENDMENTS	20	9	PQ: 252-164 A: 247-169 (3/24/93)
H.RES. 147 3/31/93	C	H.R. 1430: INCREASE PUBLIC DEBT LIMIT	6	0	PQ: 244-168 A: 242-170 (4/1/93)



RULE NUMBER DATE REPORTED	RULE TYPE	BILL NUMBER & SUBJECT	AMENDMENTS SUBMITTED	AMENDMENTS ALLOWED	DISPOSITION OF RULE & DATE
H.RES. 149 4/1/93	MC	H.R. 1578: EXPEDITED RESCISSION ACT OF 1993	8	3	

CODE: C-CLOSED; MC-MODIFIED CLOSED; MO-MODIFIED OPEN; O-OPEN; D-DEMOCRAT; R-REPUBLICAN; PQ: PREVIOUS QUESTION; A-ADOPTED; F-FAILED

TABLE 4.

COMPARATIVE TABLE ON AMENDMENT PROCESS FOR SUPPLEMENTAL APPROPRIATIONS  
95TH-102ND CONGRESSES

<u>Congress</u>	<u>Number of Supps.</u>	<u>Number &amp; Percent of Open Amendment Processes</u>	<u>Number &amp; Percent of Restrictive Amendment Processes</u>
95th	13	13 (100%)	0 (0%)
96th	6	5 (83%)	1 (17%)
97th	11	10 (91%)	1 (9%)
98th	9	6 (67%)	3 (33%)
99th	7	6 (86%)	1 (14%)
100th	4	2 (50%)	2 (50%)
101st	4	3 (75%)	1 (25%)
102nd	7	5 (71%)	2 (29%)
	61	50 (82%)	11 (18%)

Sources: House Calendars, Rules Committee Calendars, & bound copies of "Rules Granted," Committee on Rules.

(Notes: When no rule was granted, it is assumed the Appropriations Committee called the supplementals up as privileged and they were considered in the Committee of the Whole under an open amendment process as required by the Rules of the House. Of the 11 restrictive amendment processes, five were under a suspension of the rules and six were under special rules. Of the latter, only two were completely closed amendment processes.)

Compiled by minority staff, House Committee on Rules.

AMENDMENTS NOT MADE IN ORDER BY THE RULES COMMITTEE  
IN THE 103RD CONGRESS

April 13, 1993

**H.R. 1 Family and Medical Leave**

- **Traficant #1** Adds a "buy American requirement" for all procurements made by the Commission in Title III.
- **Hoekstra #2** Extends deadline for issuance of DOL regulations from 60 to 120 days.
- **Fawell #3** Extends to employees of the House of Representatives the same rights and protections as to employees in the private sector.
- **Gunderson #4** Reduces from 12 months to 6 months after the date of enactment, the effective date for businesses that have collective bargaining agreements in place.
- **Gunderson #5** Changes the amount of leave provided to the levels provided under the 1988 Wisconsin state law.
- **Grandy/Orton #6** Substitute bill which provides a tax incentive for employers who offer family and medical leave.
- **Penny #7** Substitute to H.R. 1 -- includes: up to 12 weeks for birth or adoption, up to 6 weeks for the care of a seriously ill relative, requires doctor certification for medical leave.
- **Penny #8** Provides 12 weeks of leave for the birth or adoption of a child but limits to 6 weeks all other types of leave in the bill.
- **Penny #9** Overturns a recent DOL regulation regarding "salaried" employee status by providing that employers who allow salaried employees to use partial-day unpaid leave are not considered hourly employees as defined under the Fair Labor Standards Act.
- **Weldon #10** Sense of Congress that the federal government covers the cost of state and local governments for compliance with H.R. 1.
- **Zimmer #11** Provides that if an employer implements a reduction in the workforce during the time that an employee is taking leave then the employee is not entitled to reinstatement.
- **Boehner #12** Expands the definition of a serious health condition to include an inability to participate in regular daily activities.

- **Boehner #13** Exempts from eligibility employees who fail in a "material" way to meet his or her obligations as set forth in the bill.
- **Boehner #14** Adds requirement for advance notice of an employee's return to the job.
- **Bilirakis #15** Substitute to H.R. 1 which includes: (1) eligibility requirement increase to 2000 hours of continuous employment for 14 months (2) provides employer with tax deductions for expenses incurred due to employee leave.
- **Ballenger #16** Exempts from coverage under this act any employee who is entitled to at least 6 weeks paid leave for the purposes listed in this act.
- **Goodling #18** Deletes all references to a "reduced leave schedule".
- **Petri #21** Similar to Penny #9 which would overturn a DOL regulation and would allow employers to provide salaried employees with unpaid leave on a partial day basis.
- **Solomon #22** Would require that the Department of Defense policy prohibiting homosexuals in the military be retained unless changed by law.
- **Houghton #23** Raises the employee exemption from 50 to 100 and the required number of hours worked from 1250 to 1500.
- **Roukema #24** Requires any health care providers -- other than a licensed doctor of medicine or osteopathy -- to be licensed by the state; eliminates the authority of the Sec. of Labor to designate other health care providers.
- **Roukema #25** Requires any health care provider designated by the Sec. of Labor as a "health care provider" to be licensed by the state in which the provider performs services.
- **Myers #26** Reduces the number of workweeks of unpaid leave for civil servants from 12 to 6.
- **Myers #27** Reduces the number of workweeks of unpaid leave from 12 to 6 regarding general requirements for leave.
- **Walker/Solomon #28** Defines the term "spouse" as meaning a husband or wife under the law of any state.
- **Mica #29** Strikes all titles except title III, which establishes a Commission on Leave to study existing and proposed leave policies, the potential costs, benefits, and impact on the productivity of employees.

- Carr #30 Substitute to H.R. 1 requires all employers to submit to the DOL, for issuance of a report to Congress, a description of that organization's policy regarding family and medical leave.

## **H.R. 2 National Voter Registration Act**

- Rohrabacher #1 States that no person other than citizens of the U.S. may be registered to vote. (Same as Roberts #14)
- Rohrabacher #2 Requires the chief state election official to submit to the Attorney General voter registration information contained in voter registration forms for the purpose of enforcing immigration laws.
- Packard #3 Makes compliance by the States voluntary-until the costs of implementing the provisions of the bill are fully funded by the federal government. (Same as Condit #11)
- Livingston #4 Strikes section which requires the states to provide voter registration by mail.
- Livingston #5 Strikes section relating to voter registration agencies.
- Livingston #6 Strikes provision that exempts states from complying with the act if the states allow all voters to register at the polling place at the time of voting.
- Livingston #7 Changes the procedure for registering to vote while applying for a driver's license or public assistance to require positive action in order to register.
- Livingston #8 Allows states to remove the name of a person from the official list of registered voters if the person has not voted during the previous 4 years.
- Livingston #9 Allows states to remove the name of a person from the official list of registered voters if the person has not voted during the previous 10 years.
- Livingston #10 Allows states to remove the name of a person from the official list of registered voters if the person has not voted during the previous 50 years.
- Condit #11 Makes compliance by the states voluntary until the costs of implementing the provisions of the bill are fully funded by the federal government. (Same as Packard #3)

- McCollum #12 States that no person other than citizens of the U.S. may be registered to vote. Requires that with respect to the states the act shall not take effect until the Attorney General submits to Congress a report stating that sufficient procedures exist in that state to prevent voter registration by persons who are not citizens.
- Roberts #13 Provides that in the case of conflict between the provisions of this act and state civil and criminal law, the state law shall prevail if the state law is more stringent in suppression of voter fraud.
- Roberts #14 States that no person other than citizens of the U.S. may be registered to vote. (Same as Rohrabacher #1)
- Royce #15 Requires that voter registration forms under this act include the applicant's Social Security number.
- Pombo #16 Provides for the simultaneous application for voter registration with the filing of state income tax returns.
- Thomas (Ca) #17 Strikes the provision which requires the FEC to prescribe regulations for carrying out the act.
- Thomas (Ca) #18 Substitute for section 8 of the bill including provisions relating to the updating of registrant lists and limiting changes to the registration list immediately before the election.
- Thomas (Ca) #19 Substitute for section 7 of the bill which provides for a broader list of locations which may be used for voter registration purposes.

#### **H.R. 920 Unemployment Compensation**

- Shaw -- Provides an additional 13 weeks of unemployment benefits to unemployed people in a federally declared natural disaster area.
- Gunderson -- Provides that states accepting federal payment for emergency compensation must require that eligible recipients participate in re-training or job search programs.
- Johnson (Ct)/Grandy -- Excludes any state with a total unemployment rate below 6.5% from benefits under the bill.
- Johnson (Ct) -- Requires states with positive unemployment compensation balances to abide by the most recent unemployment reform bill until those accounts are depleted.

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- Johnson (Ct) -- Requires the bill to be paid for by reducing meal and entertainment expense deduction.
- Traficant -- Sense of Congress language that Congress should act on job creating legislation.
- Mink/Meek -- To provide additional unemployment compensation benefits to unemployed people in an area impacted by a natural disaster.

**H.R. 20 Hatch Act Amendments**

- Wolf #A -- Retain Hatch Act for law enforcement, intelligence and senior executive service personnel.
- Wolf #B -- Retain Hatch Act for Federal Election Commission, Merit Systems Protection Board and Office of Special Counsel.
- Wolf #C -- Strike provisions in the bill which allow for exemptions.
- Wolf #D -- Give broad protection to federal employees. One employee could not solicit another to participate in campaign activities.
- Foglietta -- Retain Hatch Act for law enforcement personnel.
- Upton -- Federal employees could not run for office in a partisan election.

**H.R. 4 NIH Revitalization Act of 1993**

- Stearns #2 Requires the Secretary, in carrying out duties under the Immigration and Nationality Act, to consider infection with the HIV virus to be a communicable disease of public health significance. (Identical to Solomon/McCollum/Roukema/Smith (Tx) #5)
- Solomon/McCollum #4 Prohibits permanent admission into the U.S. of immigrants who are infected with the HIV virus. (Identical to the amendment adopted in the Senate bill, S. 1)
- Solomon/McCollum/Roukema/Smith (Tx) #5 Requires the Secretary, in carrying out duties under the Immigration and Nationality Act, to consider infection with the HIV virus to be a communicable disease of public health significance. (Identical to Stearns #2)

- Smith (NJ) #10 Perfecting amendment to Bliley amendment #7 requiring that a physician make a determination that the human fetus is dead before obtaining fetal tissue for the purposes of research.
- Waxman #11 Perfecting amendments if any amendment is made in order relating to the admission of immigrants who are infected with the HIV virus.

#### **H.R. 1335 Emergency Supplemental Appropriations**

- Packard #1 Prohibits obligation of any new spending except for \$4 billion provided to Advances to the Unemployment Trust Fund, until legislation is enacted to offset the cost.
- Walsh #2 Strikes the \$28 million payment to the District of Columbia.
- Solomon #3 Provides enhanced rescission authority to the President on FY 1994 and FY 1995 appropriations bills.
- Traficant #4 Prohibits use of funds unless the entity expending funds agrees to comply with the Buy American Act.
- Gallo #5 Requires head of each federal agency receiving funds to report quarterly on the number and type of full-time permanent new jobs created as a direct result of the funding.
- Grams #6 Strikes \$1.409 million for National Park Service, National Recreation and Preservation account. The money was appropriated for 28 projects in 23 states to produce measured drawings of significant structures and engineering achievements.
- Gilchrest #7 Prohibits use of funds unless Labor Secretary certifies that GNP in the first quarter of 1993 grew at a rate of less than 2.5%.
- Stenholm #8 Replaces emergency designation in the bill (section 202) with an emergency designation to permit adjustment of FY 1993 caps only.
- Stenholm #9 Replaces emergency designation in the bill (section 202) with an emergency designation that applies only to funds spent out in FY 1993.
- Orton #10 Rescinds \$400 million of unobligated appropriations for HOPE (Homeownership and Opportunity for People Everywhere) grants -- combined from FY 1992 and FY 1993 funds; transfers an additional \$75 million from the same account to the HOME investment partnerships program.



- Goodling #11 Prohibits use of "Summer of Service" funds for a closing summit conference described in the March 8, 1993 Federal Register.
- Hefley #12 Reduces by \$1.455 million the amount provided for Fish and Wildlife Service, which would be available for fisheries research.
- Grandy #13 Strikes emergency spending designation in the bill.
- Kolbe/Packard #14 Requires new budget authority in the bill to be obligated only after equal offsetting reductions are made.
- Kolbe #15 Strikes emergency spending designation in the bill.
- Collins (Ga) #16 Provides that none of the funds designated by this bill may be used for any individual who is not a citizen or a lawfully admitted alien of the U.S.
- Johnson (Tx) #17 Strikes \$4.696 million for additional salaries and expenses for the National Science Foundation.
- Johnson (Tx) #18 Strikes \$2.5 billion from the Community Planning and Development - Community Development Grants.
- Johnson (Tx) #19 Strikes \$187 million for National Railroad Passenger Corporation.
- Johnson (Tx) #20 Strikes \$4.7 million for retrofitting equipment for energy efficiency in Federal buildings.
- Johnson (Tx) #21 Strikes \$20.663 million for EPA for abatement, control, and compliance to encourage business conversion to more energy efficient equipment.
- Johnson (Tx) #22 Strikes \$37.8 million for items relating to "Forest Service -- Construction".
- Talent #23 Substitute -- Economic Growth and Job Creation Act of 1993. Title I - Neutral Cost Recovery. Title II - lowers the maximum capital gains rate to 15% for taxpayers in the upper tax brackets and 7.5% for those in the lower tax brackets. Indexes capital gains to compensate for inflation. Title III - creates IRA plus accounts. Title IV - provides a \$600 tax credit for families with children age 18 and under.
- Lazio #24 Provides \$10 million for a National Flood Insurance program that permits FEMA to purchase flood-damaged property and relocate flood-insured homeowners to areas not prone to flooding. The funds would be available for the remainder of FY 1993 and FY 1994.

- Bentley #25 Requires federal agency heads to certify that funds spent under this act are used to purchase American produced materials and labor.
- McHugh #26 Deletes \$800 thousand for design and preliminary planning of the Ocoee River Olympic Venue for whitewater canoeing during the 1996 Olympics.
- Gingrich #27 Strikes \$1 billion for the summer youth employment program.
- Baker (Ca) #28 Strike \$4.7 million for undertaking energy efficiencies in federal buildings by retrofiting equipment.
- Fawell #29 Adds a new title which contains a government-wide rescission list of 747 federally funded projects.
- Boehner #30 Strikes activities that are not authorized in law as appropriate uses of Chapter I funds.
- Cox #31 Strikes \$148 million for IRS tax systems modernization.
- Skeen #32 Strikes the phrase "unless expressly so provided herein" which has the effect of making all funds appropriated in the bill lapse after September 30, 1993 unless obligated by that date.
- Boehner #33 Strikes \$9.4 million for the National Institute of Health/National Library of Medicine.
- DeLauro #34 Upon effective date, a state shall have the flexibility to transfer its FY 1993 apportionments **from** the Interstate Construction Program or the Interstate Substitution Program among the National Highway Program, Congestion Mitigation and Air Quality Improvement Program, Surface Transportation Program, Highway Bridge Replacement and Rehabilitation Program and Interstate Maintenance Program, provided that the transfer shall not exceed 100 percent of a state's FY 1993 apportionment for that specific category.
- DeLauro #35 Upon effective date, a state shall have the flexibility to transfer its FY 1993 apportionments **among** the Interstate Construction Program, the National Highway Program, Congestion Mitigation and Air Quality Improvement Program, Surface Transportation Program, Highway Bridge Replacement and Rehabilitation Program and Interstate Maintenance Program, provided that the transfer shall not exceed 100 percent of a state's FY 1993 apportionment for that specific category.
- Barrett #36 Adds rehabilitation and construction of schools to the list of projects eligible for funding under the Community Development Block Grants (CDBG).

- Barrett #37 Federal Aid Highway -- Requires that the State of Wisconsin allocate funding to the largest metropolitan area which is proportional to the percentage of the state's population which resides in that area.

#### **H.Con.Res. 64 Budget Resolution**

- Sanders #1 Reduces defense budget authority and outlays by \$15 billion over fiscal years 1994-1998. Transfers \$9 billion of that to Income Security and \$6 billion to Education, Training.
- Walker #2 Directs Ways and Means to recommend changes in law to allow taxpayers to designate up to 10% of their tax liability to retire the public debt. Directs Government Operations to recommend changes in law to sequester each year an amount equal to the amount taxpayers designate for reducing the public debt.
- Barton #3 Directs engrossing clerk to send to the Senate a joint resolution proposing a tax limitation/balanced budget constitutional amendment but only if the House adopts the conference report on the budget resolution by a two-thirds vote.
- Herger #4 Reduces amount of total tax increases in each fiscal year by the amount assumed for increased taxes on Social Security benefits. Reduces spending in five functions (general science, energy, commerce and housing, transportation, and general government).
- Everett #5 Expresses sense of the House that Members may not increase pay if budget deficit has occurred in previous Congress; Members should have pay reduced if deficit was not reduced by previous Congress.
- Burton #7 Reduces the deficit by \$850 billion over 5 years by limiting the annual growth in overall federal spending to no more than 2%.
- Michel #8 Establishes a point of order against extraneous matter in any reconciliation legislation considered at the direction of the FY 1994 budget resolution.
- Bentley #9 Caps the FY 1994-1998 budget aggregates and the allocations for each function at the preceding year's amounts, plus two percentage points. Directs the Committee of the Whole to report, by May 14, 1993, a reconciliation bill to reduce expenditures by not less than \$17.1 billion.
- Allard #11 Decreases total new budget authority for FY 1994 by \$1.673 billion. Specifies reductions by budget function, targeting those areas which traditionally have had earmarking or individual projects.

- Allard #12 Decreases revenue levels in an amount equal to that which is estimated to result from a BTU tax. Reduces new spending in slightly larger amounts than what would be necessary to offset the lost revenues.
- Smith (Mi) #13 Limits outlay expenditures in FY 1994 to either (1) the outlay level of the Kasich substitute or (2) a limited freeze for FY 1994. The freeze would limit the increase in Medicare and Medicaid expenditures to one half the CBO estimate (approximately 6.5% above the FY 1993 outlays) and permit an increase in Social Security to reflect the additional number of retirees projected. After 1994, the amendment would limit outlay expenditures to either (1) the outlay level of the Kasich substitute or (2) a 1% increase in each budget function, including Social Security (which would be adjusted to reflect the increased number of retirees). The amendment assumes the Social Security retirement age would be extended by one month per year for 36 years.

#### H.R. 670 Family Planning Amendments

- Solomon #5 Requires the Secretary, in carrying out duties under the Immigration and Nationality Act, to consider infection with AIDS to be a communicable disease of public health significance.
- Dorman #6 Requires a specific means test to establish "low income family" under section 1006 of the Public Health Service Act. This would include counseling services on contraception as well as pregnancy management options. Also, specifies that, for minors, the determination of income will be made without maintaining confidentiality between the minor and the minor's family.
- Smith (NJ) #8 Codifies that a Title X project must be kept separate and distinct, financially and physically, from any abortion-related activities.
- Solomon #9 Prohibits the permanent admission into the U.S. of immigrants who are infected with the HIV virus (identical to Senate-passed language on NIH Authorization).
- Johnson (Tx) #10 Freezes the FY 1994 and 1995 authorization levels at the FY 1993 level.
- Baesler #11 Second degree amendment to the Bliley amendment. Provides a judicial bypass in the federal statute.
- Baesler #12 Second degree amendment to the Bliley amendment. Permits exceptions for states which have laws in effect requiring parental notification or consent before an abortion is performed on a minor.

- Kolbe #13 Reduces authorization levels to those provided in the FY 1993 conference report.
- Johnson (Tx) #14 Freezes the authorization level in FY 1994 and FY 1995 to the level appropriated for the previous year.
- Waxman #16 Second degree amendment to the Smith (NJ) amendment. Requires that grantees maintain sufficient records to demonstrate that no federal funds were used to provide abortion services.
- Waxman #19 Second degree amendment to the Dorman amendment. Defines the target population of the family planning program to be individuals at 185% of the official poverty line and those whose economic status might otherwise prevent their participation.

#### **H.R. 1430 Increase Public Debt Limit**

- Castle-Solomon -- A legislative line-item veto for fiscal years 1994-1995, subject to reversal by enactment of a disapproval bill.
- Barton -- A balanced budget constitutional amendment plus procedures to spin it off into a separate joint resolution for two thirds vote after final passage of debt limit bill.
- Michel -- Providing that targeted tax provisions be subject to line item veto.
- Gekas -- Sets fixed deficit targets that would reduce the deficit to zero by fiscal year 2000.
- Horn -- Establishes spending caps for fiscal years 1994-98 and provides for across the board sequestration (with exceptions) to enforce ceilings.
- Minge-Deal-Inslee -- The first year Democrat modified line item veto, expedited rescission amendment.

#### **H.R.1578 Expedited Rescission Act of 1993**

- Michel amendment to Spratt substitute -- Adding rescission authority for targeted tax provisions to Spratt's expedited rescission approach.
- Clinger -- To Spratt bill, removes two year sunset provision.
- Duncan -- Identical to Castle-Solomon except it amends the Budget Act and makes the veto permanent (i.e., no two-year sunset provision).

TESTIMONY BY THE  
HONORABLE JOHN D. DINGELL  
CHAIRMAN  
COMMITTEE ON ENERGY AND COMMERCE  
BEFORE  
THE JOINT COMMITTEE ON THE  
ORGANIZATION OF THE CONGRESS

April 29, 1993

Mr. Chairman, I would like to thank the Joint Committee for the opportunity to appear before you today.

In recent years there have been numerous calls for "reform" and "reorganization" of the federal government -- with a particular hue and cry these days for reforming Congress. Congress is said to be "inefficient", "captured by special interests", and doing nothing but living on "perks" and avoiding tough decisions.

These complaints about Congress are in fact nothing new. They have been made for more than 200 years. There is some truth to each, and it is important to act on valid criticism. On the other hand, it is equally important

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to recognize that some of these criticisms derive from the messy, untidy, conflicted nature of a large and diverse nation, and that they merely reflect the design of the Founders.

Take the charge that the House of Representatives is inefficient. Yes, the House is inefficient -- by design. The House is where all the people, through their representatives, come with all their needs, demands, aspirations, generosities, weaknesses, and goals.

We deal with the most sensitive and complex issues that face the American people: How do we provide access to quality health care for our people, how do we pay for it, and how do we do so without economic chaos as we restructure 1/7 of the American economy? How do we protect our environment while ensuring that we have a secure energy supply and that workers can support their families? How do we ensure that our financial markets operate efficiently and fairly for consumers and investors while encouraging free competition and preventing fraud?

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These are just a few of the issues facing the Energy and Commerce Committee. They are not "efficient" issues. They cannot be solved merely by some sophisticated form of "systems analysis", or by looking for the elusive "bottom line". These issues involve important values, rights, and tradeoffs ... each with "winners" and "losers" who themselves often represent valid points of view. These are issues typical of the business constantly faced by every House committee and by the House as a whole, and each of them reflects important interests and values that must be reconciled or balanced -- an often exceedingly complex and difficult task.

The response to the charge that we are "captured by special interests" echoes some of the same themes. In fact, these so-called special interests are the American people, mixing and matching into various groups to present their varied and sometimes highly inconsistent views, but nevertheless their views. One Member's special interest is often another's constituent. What we often face, and what matters are hardest to resolve, are really major disputes over truly complex public policy



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complexity that can derive from the factual difficulty of an issue (such as how to address national health care), from the intensity of the emotional and philosophical nature of the issue (such as abortion), or from a sometimes explosive combination of both. And while it is true that such a situation leads to "gridlock" in the sense that a decision may be avoided, or perhaps constantly revisited in identical vote after vote, this is by no means caused only by a structural or procedural defect. Rather it is often because there is no broad consensus among the American people as a whole.

Much the same can be said of the other charges against the Congress. So, while I agree that the House has defects -- and that it is useful to step back periodically and look at whether improvements can be made -- at the same time I have great doubt that our basic problems are structural or procedural. The issues we have such difficulty resolving are not "procedural" issues. No perfect set of procedures will solve them. Procedures and structures merely shape debate, and no quest for perfect procedures will make any of the hard policy choices for

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us. Procedures cannot resolve issues on which there is no basic consensus in this House or in the nation.

For all of these reasons, we should think very carefully before moving to wholesale restructuring and procedural reform of the House. In fact, I think the major principles guiding this effort should be, first, "do no harm", and second "if it ain't broke, don't fix it."

With these principles in mind, I would like to comment specifically on the major focus of this hearing, possible reforms of committee jurisdiction and structure, and then I would like to touch on other matters on which you have had testimony.

#### I. REFORMS OF COMMITTEE JURISDICTION AND STRUCTURE

The starting point is a basic fact: we are the Legislative Branch. The Congress is established in the First Article of the Constitution to be the representative of all the People, to be the cauldron in which the People's

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business is done, and to ensure that all the People have a voice. The very purpose of this institution is to legislate and set policy for this nation. The committee system through which the Congress operates is, I believe, the best structure through which to accomplish these tasks.

The committee system allows Members to develop expertise and bring it to bear on important and complex issues. This greatly increases the chance that we will make informed decisions with the least possible collateral damage because we simply "didn't know what we were doing". Therefore, any changes made to the committee system should be designed to enhance rather than weaken the system, and should help the committees function more effectively.

Many of your witnesses have called for reforms to committee jurisdiction and structure. I am not unaware that you have heard a number of criticisms of the Energy and Commerce Committee and its jurisdiction.

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The Members of the Energy and Commerce Committee are proud of their work. Over the years, we have done our business, and we have done it well. The charge of "gridlock" simply does not apply. We wrote Clean Air legislation that the House passed in 13 hours. We wrote energy legislation that the House dispensed with in just 9 hours. The Senate took months to work similar legislation.

I would suggest to you that there are lessons to be learned from looking at this Committee. It seems to me that in substantial part this committee's effectiveness, and that of other effective committees, are founded on three pillars: 1) attracting good Members of diverse interests and talents, which facilitates the consensus building and trade-offs that are an essential part of the legislative process and which allows the Committee to avoid being captured by particular interest groups; 2) an experienced, knowledgeable, and professional staff that is respectfully viewed by the committee Members as an important part of the legislative process; and 3) an excellent working relationship between the majority and the minority

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founded on mutual respect and affection, even in the face of occasionally difficult differences over substance.

I would suggest to you that the experience of our Committee implies not that its jurisdiction should be narrowed or abolished, but rather that other committees might benefit from having similarly active Members, energetic leadership, and a spirit of bipartisan respect. It hardly seems either reasonable or logical, as a solution to the problems facing the House, to take jurisdiction away from an effective committee that does its work and produces legislation!

We should remember that fights over jurisdiction are, more often than not, not merely petty turf fights between sparring egos. These disputes almost always reflect real policy differences. To use an example that has been mentioned before this committee, the Energy and Commerce and Banking Committees each had jurisdiction over the major banking reform bill in the 102nd Congress. Our two committees disagreed sharply on the extent to which banks with taxpayer-insured deposits should be

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allowed into the securities and insurance businesses. These were not "turf" disputes -- these were genuine differences of opinion as to how to protect the financial markets of this country. And, I must point out, these debates did not result in gridlock between the two committees. In fact, Chairman Gonzalez and I crafted a compromise that came up on the House floor as the Gonzalez-Dingell Substitute. While this legislation was never enacted, it was not because of a "turf" dispute between committees but because there was no general agreement in the House and Senate on how to address these important issues.

It also seems to me that drawing neat, tidy, and absolute lines of committee jurisdiction around various industries -- if that is even possible to do in the multi-dimensional world we inhabit -- will weaken, not strengthen, the way the House addresses important issues. Jurisdictional tension and competition between committees, if not carried to excess, can be healthy. Simply because a subject fits generally in an industry sector or intellectual construct does not mean that it

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involves the same expertise. The institutional memory built up by committees over time are a resource to be preserved and treasured, not erased in pursuit of some theoretical vision of how the House should work. Once gone, that memory will not easily be replaced -- and it certainly won't be replaced with the stroke of some reformer's pen.

Moreover, if an entire industry were in the jurisdiction of a single committee of the House, and that committee for whatever reasons -- bad judgment, corruption, indifference, whatever -- fails to carry out its legislative and oversight responsibilities, the consequences can be catastrophic. And there will be no easy way to recover from the catastrophe or bring independent judgment and expertise to address the problem.

Most importantly, all the jurisdictional changes in the world will never substitute for strong leadership. Such leadership includes good and civil relations with the minority, which I believe we have on the Energy and Commerce Committee. We try mutually to resolve

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substantive disagreements in a fair and balanced way. We try mutually to have a healthy respect for each other's procedural rights and responsibilities. There are times when we must take our corners and come out fighting, but by and large, as we serve the American people, we try to accommodate all valid points of view.

Finally on jurisdiction, it is important to emphasize that it is not so much precisely where the lines are drawn that either creates or resolves jurisdictional disputes. What we really need are a greater spirit of civility and cooperation between chairmen and their staffs. Those of us who respect each other's knowledge and skill work together to avoid jurisdictional tangles. We work together early in the legislative process, sometimes even before bills are introduced, to address issues important to each other and to each committee and to avoid unproductive and bitter jurisdictional battles.

That said, I do think some procedural changes would both enhance the committee system and allow the House to consider legislation more effectively.



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As testimony before you has shown, the total number of committee and subcommittee seats in the House increased from 2,511 in 1982 to 3,177 in 1992, and the average number of member assignments increased from 5.7 to 7.2. Each of these increases would be far greater if we were to go back further. This growth is not due to a dramatic increase in the number of House committees, but rather to an increase in the number of seats on each committee, as well as a vast proliferation in the number of subcommittees.

If we are going to reform the Committee system, the way to start in the House is by reducing the size of committees and subcommittees, reducing the number of subcommittees, and limiting Members to service on no more than two committees and four subcommittees. And these changes must be strictly enforced. This will encourage Members to focus their energy and time and to develop expertise in the matters before their committees. If Members may sit on only two committees, then over time we may be able to determine which, if any, committees should be abolished simply because Members

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will seek seats only on those committees that in their view do important work. In addition, any elimination of subcommittees should be done over a reasonable period of time to avoid unneeded loss of expertise. This would also mitigate the adverse effects on Members who have devoted substantial time and energy to issues but who may be unable to obtain seats on subcommittees to which jurisdiction may be given on the abolition of existing subcommittees.

This set of changes will also go far to address the complaints about the lack of attendance at committee and subcommittee meetings and the concurrent charges that the House no longer genuinely debates or deliberates on issues and that proxies are over-used. One of the most basic reasons for all of these failures is simply that Members sit on too many committees and subcommittees. As matters now stand, the ever-increasing size of committees makes it difficult to get a quorum for a mark-up -- and, not surprisingly, the Minority, which sharply limits the number of its Members' assignments, does a better job of showing up than the Majority.

Another issue that needs to be addressed is the referral of legislation to multiple committees, either jointly or sequentially. Like many of you, there have been numerous occasions on which we have opposed and complained about multiple referrals -- at the same time, there have been many other occasions when all of us have sought both types of referrals for our committees.

There is no question that such referrals are a two-edged sword. I have just three specific comments on this issue.

First, in terms of public policy, properly handled multiple referrals can help the House forge good policy. We have all seen major bills that cut across more than one committee's areas of expertise, and we have all had positive experiences working with other committees that have brought their needed expertise to bear in improving the resulting legislation. However, the process breaks down when a joint referral is to a committee that refuses to consider a bill that another committee has reported.

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We must find a way to prevent such bills from becoming "hostages" in the joint referral process. It seems to me the proper solution is to provide that in the case of a joint referral where one of the committees of jurisdiction has reported the bill, the other committee or committees be given a specified time within which they must report the bill or it may proceed to the floor.

Second, when a committee decides it wants to "do" a particular issue, it starts designing bills to avoid the real committee of jurisdiction by drafting the subject matter into Acts in its own jurisdiction having no real relation to that subject matter. I don't permit this type of jurisdictional raid with respect to subcommittee referrals, and it should be prevented with respect to committees under the rules of the House. Members should not be allowed to "game" the system of jurisdiction and referrals by mere drafting.

Third, when there is an error in the referral of a specific bill, that error should not constitute a precedent for other referrals of the same or similar bills, a practice

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that merely exacerbates the problem and expands confusion as to where the jurisdiction of any committee begins and ends.

Our committees also need to strengthen their oversight work. Oversight has not been adequately or effectively done in many areas. I can't emphasize too strongly that aggressive oversight of the SEC and the securities markets by the Energy and Commerce Committee helped prevent the types of scandals that has rocked other industries in America. Oversight is what a well-run committee does. It is not enough simply to pass laws and somehow hope that they will be effectively and properly enforced. Constant vigilance and attention are needed to ensure that the laws are enforced and that they achieve their purposes. The Energy and Commerce Committee has done this from securities to insurance to the sale of Conrail to environmental hazards.

Finally on the matter of committees, I must stress the importance of developing and retaining a strong committee staff. I can't help but wonder when I hear some Members

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of the House call for a 25% across-the-board reduction in committee staff. This is the staff that serves the core function of the House -- the legislative process.

While some committees and subcommittees may have too many or too little qualified staff, this is not the case for the Energy and Commerce Committee, and, I am sure, for other committees as well. On the Energy and Commerce Committee, our staff has enabled us to do many things. With the help of our staff, we were able to return \$2 billion to the taxpayers from the sale of Conrail, a full billion dollars more than what the Administration proposal would have netted. Our oversight staff has saved the Treasury and consumers billions more, and has helped us ensure that there would be no securities scandals that went uninvestigated or unpunished by the SEC. Our legislative staff ensured that when new laws were needed to ensure the safety and soundness of our securities markets, the adequacy of our energy supplies, or the protection of our environment, such laws were drafted, negotiated, and enacted.

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In looking at the number of committee staff that serve the House, I think it is particularly important to remember that we set policies for the functions and laws that are implemented by the entire Executive Branch, with its more than 2 million civilian personnel. Therefore, I strongly believe that any proposal for reduction of committee staff should be made on the basis of a specific analysis of their functions, and not in some across-the-board "meat ax" fashion. The goal should be to make sure that the House has enough and the right kind of staff to effectively perform its constitutional functions.

## II. HOUSE PROCEDURES

There have been many suggestions for changing the procedures of the House. I will focus my comments on just a few.

One issue that needs to be addressed is the problem of legislation on appropriations bills. Frequently this House and its authorizing committees are faced with situations where significant and substantive changes are

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made to laws through appropriations bills and conference reports. These provisions are often worked out solely by Members of the Appropriations Committee, regardless of their legislative content. Conference reports particularly often come to the floor as "must do" legislation near the end of the session, and they are considered under rules that waive all points of order. This precludes the authorizing committees, let alone individual Members, from having any real opportunity to affect the legislative provisions in their jurisdictions.

While I need not comment on the internal procedures of the Senate that contribute to this problem, I will say that the House faces an untenable situation as a result of these procedures. And while the new rules of the House include a provision that gives the chairman of the authorizing committee a preferential motion to oppose such provisions, this change does not go nearly far enough. Members of authorizing committees will still not be Members of the conference committee. Frequently this means that the authorizing committee will have no idea of the legislative provisions in an appropriations conference



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report until the bill just before the bill is on the floor. And equally important, there is nothing to prevent the Rules Committee from waiving this rule as it frequently waives the germaneness rule. Even our new notice requirements are merely Caucus rules, not Rules of the House.

I therefore continue to believe that the Rules of the House should provide that Members of affected authorizing committees should be appointed as sole conferees on legislative items in their jurisdiction that are included in appropriations bills.

A matter related to referrals is the increasingly large number of conferees and their complex appointment. We must find a way to limit the appointments to a manageable number and to simplify the appointments from multiple committees. The unbelievable size of some conferences in recent years has posed a managerial challenge that nearly prevented the House from doing its work, and certainly delayed for no good end the disposition of important legislation. In addition, it is time

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the House and Senate adopted joint rules to govern the conduct of conferences.

Another issue that arises generally in the context of both conference meetings as well as committee consideration of bills is what I call the problem of "openness." It has been said that sunlight is the best disinfectant, and that's true. But after a certain point, too much disinfectant becomes toxic, and in my view we have passed that point in the legislative process. I can remember a time, not that long ago, when Members could gather in a room, vigorously debate the issues presented to them, hammer out tough compromises, and then bring bills and conference reports to the floor with strong support.

Today, our committees and conferences are no longer forums for genuine debate, where Members actually talk to each other and deliberate. Instead, we are busy playing to the gallery, the cameras, and the lobbyists. I think that the quality of our final product has suffered for it, and I believe that -- subject to some limits to prevent abuses --

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the Rules should provide for processes that encourage Members to talk openly and candidly with one another and should discourage processes that tend only to promote grandstanding, speechmaking, and posturing.

I have not spoken generally on the rules or lack of rules in the Senate. Its efficiencies or lack of efficiencies, and whether it is adequately handling its own affairs are properly, and under the Constitution, the business of the Senate to determine. It is my view that Members of the House and Senate would generally agree that we should each take care of our own "house". I hope that the Senators who are Members of this Joint Committee will agree that each House's internal workings should be left to its own Members. If that is not the case, I hope you will let that be known, because I know that many of my colleagues would have useful suggestions for how the Senate should conduct its business.

## CONCLUSION

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I would like to conclude by again thanking you for the opportunity to appear before you, and by issuing one final word of caution. Many of the criticisms made in your hearings refer to procedures or structures that were the solutions to earlier complaints about the House. I believe this merely demonstrates that there is no perfectly efficient system we can adopt. Unintended consequences often make a mess of good intentions. In my view, many of the reforms that have been suggested to you would leave us worse off, not better off, than we are today. Any reforms you suggest and we adopt must clearly make this House both better and stronger.

The House of Representatives is key to our republican, democratic form of government. It represents all the people. It is by nature inefficient, messy, troublesome. But it does the people's work. We must exercise great care to preserve its critical role under the Constitution.

Statement of The Honorable Gerry E. Studds, Chairman  
Committee on Merchant Marine and Fisheries

before the  
Joint Committee  
on the Organization of Congress  
April 29, 1993

Mr. Chairman, thank you for the opportunity to appear before the joint committee this morning.

Frankly, I am glad that I am sitting where I am, rather than where you are. You have taken on a prodigious responsibility and many difficult decisions lie ahead.

You have asked for my views on committee structure and, in a moment, I will address that issue. However, first I would like to make it clear that, in my judgment, most of the public pressure that led to the establishment of this joint committee and this most recent reform effort has little, if anything, to do with the committee system.

Americans have deep and well-justified reservations about Congress as an institution. But these reservations are not about whether the House has 8, 12, 25, or 50 standing committees, or whether bills are jointly or sequentially referred.

What's on the minds of many Americans is what has become popularly known as "gridlock", a phenomenon which has seemingly immobilized us in recent years but is more attributable to forces external to the Congress -- forces such as:

- divided government;
- corrosive deficits;
- the state of the economy; and
- an ambivalent national mood favoring low taxes but high services.

The pressure for congressional reform coming from outside this institution has been added to the overwhelming belief of many Members -- myself included -- that certain aspects of this place are simply not working.

The basic objective of a reform package is to improve the way Congress works and improve the quality of its decisions. My first and primary recommendation is that the package ought to address the most important aspects of this institution that affect its ability to work well and make good decisions. If it does, then count me in as one of its strongest supporters.

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My second recommendation is to avoid getting tangled up in issues that are not central to improving the functions of the institution and which -- because of their controversial nature -- may threaten the overall package.

To move committee boxes around or consolidate those boxes simply for the sake of some general concept of reform will, in my view, jeopardize the other meaningful changes that I believe will be forthcoming from this joint committee. I urge you to deal with the difficult and real problems of this institution, avoid taking on proposals that will poison the well of effective reform, and stay clear of that most immutable of all laws -- the one of unintended consequences.

What do I mean by "real problems"? How this institution addresses the major issue of campaign finance reform is and ought to be the single most important standard by which to judge us. If we do anything, we should reform the dysfunctional system that plagues us all. It is an absurdity and an embarrassment, and it badly needs change.

If the 103rd Congress reforms its campaign finance system and adopts some of the additional recommendations pending before this Committee, then the American people will be well served and we will have done our job.

In addition to campaign reform, what deserves our attention most? I suggest scheduling. Members' schedules are nightmares. Every day, each of us violates a basic tenet of physical science -- we constantly have to be in two or more places at once. If you did nothing more than develop a rational system for simplifying the congressional schedule and allowing us to allocate our time more reasonably, this would make a major contribution to the efficient functioning of Congress.

A college with 40,000 students does a better job of scheduling classes and events -- I think its called modular scheduling, by computer -- than we do in the Congress. We absolutely must do a better job at coordinating schedules. It would not take a genius to develop a system that works, and it is imperative that we do so. The current system is no system and makes no sense.

For instance, let's coordinate markups -- the most important meetings of the committees and their subcommittees. If you don't have time to vote because you're scheduled in sixteen places at once, why be here?

Let's tell all the major committees and their subcommittees to schedule markups on certain days, and the non-major committees and their subcommittees to use other days. Simple? Yes, but it would guarantee no conflicts in the most important meetings of the committees, and make a solid first step in reforming scheduling.

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The Committee Structure in the House

Mr. Chairman, as I have just noted, I do not believe that the committee system in the House is at the heart of serious structural problems in Congress and I certainly don't think we ought to dwell on it at the risk of the larger issues. But I am also the first to argue that its patchwork arrangement has a lot more to do with the history of the place than it does good sense. The committee system in a perfect world would bear little resemblance to the current system -- but it is not, lest we forget -- a perfect world.

What can we do to improve it? I have several suggestions.

1. REDUCE THE NUMBER OF SUBCOMMITTEES. Mr. Chairman, we don't have too many committees, we have too many subcommittees.

I ask you to consider reducing the number of subcommittees in the House to no more than five for a major committee and no more than four for a non-major committee. The one exception would be Appropriations which would remain at 13 subcommittees.

This would result in a reduction in the number of subcommittees to 98, which is 20 subcommittees less than what we now have and 38 fewer than the 136 subcommittees in the 102nd Congress. Mr. Chairman, the House has not had less than 100 subcommittees since 1955, in the immediate aftermath of the 1946 Reorganization.

By contrast, if you include the Intelligence Committee, we have only four more standing committees than the 19 we had in 1947 as a result of the Legislative Reorganization Act of 1946. That is less than one new standing committee per decade. The real problem has been in the proliferation of subcommittees.

This reduction, of course, should substantially decrease the number of Member subcommittee assignments. In this Congress, there are 118 subcommittees among our 23 standing committees (including the Intelligence Committee), totalling 1,751 subcommittee assignments or slots. In the 102nd Congress, there were 136 subcommittees among the 27 standing and select committees with a total of 2,103 subcommittee slots.

Based on the average size of a subcommittee in the last couple of Congresses, I estimate that this should reduce the total number of slots to about 1,450, which is over 300 fewer subcommittee slots than we have in this Congress and represents a reduction of over 560 from the 102nd Congress.

But I would go further.

2. LIMIT MEMBER ASSIGNMENTS TO FOUR SUBCOMMITTEES. Second, Members should be limited to four subcommittee assignments. This, of course, should reduce the number of subcommittee slots

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by roughly another 400 assignments or more. When combined with the previous recommendation, the number of subcommittee slots should be reduced by nearly 40%, which I venture to guess would increase each Member's productivity by 40%.

These two recommendations combined would improve committee operations, save money, and most importantly make major strides in reducing the demands on Member's time. They are also very realistic recommendations that in my judgement would garner substantial support in the House.

3. **MAKE COMMITTEES SMALLER.** Third, although I do not want to preclude any Member from serving on a committee in which he or she has a strong interest, we ought to reduce the size of committees by allowing only permanent Members to serve, thus eliminating temporary appointments.

I do not believe that there is a Chairman who will come before you and state that his committee is too small. You have evidence before you of how the committees have expanded over the years and you have proposals to place limits in the House rules. I urge you to give serious attention to those ideas.

The Committee on Merchant Marine and Fisheries has 46 Members and we are bulging at the seams. We had to get smaller chairs to fit everyone around the dais. More important than the logistical problems, committees that are too large are a systemic manifestation of the dilution of the importance of committee assignments. Chairman Rostenkowski pointedly addressed this issue when he testified last week; I can add no more to his statement.

4. **IMPROVE MULTIPLE REFERRALS.** Fourth, although some jurisdictional overlap and multiple referrals are inevitable, there is too much of both. On this point I offer an observation and a recommendation.

First, the joint referral process exists for a good reason, and it is to ensure that a number of different perspectives are brought to bear on important topics. The experience of my committee with joint referrals is largely positive -- but it has a lot more to do with the good, no-nonsense working relationships we share with the other committees than it does with the mechanics of the referral process.

On seafood safety, we worked closely and successfully with the Energy and Agriculture Committees. On old growth, the same story with Natural Resources and Agriculture. On clean water and oil spills, we enacted major new programs with the cooperation of the Public Works Committee.

Nevertheless, the Speaker could expedite the legislative process, without harm to the proper claims of committees, through the creative use of his referral authority; for example, by more often



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designating primary committees with a time limit on the other committees that may have received a concurrent referral. Chairman Miller made an interesting suggestion to you last week that would preclude a committee to which a bill has been jointly referred from killing it by simple inaction. I think that this and other ideas that have been put forward are worth exploring.

5. SIMPLIFY SCHEDULING. Fifth, as I mentioned earlier, there must be a way to coordinate the schedules of major and non-major committees so that a Member is not forced to be in two committee meetings at the same time. After all is said and done, if all we do is rationalize the scheduling system, many generations of Members will thank you for it. Tackling the scheduling problem is worth it.

#### The Merchant Marine and Fisheries Committee

Mr. Chairman, I suspect that you would be shocked if I did not address directly an issue that seems periodically to swirl around the Committee on which I have served since I first came to Congress over 20 years ago, and which I recently was accorded the honor of chairing.

For reasons that have never been completely clear to me, proposals to break up the Committee on Merchant Marine and Fisheries, and parcel out its work and jurisdiction to other committees, have been put forward from time to time.

Once again, as part of a few of the proposals that have been made to the joint committee, consolidating the Committee into others has been suggested.

The Committee has a problem, and it is a perception problem. It's name is unintelligible and bears little relationship to its jurisdiction, which is why our freshman Democratic delegation, which composes some 40% of our majority membership, has recently proposed to change it to better reflect what we do.

If I accomplish nothing more this morning than to correct the general misunderstanding about the Committee, this will be a most worthwhile effort.

The Committee on Merchant Marine and Fisheries is over 105 years old, but it is a far different Committee today than it was just 20 years ago when it was reviewed by the Bolling Committee. With some exceptions, the early history of the Committee was marked by its concentration on maritime matters -- vessels, laws of navigation, the U.S. Merchant Marine, shipping, and shipbuilding.

Beginning in the mid-1960's, and accelerated by a series of ocean-related incidents like the grounding of the tanker Torrey Canyon in 1967 and the offshore oil blowout in Santa Barbara in 1969, the Committee's jurisdiction over fish and wildlife re-

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sources moved it more and more into coastal and marine environmental issues.

Under the leadership of Fisheries and Wildlife Subcommittee Chairman John Dingell, the Committee was responsible for the enactment of the National Environmental Policy Act of 1969. NEPA established the first national policy on federal activities that affect the environment and has recently been called, by a coalition of environmental organizations, the "Magna Carta of environmental protection in America". Largely as a result of the Committee's authorship of NEPA in the House, the Bolling Committee noted that its jurisdiction encompassed broad-ranging "national environmental policy."

In a sense, that was the turning point as environmental and resource protection concerns have come to dominate the Committee.

The fact is that the Committee encompasses three broad areas of responsibility:

I. Marine Conservation and Environmental Policy, which includes all aspects of the marine and coastal environment including the coastal zone, estuaries, clean water, wetlands and the National Environmental Policy Act;

II. Living Resource Conservation, which includes both marine (fish) and terrestrial (wildlife and plant) species, by virtue of its jurisdiction over fish and wildlife resources, endangered species and the 91 million acre national wildlife refuge system; and

III. Maritime Affairs, which includes all aspects of marine transportation and navigation and the Coast Guard.

Allow me to cite just a few of the major laws produced by our Committee over the last several years, for they illustrate my general point well. They include:

- the Ocean Dumping Act;
- the Marine Sanctuaries Program;
- the National Environmental Policy Act;
- the National Wildlife Refuge System;
- the Coastal Zone Management Act;
- the Marine Mammal Protection Act;
- the Endangered Species Act;
- the Fishery Conservation and Management Act;
- the Deep Water Port Act;
- the Outer Continental Shelf Lands Act Amendments;
- the Trans-Alaska Pipeline Act;
- the Wetlands Loan Extension Act;

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- the Atlantic Tunas Convention Act;
- the Coastal Energy Impact Fund;
- the National Aquaculture Act;
- the Ocean Thermal Energy Conversion Act;
- the Deep Seabed Minerals Resources Act;
- the Act to Prevent Pollution from Ships;
- the Fish and Wildlife Conservation Act;
- the Antarctic Conservation Act;
- the Driftnet Fishing Ban Act;
- the Oil Pollution Act;
- the Sea Grant Program;
- the African Elephant Conservation Act;
- the Wild Bird Protection Act;
- the Dolphin Protection Act;
- the Coastal Barriers Protection Act;
- the Coastal Nonpoint Pollution Control Program;
- the Commercial Fishing Industry Vessel Safety Act;
- the Antarctic Marine Living Resources Convention Act;
- the Antarctic Protection Act;
- the Atlantic Salmon Convention Act;
- the Atlantic Striped Bass Conservation Act;
- the Clean Water Act Amendments of 1987;
- the Coastal Wetlands Restoration Act;
- the Driftnet Control Act;
- the Emergency Wetlands Resources Act;
- the Global Change Research Act;
- the International Dolphin Conservation Act;
- the Marine Plastic Pollution Research and Control Act;
- the North American Wetlands Conservation Act;
- the Pacific Salmon Treaty Act; and
- the U.S. Fish and Wildlife Foundation Act.

Mr. Chairman, this should give you and your colleagues some idea of the breadth of the Committee's jurisdiction - areas of legislative responsibility that I am afraid we have not done a good job of highlighting.

Mr. Chairman, we are in the process of preparing a short history and legislative analysis of the Committee's work. I had hoped that it would be ready today for presentation to this joint committee, but it will be delivered to you shortly. I am not asking that it be made part of your official record, but I will make it available to the Members and staff and I hope that you will have an opportunity to review it.

In our paper, we have analyzed the body of federal law and programs over which the Committee exerts some level of legislative and oversight jurisdiction. We did not count reauthorizations or minor or expired statutes - only existing and operational laws. At this point, we have identified some 177 laws and programs within our jurisdiction of which 134 (over 75%) can be classified as "environmental".

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We also examined the bills that were referred to the Committee in the last two Congresses, by maritime or environmental category, and traced those that became public law either on their own or folded into other pieces of legislation.

I believe it rather remarkable that 168 bills with which the Committee was involved in some way or another in the 101st and 102nd Congresses ultimately became law. Of these, almost two-thirds were environmental bills. We have not compared that number with other committees but, in my judgment, it is an indication of the level of responsibility and diligence of the Committee about which I am justifiably proud. The policy-making function of the Committee is indeed alive and well.

We deal with some of the toughest resource protection-economic development issues faced by the Congress (Endangered Species, NEPA, fisheries, protection of marine mammals, marine pollution, wetlands, energy development in refuges and offshore, etc.).

And, we are on the cutting edge of some of the most difficult policy issues to be addressed by the government (biodiversity, envirotech, trade & the environment, funding clean water efforts, maritime reform, etc.).

Finally, I would like to address one of the more frequently heard assertions about the Committee -- that it has a single client group or that it is characterized by its "unabashed advocacy of outspoken constituency groups" (Ornstein & Mann). Although it is not clear who may compose that client group or groups, I suspect that it is the "maritime industry", which actually covers a number of disparate subgroups who tend to disagree among themselves more than they agree.

Clearly, the Committee has had a history of general support for the U.S. merchant marine and shipping based on considerations of jobs, commerce, national security and defense. That support was -- and continues to be -- well justified.

But I think by the enumeration above it is decidedly wrong to characterize this Committee as a single issue or single constituency committee. Nothing could be further from the truth.

Mr. Chairman, the Committee on Merchant Marine and Fisheries -- or any other committee, for that matter, is not the problem. If there were one shred of evidence that doing away with the Committee would end gridlock, make us more effective, or get Congress to where we want it to be, I would board up our doors and gleefully go out of business. But, the clear evidence is to the contrary -- the Committee is a model of how the legislative work of Congress should be carried out.

Our Members represent the broad geography that is this country, from Maine to Florida to Oklahoma to Arkansas to California to

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Alaska. The many important subjects for which the Committee is responsible deserve the focus and energy that we devote to them. The importance and scope of those subjects -- from living resource management to maritime affairs to clean water and wetlands -- also explains why we continue to recruit extremely talented and energetic new Members to the Committee -- Members who will form the backbone and strength of the Committee. In short, we are a good committee, a constructive committee, a bipartisan committee and a credit to the House.

When you review the committee structure, I would urge you to consider what our colleague, Dave Obey, said last week during one of your hearings, "what counts is what works". Mr. Chairman, the Committee on Merchant Marine and Fisheries works.

As I said at the beginning of my testimony, you have a daunting task ahead of you. I wish you good luck, offer my counsel and support, and look forward, with more than mild interest, to your recommendations on how to make this place work better.

Thank you.

STATEMENT BY THE HONORABLE HERBERT H. BATEMAN (R.-VA) (FOR THE HONORABLE JACK FIELDS) BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS: APRIL 29, 1993.

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Thank you for this opportunity to appear before the Joint Committee on the Organization of Congress. I want to commend this panel, collectively and individually, for the vigor with which you are tackling the difficult issues of congressional reform. I have long supported institutional and operational reforms of the Congress.

You have much hard work ahead of you, and it is my sincere hope that the results of your hearings and deliberations will lead to meaningful changes that will benefit all Americans, enhance the effectiveness of the Congress, and its standing and creditability with the American people.

I appear for myself and, on behalf of our good friend and distinguished colleague, the Honorable Jack Fields the Ranking Minority Member of the Merchant Marine and Fisheries Committee, who could not be present today.

I would like to summarize the position he takes, as his views mirror my own. I also wholeheartedly support the testimony given by our hard-working Chairman, the Honorable Gerry Studds. Having heard his arguments, I have every confidence the Joint Committee will agree that the Committee on Merchant Marine and Fisheries has been, and will continue to be, a positive factor in the maritime and the environmental interests of our nation and the world.

First let me say that I do not apologize for the efforts of the Merchant Marine Committee on behalf of the maritime industry. Our committee should not have to apologize for trying to assure an adequate standard of living and safe working conditions for maritime labor, for opposing foreign shipyard subsidies, or for creating a level playing field for U.S.-Flag operators.

If the committee had succeeded in some egregious excessive program that created a fat, overindulged and profitable maritime industry, there might be case for parceling out jurisdiction to other committees. The desperate straits of the American merchant marine clearly dispels any such notion and it would be singularly unfair to disband the committee which on a bipartisan basis has wrestled with the problem and is dedicated to the revitalization of our merchant marine industry.

However, the committee's concerns go well beyond just maritime revitalization. Chairman Studds and our Ranking Member Jack Fields have an ambitious agenda for this Congress, and the issues under the jurisdiction of the Committee continue to

include some of the most critical problems and public policy decisions the American people, through the Congress, need to address. This year the Committee will act not only on legislation to revitalize U.S. maritime policy, but also on legislation to protect endangered species and marine mammals, to improve and assure the safety of seafood, and to improve fishing vessel safety. The committee is also conducting oversight hearings on the implementation of the Oil Pollution Act-- legislation our committee had been working on long before the EXXON VALDEZ accident.

As has been pointed out by some committee members who want to change the name of the panel to the Committee on Marine Affairs and Environmental Policy, the work of the committee goes beyond just its responsibility for the merchant marine and fishing industries. The panel also is responsible for maritime and waterway safety, oceans policy, and the protection of the coastal, estuarine and marine environment.

The committee has either written or taken a leadership role in writing maritime policy and cargo preference statutes, legislation that has led to the dramatic growth of the U.S. fishing fleet, laws that assure the safety of those who depend on our waterways for their work and recreation, and major environmental protection measures.

America is a seafaring nation and our ability to influence and shape the course of history depends upon our remaining a maritime power. The maritime industry provides jobs, assures reliable shipping services, and allows us to maintain a strong defense. Without U.S. ships on the sea, discrimination against U.S. shippers would be easier, and our ability to assure adequate military sealift when needed would be threatened. To protect our defense industrial base, we also need adequate shipbuilding capabilities.

Certainly the oversight of our maritime industries is an important part of the committee's work, but like other House committees, the interests and concerns of our committee have evolved over time. Today, economic and industry concerns are balanced with our concern for protecting fish, wildlife, marine mammals and the marine and coastal environment. In light of these developing concerns our committee has taken the lead in writing the National Environmental Policy Act, the Endangered Species Act and the Oil Pollution Act. These bills and others produced by the committee make up a crucial part of our environmental protection safety net.

Indeed, our largest constituencies are the oceans and our coastal waters. The committee takes very seriously its responsibility to oversee the protection of our marine and coastal environment and the judicious use of the resources

located there. Add to this the environmental significance of the global oceans and you can see the vast jurisdiction and responsibility of our committee. Fragmenting these responsibilities and distributing them among several other committees with larger, competing concerns would run counter to the best interests of the American people. It would also constitute an unwise retreat from the world-wide leadership role our committee has helped this country maintain in so many marine and maritime related issues. We must not forget that the oceans comprise over 70 percent of the earth, and that nearly 75 percent of the American people live along our coasts.

Just look at the statistics. Of the laws and programs within the jurisdiction of the Merchant Marine Committee, 130 are concerned with the global environment. Moreover, during the 101st and 102nd Congresses, the Committee held 230 hearings, almost two-thirds of which dealt with the environment.

Almost every department of the Federal Government has testified before our Committee. We have conducted oversight on the ozone hole over Antarctica and enacted legislation affecting the zebra mussel in the Great Lakes. We helped develop legislation dealing with the most significant environmental threat of our time -- global climate change -- and the safety of every man, woman, or child aboard a U.S. vessel is our concern. We minister to the 482 National Wildlife Refuges in America, from Salt Plains, Oklahoma, to Muscatatuck Refuge in Indiana, to San Maxwell in New Mexico, to Seal Beach in California.

We have conducted hearings on the tuna/porpoise controversy, and it is this Committee which has investigated whether it is harmful to our coastal environment to burn PCB's offshore, to dump sewage sludge into the oceans, and whether certain chemicals used in paints applied to ships are poisonous to fish or other aquatic life. Other House Committees may share oversight over portions of some of these programs, but we have repeatedly been the legislative leader. Clearly we are not a one-trick pony.

The environmental implications of the North American Free Trade Agreement (NAFTA), wetlands issues, biodiversity, and marine biotechnology are all on our schedule for this year. Without our expertise and effort, these issues will receive little, if any, of the attention they deserve from the House of Representatives.

The same can be said for these issues in the Senate. As recognized by our critics, Messrs. Mann and Ornstein, committee work is far more significant in the House than Senate, and ocean programs have always received minimal attention in the other body. In almost every instance, it is the Merchant Marine and Fisheries Committee that produces legislation for coastal environment and maritime issues.



In many ways, the Merchant Marine and Fisheries Committee is a model Congressional Committee. We have historically operated in a bipartisan manner, and when our Members disagree, it is as often due to regional rather than party differences.

Furthermore, our Committee reduced the number of Subcommittees in the last Congress, we have clarified jurisdiction to eliminate joint subcommittee referrals, and we have pared down our Committee staff. We have made these reforms while conducting an exhaustive hearing and markup schedule. We have 16 events scheduled for the month of May alone and that reflects the level of activity we expect in the future.

While I suspect every standing committee will testify as to why they should be retained in the future, the overwhelming preponderance of evidence suggests the need for the Merchant Marine and Fisheries Committee.

Having said that, however, I would support a clarification of our Committee's jurisdiction, the elimination of most joint or sequential Committee referrals, and other efforts to expedite consideration of important legislation. As an example, there is no reason why the Deep Seabed Hard Mineral Resources Act needs oversight by both Merchant Marine and the Foreign Affairs Committee. I am sure our Committee would be pleased to resolve this matter with Chairman Hamilton.

Mr. Chairman, I want to again thank you for this opportunity to testify. In the final analysis, I hope that you will conclude that the vast oceans and the 206 million Americans who live in coastal areas deserve to have a forum in the United States Congress. I strongly believe that forum should be the House Merchant Marine and Fisheries Committee.

I am sure that after carefully reviewing our impressive legislative record and the importance of the issues over which we have jurisdiction., you will agree that the Committee should be retained in the 104th Congress and beyond.

Thank you, Mr. Chairman.

STATEMENT OF  
THE HONORABLE WILLIAM L. CLAY  
CHAIRMAN  
COMMITTEE ON POST OFFICE AND CIVIL SERVICE  
BEFORE THE  
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS  
APRIL 29, 1993

I want to express my appreciation to Chairmen Boren and Hamilton, Vice Chairmen Domenici and Drier, and the members of the Joint Committee on the Organization of Congress for the opportunity to appear before you this morning. I commend the members of this Committee for undertaking this difficult task. Having lived through the controversies that surrounded the Bolling/Hansen reforms and as a former member of the Patterson Committee, I fully appreciate the difficulties of the assignment you have undertaken.

The potential benefit of the work of this Committee to Congress is clear. A thoughtful and reasoned analysis of how Congress works, what its shortcomings are, and how they might be addressed, would have significant worth for the House and the Senate and for the country we seek to serve. Let me add, however, that the work of this Committee is not without peril. Improving the orderly consideration of legislation is not synonymous with improving the substance of that legislation; simplifying the operations of Congress can just as easily weaken, as strengthen, the effectiveness of the Congress.

The focus of my remarks this morning will concern the Committee I chair, the Committee on Post Office and Civil Service. The Committee's name is in many ways a misnomer which does not fully describe the responsibilities vested in it. The Committee has jurisdiction over the Federal Civil Service and the Postal Service. But within these broad

jurisdictional categories, the Committee is involved in a surprisingly wide range of issues, such as jurisdiction over White House personnel, Members' pay, whistleblower protection laws, the Senior Executive Service, the designation of Federal holidays, the establishment of Federal commissions and the Franking Commission.

The Committee also has jurisdiction over the census which is the largest peacetime undertaking of the Federal Government. The critical design, planning and preparation phases for each census take place throughout the decade and require extensive, on-going oversight. This oversight often requires legislative guidance from the Congress, which has constitutional responsibility for the once-a-decade enumeration of the population. The execution of the census demands continuous real-time oversight of operations. For the most recent census, the Subcommittee on Census and Population held 26 hearings to review the final year of preparations, the operational phase, and the post-census review of statistical adjustment techniques.

As wide ranging as this task is, it is only the cornerstone of the massive Federal statistical system, which spans over 70 Federal agencies. Last month, Fortune magazine cited our nation's economic statistics as "the biggest infrastructure problem of all." The newly-constituted Subcommittee on Census, Statistics and Postal Personnel is reviewing structural and methodological weaknesses in the statistical system, in an effort to ensure that the needs of policymakers for accurate, timely and useful statistics are better met. That work is proving difficult, given the increased jurisdictional demands on each subcommittee. Nevertheless, it represents a noteworthy example of how difficult it is for an entire committee to oversee adequately important Executive Branch activities.

The Committee has a long and distinguished history. It is nearly as old as the Nation itself. A Select Committee on the Post Office and Postal Roads was first established in the House of Representatives in 1806 and was made a standing committee in 1808. Abraham Lincoln ranks among those who served as chairmen of the Committee. Among the actions of the First Congress was the creation of a select committee to recommend procedures for the conduct of the census. The House maintained select Census Committees from thereon until 1901 when it created the standing Committee on the Census. In 1893, the House established the Committee on Reform in the Civil Service as a standing Committee. Its name was shortened to the Committee on Civil Service in 1924. As part of the Legislative Reorganization Act of 1946, the jurisdiction of these three committees were combined to form the Committee on Post Office and Civil Service. With the exception of minor changes made by the Hansen reforms, the jurisdiction of the Committee has not changed significantly since 1947. Had this Committee not existed, a lot of important work may never have been done. Throughout its history and especially in the recent past, the Committee has been the principle congressional repository of knowledge, institutional memory and expertise on census, postal and civil service issues. It has been this Committee that has initiated important pieces of legislation, such as the Postal Reorganization Act, portions of the Ethics in Government Act, the Hostage Relief Act which provided benefits for Iran hostages, the Family and Medical Leave Act, the Hatch Act Reform bill, Federal Employees Pay Comparability Act, the Decennial Census Improvement Act, Civil Service Reform Act, and the National Advisory Council on the Public Service. In addition, the Committee has historically played a crucial role in fighting off attempts by other committees to change the nation's civil service laws to

serve some parochial interest. In the absence of a committee with the focus and expertise to act as a gatekeeper, Federal pay and employment practices would long ago have become balkanized.

The Committee has aggressively exercised its oversight responsibilities. It was this Committee that investigated the controversy surrounding the theft of President Carter's debate briefing book during the 1980 campaign. Known as Debategate, it led to the investigation of the allegations surrounding the same campaign's October Surprise. It was this Committee that initiated an investigation last fall of the improper use of then candidate Clinton's passport files and the improper use of civil servants for political purposes. Last year, this Committee conducted an investigation of the Post Office shooting in Royal Oak, Michigan. Committee investigators have uncovered major wrongdoing, including criminal activity, in Postal Service real estate acquisition transactions, discriminatory employment practices by the Federal law enforcement agencies, agency reprisals against civil servants, uncontrolled spending by the White House on travel and transportation, and possible criminal activity in connection with the Christopher Columbus Quincentenary Commission.

It is inconceivable that a subcommittee would have had the wherewithal to have undertaken the legislative and investigatory activities that this Committee has undertaken over the years. The Congress and this Nation are a lot better off today because a standing committee like the Post Office and Civil Service Committee -- possessing both a singular and trained focus and the resources -- was minding the store.

Some have suggested that the Committee should be eliminated because it is no longer important. I would note that this unimportant Committee is under reconciliation instructions to

produce 39 billion dollars worth of savings, but for two committees, the highest amount of any other committee of the House of Representatives. Among other issues that this unimportant Committee is facing are: comprehensive reform of the Federal Employees Health Benefits Program; extension of the Occupational Safety and Health Act to Federal agencies and the Postal Service; reform of equal employment procedures for Federal employees; the restructuring of the civil service to increase flexibility, efficiency, and productivity while ensuring that we do not recreate the spoils system; and a possible Administration proposal to revise the Federal employees locality pay system. Furthermore, the Committee continues to aggressively monitor the Postal Services' restructuring, perhaps the largest of its kind by any federal agency in history, and to investigate charges of sexual harassment in Federal agencies.

Similarly, it has been suggested by some that the Committee be eliminated because of its special clientele relationship. I would point out that the clientele of this Committee are special and deserve the attention they receive. After all, the Federal Government is the largest employer in the country. Its employees carry out the programs and policies established by the Congress and provide services that directly benefit 250 million Americans. The welfare of Federal employees and the terms and conditions of their employment directly affect their efficiency and productivity. The census is the basis by which we apportion representation in the House and also provides information essential to the development of private and public sector policies. And the Postal Service and its employees deliver 160 billion pieces of mail a year, keeping American citizens in touch with family, friends, businesses, and government. It is an integral component of the marketplace of ideas and the marketplace of goods and services.

I would like to close with some general comments. While the House and Senate, as legislative bodies, share a common objective, to view the Congress as a single institution would be a mistake. Both the manner in which the respective institutions of the Congress consider legislation and the role of individual members within that process differ. To ignore the differences between the bodies, as proposals to implement identical committee systems in each body do, is to guarantee that either the House or the Senate or both will not function optimally.

The larger membership of the House automatically confers certain advantages and disadvantages as compared to the Senate. Simply because of the greater number of Members, as a general matter an individual Member of the House will not exercise the same degree of influence on all bills that an individual Senator will. However, because of the greater size of the House, House Members have the luxury of being able to specialize in specific subjects to a greater degree than our colleagues in the Senate. The means by which the House achieves this specialization is through its committee structure. To argue that, because the Senate is not large enough to sustain separate Post Office & Civil Service, District of Columbia, and Government Operations Committees, the House, therefore, should create a Governmental Affairs Committee, is to ignore the singular advantage that the House possesses. The consequence is to diminish the quality of consideration that the Congress, as a whole, is able to give to legislation.

In closing, I again thank the members of the Joint Committee for this opportunity to testify this morning. I would be happy to answer any questions.

**Testimony of the  
Honorable John T. Myers  
Ranking Minority Member  
Committee on Post Office and Civil Service  
House of Representatives  
Before the Joint Committee  
on the Reorganization of Congress  
April 29, 1993**



Messrs. Chairmen and members of the joint committee, thank you for inviting me here today to testify before this Joint Committee on the Reorganization of Congress and the role and future of the House Committee on Post Office and Civil Service in that process. As ranking Republican and long-time member of the Committee, I have first hand experience in recognizing its accomplishments and successes. From the tedious work involving development of a retirement plan for federal employees to exercising oversight over the nation's largest workforce, the Committee's work benefits not only those affected federal and postal constituencies, but the public at large in seeing that federal services, from the delivery of on-time social security checks to the nation's elderly to the medical research to discover an effective vaccine against HIV, are delivered efficiently and at a cost-effective manner to the public.

The Committee's origins can be traced to the 1946 Congressional Reorganization Act. As this joint committee seeks to reform, reorganize and streamline Congress, so the 1946 efforts paralleled these same intentions. Originally, two committees were active in overseeing the federal civil service and postal department. As a result of reform efforts, the House combined both the former civil service committee and post office committee into one standing committee.

The Committee was charged with a broad range of functions. Back in those days, Congress exercised a significant role in the operations of the old Post Office Department. Following reorganization of the department into a government corporation in 1970, the Committee retained significant oversight authority which it continues to practice on a continual and recurrent basis. Its role in formulating policy for the federal civil service is widely known. No other legislative entity has the developed skill and expertise to address

the tedious and often prickly areas of employee pay, health benefits and retirement.

The Committee plays a major role in the yearly Congressional budget process. Year after year, those responsible for crafting Federal financial parameters assign a prominent role to the Post Office and Civil Service Committee in finding ways to reduce budgetary outlays. This was particularly true this budget cycle. Only two other standing committees, the prestigious tax-writing Ways and Means Committee and the Energy and Commerce Committee, with its all encompassing jurisdiction, were assigned higher budgetary obligations.

Other areas of Committee action include the role of overseeing the completion of the decennial census as conducted by the Census Bureau within the Department of Commerce. In contrast to my colleagues in the other body, House members have a particular and distinct interest in direct oversight of the decennial census. This important operation is carried out by the Committee on Post Office and Civil Service and I question whether any one House committee has the legislative time and resources to devote to this activity in the thorough and comprehensive manner in which this Committee has operated.

I want to stress to my Senate colleagues the importance of the decennial census and its role as life blood for the House of Representatives. While Senators certainly have substantial interests affected by the decennial census, especially in terms of the apportionment of federal dollars to their respective states, House members and the districts they represent are a direct result of this important constitutionally mandated operation.

In addition to our oversight of the census, the Post Office and Civil Service Committee plays an unparalleled role with respect to legislation affecting the Postal Service

and the federal civil service. Some congressional reformers try to make the case for abolition of the Post Office and Civil Service Committee by arguing its functions could readily be assigned to another House Committee, most often the Committee on Government Operations. In the Senate, most of our issues are addressed by a five-member panel within the Governmental Affairs Committee. It is unrealistic to assume their levels of legislative concentration can match our Committee when it comes to addressing federal workforce and delivery issues.

In most critical areas, the House Committee plays the prominent role when it comes to the technical expertise required in developing and drafting legislation affecting the postal and civil service areas. It has been the House committee that has developed legislative efforts aimed at reforming the nation's largest employer-sponsored health plan. It was the House committee that was intricately involved in devising pay reform for federal employees. And it was the House committee that Congress looked to for expertise in devising a new retirement system to coordinate with Social Security.

While our companion Senate committee certainly plays an important policy role, it is the full committee in the House that is most often the originator and drafter of the tedious and complicated legislation which falls within the committee jurisdiction.

Admittedly, our House committee is no "glitz and glamour" committee. Federal employee retirement, health care, Postal Service oversight, civil service reform, employee pay and classification do not make daily headlines. These are, however, bread and butter issues of great importance in helping members perform valuable constituent services.

The Committee plays an unsurpassed role in providing constituent service for all

Members of the House. Every Member, be he or she from Washington, D.C. and its suburbs to rural New Mexico or suburban California, has postal employees and federal civil servants in their districts. Full committee status allows our Members to address your concerns when it comes to constituent complaints regarding mail service and civil service matters. Relegating this Committee to subcommittee status within another large committee would only hamper our, and your, response to these concerns.

Our Committee is also charged with some of the more volatile issues affecting Congress. We endured the prickly and politically unpopular issues of Congressional and Executive pay in an open and objective manner. I doubt that other committees and their members covet the opportunity to confront these concerns.

In deciding the future role of the House Post Office and Civil Service Committee, I urge the joint committee to weigh any considerations to dissolve the Committee against the need to establish workload parity among all House and Senate committees. I am afraid that relegating these issues to subcommittee status would leave both Congress and the public short of the necessary skills and resources it requires to adequately address these important issues.

I urge you to take a close look at the role this unique House committee plays in fulfilling its congressional responsibilities. We are a small committee, yet we are extremely effective in carrying out our public responsibilities. A careful and prudent review of our operations will prove that our continued existences as a full standing committee of the House of Representatives is in the best interests of the voters we serve.

While I hope the joint committee retains the standing committee-status of the Post Office and Civil Service Committee, I am quite aware of the rumblings urging that the

Committee be placed as a subcommittee within the House Committee on Government Operations. I recommend to the joint committee that it consider integrating the legislative activities of the Committee on Government Operations into the current structure of the Committee on Post Office and Civil Service. This consolidation would emphasize the new committee's legislative jurisdiction and authority rather than creating another legislative entity whose primary role is only oversight and non-legislative in operation.

This new hybrid committee should focus on civil and postal service issues and emphasize the quality and delivery of federal government services. Legislative jurisdiction should include current Post Office and Civil Service issues and encompass other areas including, but not limited to government contracting and procurement, paperwork reduction, oversight of agency inspectors general, the General Services Administration, and the creation of any new Executive departments and agencies.

The focus of this new committee would center on federal policy, personnel and services. Rather than creating a "super subcommittee" within the current Government Operations Committee - much like the expression of the "tail wagging the dog" - I urge the joint committee to consider creating a streamlined committee devoted exclusively to the quality delivery of federal services. These issues dovetail with the current jurisdiction enjoyed by the House Post office and Civil Service Committee and its integration of legislative jurisdiction currently maintained by other House committees would meet the objectives of congressional reform as established by this joint committee.

My recommendation is not to be construed as an effort to denigrate the oversight role as presently exercised by House and Senate committees. However, oversight authority

without concurrent legislative authority is often duplicative and lacks any real power. Some might even argue that oversight is merely a tool used to hound political enemies. In addition, the exercise of oversight authority often causes turf battles among the various House committees. If the joint committee's objectives include streamlining the committee process, I urge it to consider this option in an effort to reduce duplication and waste in the congressional process.

This recommendation represents a novel and innovative approach to the questions posed by congressional reorganization. I urge the joint committee to study seriously this approach in recommending any changes to the committee system in the House.

Statement of

**Hon. Henry B. Gonzalez**

Chairman

Committee on Banking, Finance and Urban Affairs

Before the

Joint Committee on the  
Organization of Congress

April 29, 1993

Mr. Chairman and Members of the Committee:

Let me first express my gratitude for the invitation to testify before the Joint Committee on the Organization of Congress on issues affecting the organization and function of the committee system of the U.S. House of Representatives and the U.S. Senate.

My perspectives on these issues arise from a lifetime experience in public service, including 32 years of Congressional service under 8 Presidents and 5 Speakers. I have seen the U.S. Congress rise to the occasion many times to deal with difficult issues such as civil rights and the constitutional crisis of Watergate. Unfortunately, I have also seen the Congress abdicate its responsibilities and stagger against the ropes because of internal confusion, scandal and public mistrust.

The nature of Congress is cumbersome but its present organization makes it needlessly ineffective. The energies of the Congress are often directed inward and little is ever accomplished except for the preparation of lengthy legal memoranda used to argue institutional issues against ourselves. The success of your work will have a real bearing on our ability to resolve the pressing national problems which need our attention.



Legislatures are, by nature, deliberative bodies but we must never be so inflexible as to permit arcane rules and procedures to impede or delay our ability to carry out our responsibilities. I fear we are quickly approaching this point and it is crucial that you continue your work and set new organizational guidelines for the Congress as soon as possible.

My remarks relate my experiences as a long standing Member of the Committee on Banking Finance and Urban Affairs and to my responsibilities as Chairman, a position I have been privileged to hold since 1988. I am pleased to be joined today by the new ranking minority Member of the Banking panel, Congressman Jim Leach of Iowa. Congressman Leach is well regarded for his astute insight into the issues before the Committee and the nation. I sincerely look forward to hearing his testimony today and to closely working with him on the many difficult issues before the Banking Committee.

One of the most obvious characteristics of the Banking Committee is the number of Members on the Committee. Fifty-one Members presently serve on what is one of the largest committees in the House. I often describe the Banking Committee as one-half the U.S. Senate plus one. While I recognize the Speakers' prerogative to negotiate committee sizes, I would strongly recommend that serious consideration be given to limiting the number of Members assigned to various Committees and reducing the size of some of the

larger committees. My point is illustrated by the fact that five of the Committee's six subcommittees are too large to utilize our two subcommittee hearing rooms. This makes scheduling of full and subcommittee sessions difficult since every single one of our legislative panels must use the full committee room or make arrangements to use another committee's large room.

The principal point of my testimony, however, it is that the committees, particularly in the House, are required to spend far too much time and energy on jurisdictional questions. One of the principal reasons for our attention to jurisdictional issues is that it has been far too long since the House has realigned Committee jurisdiction to reflect current realities. We have done very little since the adoption of the Legislative Reorganization Act of 1946 to perfect House practices and procedures concerning committee jurisdictional issues. It is clear that the work of the Bolling Committee in 1974 failed to achieve substantive reform. One observer assesses the contribution of the 1979 Patterson Committee as "it left behind barely a trace of its 13 month long effort to change House procedures."

The result of fifty years without reform in the House is legislative overlap, duplication and, in too many cases, intercommittee squabbling, accompanied by frustration and postponement of worthy legislative initiatives. Neither the Congress nor the American public benefit in these situations.

All too often, the issues in question are not public policy issues but discussions about which Committee has stronger jurisdictional claims. How many times have important public policy issues been put aside during multi-committee conferences only because committee "turf" conflicts could not be resolved? It was precisely to avoid such jurisdiction that Speaker Wright turned to ad hoc task forces.

Of course, it can be said that different committees have sometimes brought alternative perspectives to complex national problems. Unfortunately, the more common situation is that these differing points of view become entangled in jurisdictional battles and the committee's positions become competitive. The results of these struggles are usually unproductive. In recent years, jurisdictional claims, counterclaims and disputes have intensified and legislative gridlock has increased dramatically.

For purposes of illustration, let me describe an example of a long jurisdictional battle involving the Committee on Banking, Finance and Urban Affairs. Both the Banking Committee and the Committee on Energy and Commerce deal with important issues relating to the availability and delivery of financial services. The Banking Committee is responsible for a full range of issues concerning the viability of federally insured deposit institutions. Over three trillion dollars of insured deposits are backed by a federal insurance system operating in the red and supported by the taxpayers.

In recent years, the Banking Committee has worked hard to re-establish public confidence in the safe and sound operation of these federally insured financial institutions. The Commerce Committee has worked diligently on issues involving the SEC's responsibility to protect investors.

However, in the always-changing, fast-paced financial services market, the distinctions between insured depositor and uninsured investor are often blurred. The Energy and Commerce Committee efforts to authorize the SEC as a regulator of financial institutions often conflicts with the necessary work of the banking regulators and the express intentions of the principal committee with jurisdiction over financial regulators - the House Banking Committee. The world of financial services has imprecise boundaries. Money market funds control \$1.6 trillion in assets. Banks control as much as 20% of the money market business. The viability of banks and efficiency of capital markets require a comprehensive approach to regulation of financial services.

Let me be blunt. The Senate Banking Committee has broad jurisdiction over financial services. The Senate is therefore able to consider comprehensive financial reform legislation as reported by the Committee with the expertise in the subject area. This is simply not possible in the House of Representatives. When the Banking Committee attempted to legislate significant financial reform in 1988 and again in 1991, the Energy and Commerce

Committee's jurisdictional claims were successfully pressed for a sequential referral of the legislation. In 1988, the Banking Committee's bill was significantly amended by the Energy and Commerce Committee and the bill died when the difference between the two committees could not be resolved. Again, in 1991, the Energy and Commerce Committee reported amendments to the Banking Committee's major reform legislation which fueled a bitter battle over opposing lobbyist's interests that led to the eventual defeat of the legislation.

These situations result when jurisdictions are unclear. When the jurisdictional lines are clearly defined, there are many examples of co-operative efforts, even between the Banking Committee and the Energy and Commerce Committee. For example, in the Housing and Community Development Act of 1992, the Congress established a significant lead abatement program. The Energy and Commerce Committee's contributions as the committee of the House with well-defined jurisdiction over public health issues were a vitally important part of the development of the new program with the Department of Housing and Urban Development, a part of the well-defined jurisdiction of the Banking Committee.

Confrontation and legislative gridlock occur when two or more House Committees make jurisdictional claims over issues that are not specifically listed in the out-of-date categories of jurisdiction areas found in the Rules of the House. At a minimum,

I would strongly urge that the Joint Committee consider recommending an updating of Rule X of the Rules of the House.

Further, we must keep in mind that the Joint Committee must be concerned about the efficient operation of the entire Congress. The House appears more vulnerable than the Senate to jurisdictional overlaps since the Senate generally accepted the recommendations of the Stevenson Committee which in 1977 redrew the lines of Senate Committee jurisdiction. Modernization of the House jurisdiction will not be fully effective unless there is some reasonable conformity with the jurisdictional guidelines for the committees of the Senate. As just noted, the jurisdictional guidelines in the Senate tend to be more up-to date. Accordingly, I suggest that as a practical matter, the Joint Committee seek to conform the financial services jurisdiction of the House Banking Committee to that of the Senate Banking Committee. In this manner, we will attain a clear and meaningful delineation of the areas in which the comparable House and Senate Banking Committees will be able to report comprehensive legislation to the full House and Senate, rather than expend our energies in jurisdictional claims that simply prevent the House from receiving a comprehensive, coherent legislative recommendations.

In conclusion, clear, bright lines of legislative jurisdiction will reduce the number of joint and sequential referrals and eliminate a need for the committees of the Congress, and our

staffs, to be in constant and unproductive negotiations with other committees on jurisdictional issues. We will be able to improve the quality of our legislative product and go a long way toward reducing the frustration we - and our constituents - suffer

I sincerely hope the Joint Committee will bring greater clarity to questions of committee jurisdiction. We each cherish this institution and want to make it more effective. Our job can never be made easy, but we can at the very least make the process workable, and I wish you well in your efforts.

Statement of

**THE HONORABLE JAMES A. LEACH**

Ranking Member

Committee on Banking, Finance and Urban Affairs

Before the

**Joint Committee on the  
Organization of Congress**

**April 29, 1993**



April 29, 1993

Mr. Chairman and Members of the Committee:

Thank you for inviting me to testify before the Joint Committee on structural and jurisdictional problems facing legislative committees and the House Banking Committee in particular.

I would first like to commend Chairmen Boren and Hamilton, Vice Chairmen Domenici and Dreier, and all the distinguished members of the joint committee for the important task you have agreed to undertake. In joining here at the table Mr. Gonzalez, I would like also to express in personal as contrasted with pro-forma terms the high regard I hold for the distinguished Chairman of the committee on which I serve as the Ranking Minority Member. Whatever our philosophical differences, I know of no member with more impeccable integrity.

If there is any single message that the voters sent to their elected officials during the last election, it is that the American people want more accountability in the way the Federal government conducts its business. Indeed, voters in this election sent us to Congress with a mandate for change, a demand that we reform the government so that it is more efficient, more responsive, and more accountable to the people. From a Congressional perspective, this joint committee is entrusted with the obligation to carry out this mandate and you should be commended for the seriousness with which you have embarked on your task.

The phenomena of government "gridlock" that reached the

pinnacle of public attention during the last election is, in reality, a problem that has plagued our national legislature for many years. It is often suggested that gridlock in government is caused by institutional, jurisdictional and parliamentary rules established by the Congress. It is further asserted that the nature of our political system, borne from our democratic form of government, also contributes to legislative paralysis.

Harry Truman once noted: "No government is perfect. One of the chief virtues of a democracy, however, is that its defects are always visible and under democratic processes can be pointed out and corrected." In this context the challenge we as Members face is how we can achieve a better, more efficient and streamlined committee system which promotes the consideration of sound legislation.

Key to planning for the immediate future is understanding the immediate past. Over the course of time, the Congress has chosen to adapt to changes in government, the private sector, the political landscape, and the emergence of new legislative issues.

The last comprehensive review of the committee system was conducted in 1974 by the Bolling Committee. At that time, the principal committee on which I serve was known as the Banking, Currency, and Housing Committee. The Committee's jurisdiction was broader than it is today. For example, the Committee had authority over urban mass transportation and the renegotiation of excess tax profits. Eventually, it was determined that these issues should more appropriately be handled through other committees.

The financial services industry has changed dramatically

since the Bolling Committee conducted its review of the committee system in 1974. Technological and market innovations are changing the financial services marketplace at unprecedented speed. What were once clear lines between banking and commercial enterprises are now blurred, with banking institutions no longer serving as the primary source of credit and financial services for consumers.

Over the past two decades, commercial enterprises have encroached into banking services and banks have sought to diversify and compete by offering products and services outside the realm of traditional banking practices. This market evolution has left the Banking Committee ill prepared, under current jurisdictional boundaries, to address the issues which confront the financial services industry. Moreover, these changes have heightened the necessity to rethink the jurisdiction of the Banking Committee.

Examples of jurisdictional battles between the Banking Committee and other House Committees abound, and I would associate myself with the remarks of Chairman Gonzalez in this regard. Significant legislation has been derailed because of jurisdictional conflicts including the Defense Production Act, legislation to fund the International Monetary Fund, legislation to reauthorize Treasury's rulemaking authority in the government securities market, and comprehensive legislation to reform the banking industry. While one could argue that some of these bills may be more appropriately assigned solely to other committees, it could also be argued that the Banking Committee should be given sole jurisdiction over legislation affecting all financial

institutions.

Since 1984, comprehensive legislation to reform the banking industry has been derailed largely due to jurisdictional battles between the Banking Committee and the Energy and Commerce Committee. Not surprisingly, the Banking Committee largely supported the views of the industry under its jurisdiction (commercial banking) and the Energy and Commerce Committee the views of the industry under its jurisdiction (investment banking). Whether one agrees or disagrees with one view or the other, and on key issues, I have not been altogether unsympathetic to the arguments of Mr. Dingell, the consequence of congressional inaction is the abdication of a policy making role to the regulators and the courts.

Problems also exist between the jurisdictions of the House and Senate Banking Committees. While it would seem logical that the jurisdictions of the two Banking Committees would mirror each other, the House Banking Committee does not enjoy the broader jurisdiction of its Senate counterpart. For example, Senate Banking has jurisdiction over insurance and sole jurisdiction over securities. In the House, the Banking Committee has had to argue its jurisdictional claim over these issues, even though insurance and securities products are offered by many banking institutions.

Jurisdictional differences between the House and Senate needlessly complicate House/Senate conferences. For example, with the exception of three Senators from the Senate Finance Committee, during the conference on one 1989 bill, the Senate Banking Committee had sole authority to conference with the

House. However, conferees from the House represented five different standing committees. In total, the Senate appointed eight conferees while the House had more than 75 with many of them serving on multiple subconferences. Achieving parallel jurisdictions between House and Senate committees would reduce these complicated conferences involving numerous committees with different jurisdictions.

Proposals to reform committee jurisdictions and the committee structure vary in approach; however, the common denominator shared by all is the goal of achieving a more streamlined and efficient system for considering legislation. If one agrees with Woodrow Wilson's observation that "Congress in its committees is Congress at work," proposals to reform our committee structure bear an extraordinary weight of importance.

I would submit that the Joint Committee consider six principles of reform: 1) reduction in number and size of committees; 2) reduction in jurisdictional dissimilarities between House and Senate committees; 3) reduction in overlap of committee jurisdiction within each body; 4) reduction in the disequilibrium of power evident in current committee jurisdictions; 5) reduction in staff imbalances; 6) and perhaps most important, reduction in the influence of outside groups with an interest in committee actions.

First, reducing the size of committees and the number of subcommittees. From 1955 to the 1992 the number of committees

and subcommittees in the House, grew from 130 to 177.<sup>1</sup> During the same period, the average number of subcommittee assignments per Member more than doubled.<sup>2</sup> This growth has added additional constraints on the amount of time a Member may devote to legislative responsibilities and constituent services.

Reducing the number and size of committees and subcommittees will help streamline jurisdictions and help to establish a more efficient system for the referral and consideration of legislation. It will also allow Members to better focus their time and energies. This, in turn, should enhance the quality of legislation that is ultimately reported.

It is encouraging to note that modest steps have been taken in this direction. The House Rules for the 103rd Congress have cut the number of permissible subcommittees from eight to six. In addition, efforts have been made to reduce the membership of the remaining subcommittees as well. In the past, some subcommittees were hardly distinguishable from their full committees. In the 101st Congress, the Banking Committee had 54 members and all but seven were on the Financial Institutions Subcommittee. Today, there are 51 members on the Banking Committee and the largest subcommittee has 31 members. The reduction in the size of subcommittees was the result of the Banking Committee changing the ratio between the subcommittees

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<sup>1</sup>Vital Statistics on Congress, 1991-1992, Ornstein, Mann and Malbin, Congressional Quarterly Inc., Washington, D.C., 1992

<sup>2</sup> Ibid.

and the full committee. The ratio was reduced to 70 percent in the 102nd Congress and further reduced to 60 percent in the 103rd Congress.

Second, the Joint Committee should consider establishing parallel jurisdictions between House and Senate committees whenever it is practicable and efficient to do so. To permit unnecessary jurisdictional disparities between House and Senate committees, just does not make sense. Such discrepancies needlessly contribute to legislative gridlock. Establishing parallel jurisdiction would especially seem warranted for the House and Senate Banking Committees.

As I have already noted, the difference which currently exist between the committees have created a number of obstacles to the timely and efficient consideration of legislation. The Senate Banking Committee's jurisdiction best mirrors market realities that have blurred the distinctions between commercial enterprises and banking institutions. It would be my recommendation that the Banking Committee's jurisdiction should be made to conform with the jurisdiction of the Senate Banking Committee.

Third, the Joint Committee should review proposals to significantly reduce jurisdictional overlap between committees in both the House and in the Senate. Besides recognizing changes in technology and in our global society, rationalizing and realigning committee jurisdictions would help to eliminate

multiple jurisdictions, a major obstacle in enacting legislation and responding quickly to problems and changes within the industry.

Congress must reexamine how it looks at committees. In the case of the House Banking Committee, the committee should be viewed not just as a committee with jurisdiction over banks, thrifts, and credit unions, but as a committee, more like the Senate, with jurisdiction over the broad financial services industry. This new jurisdiction would recognize the realities of today's markets where banks not only take deposits and make loans, but sell mutual funds, insurance, and securities and would recognize as well that insurance and securities industries are increasingly involved in banking. No longer are banks the sole providers of traditional banking services. Companies as disparate as Merrill Lynch, AT&T, GE and Sears are now offering banking products.

Unfortunately, as the lines in the financial service industry have blurred, so have many of the jurisdictional lines between the House Banking Committee and other committees. As a result, huge jurisdictional fights have and will inevitably hamper passage of major legislation.

Unfortunately, jurisdictional overlap is not just a problem confined to the Banking Committee. It is a problem shared by all committees. In today's environment, many distinctions are rather arbitrary, outdated, or inefficient. To the extent that jurisdictional overlap can be minimized and jurisdictions rationalized, the efficiency of our legislative process will be improved.



Here, as my fourth point, I would stress that by choice and chance, the latter related to the changing nature of our economy, certain committees have come to have disproportionate legislative authority. In order to get the best out of our membership, and to reduce the frustration of many who too frequently perceive themselves as observers more than participants in the crucial developmental stages of legislation, I would argue in the strongest possible terms that a balance of committee structures take place and that this committee recommend a greater equalizing of issue authority within the Congress.

Finally, a note about the minority and about the influence of vested interests on the legislative process.

From the Minority's perspective, the disproportionate staffing demanded by the Majority on the House side is an issue of signal significance. The Minority holds 43% of Senate seats and by comity is generally assured 33% of committee staffing. The Minority in the House holds 40.5% of the seats but has been granted less than 20% of the investigatory staff allocation. I am grateful that in an act of fairness, Mr. Gonzalez has authorized the Minority on his committee a full 20% of investigatory staff funds, which is higher than the House average, but for the House as a whole, I do believe the Senate precedent is self-evidently fairer. In addition, given in particular the failure of Congress to fulfill adequately its oversight responsibilities in recent years, the case for fairer Minority staffing ratios becomes even more compelling during periods in which the Majority party of Congress controls the White House.

Historically, committees are considered repositories of specialized expertise and the Congress as a whole has been inclined to embrace or at least give the benefit of doubt to the collective judgement embodied in committee deliberations -- that is, bills they bring to the floor of each chamber. The problem in an advocacy political environment is that committees become focal points of special interest attention and it is not at all clear that specialized expertise in a legislative environment has anything to do with balanced judgement.

A case in point, perhaps the most poignant case, relates to the S & L debacle. Few committees of jurisdiction have ever let the Congress down more than the House and Senate Banking Committees. The problem, however, is not simply of one committee and one mistake, it is of virtually all committees and numerous small mistakes. Members, after all, make reputations by being more for or more against, usually more for, initiatives that affect programs in the jurisdiction of the committees to which they are assigned. Most of which has the effect of either increasing spending or decreasing taxes. The end result is a budget out of whack and allocations of resources that increasingly become distributed on the basis of Congressional power, not national need.

The creation of the Budget Committee was intended to serve as a partial palliative to this self-evident problem. The trouble is that it hasn't worked, or at least worked well enough. Accordingly, at the risk of presumption, I would urge this committee to consider, outside the debate on campaign finance

reform, recommending that the rules of the House and Senate be amended to disallow Members from accepting PAC contributions from interest groups primarily affected by legislation before committees on which Members serve. I realize this recommendation may seem radical, but I know of no more effective way to rivet Members' attention on the public interest as contrasted with particularized perspective of various parties concerned with the work of legislation before committees of the Congress.

Thank you for this opportunity to testify before the Joint Committee. I will be happy to answer any questions you might have.

TESTIMONY OF REP. JOHN J. LaFALCE  
CHAIRMAN, HOUSE COMMITTEE ON SMALL BUSINESS  
BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION  
OF CONGRESS

May 4, 1993

Introduction

Mr. Chairman and Members of the Committee, I appreciate having the opportunity to appear before you this afternoon. Like any institution, Congress needs to adapt and change with the times in order to meet its responsibilities in our democracy. Your work is very important. I know that all of our colleagues anticipate your recommendations, perhaps with some trepidation, but most certainly we all will review them with the seriousness that your efforts deserve.

Before going into my specific recommendations, I think some perspective may be in order. Your committee is charged with looking into questions of structure and process -- how Congress is organized and the means through which we address the issues of the day. I believe that the American people care about these questions only tangentially. They really don't care how we are organized or how our processes are set up so long as they work and Congress as an institution demonstrates an ability to get things done.

The central question before us is, or ought to be, how to ensure that the men and women sent here by our constituents can best fulfill their function as representatives of the people. As another witness who has appeared before this committee might put it, "it's that simple." Yet it isn't simple, not at all. Is efficiency our goal? Partially, but not primarily, I would

submit, for there are other considerations of at least equal weight. One of these is our responsibility to give the issues before us careful and deliberative thought, and ensuring that all have a reasonable chance to be heard. This trade-off between efficiency and deliberation means that by any rational business standards it is literally impossible to make this body "efficient," and besides, it would be a travesty of democracy to do so. Democracy itself, by definition, is inefficient. The questions for your Committee involve the nuances of ensuring that Congress remains the pre-eminent democratic institution in the world yet improves its ability to get things done. It is in the subtleties of process and organization that we will seek to ensure sound judgment within a context where, ultimately, decisions can and will be made.

I should also note that as a ten-term Member of the House, my thoughts on this are principally from that perspective. The Constitution and our political evolution assign differing roles to the two bodies, and I recognize that what might make sense in the House of Representatives does not necessarily apply to the Senate, and vice versa.

I would, however, like briefly to discuss two aspects of our lives where the Senate's approach has a substantial effect on how the Congress as a whole operates. One is the way the filibuster has evolved. In my view there is a difference between "gridlock"

and obstructionism. When Congress and the Executive branch are in different political hands, there can be substantial policy differences and resolution can prove difficult if not impossible. For instance, look at family leave or campaign reform during the previous administration. But when the White House and a majority of both houses in Congress are in agreement, refusal to permit the Senate to work its will through use of the filibuster amounts to nothing less than out-and-out obstructionism.

Second, I think we need to look hard at the budget/authorization/appropriations process. I believe that we ought to deal with authorizations on a multi-year basis. That's the approach we have taken within the Small Business Committee, but in my experience other committees seem to do this only occasionally, if at all. Perhaps this is due to the fact that the House is rather more rigorous in trying to actually go through the authorization process, while the Senate, much too frequently, seeks to deal with those issues it deems worthy of consideration through the appropriations process. This puts the House -- and particularly its authorization committees -- at a severe disadvantage; I believe that serious consideration should be given to making the Senate rules regarding appropriations bills more comparable to those in the House, or vice versa.

Another fiscal issue, although perhaps beyond the scope of your committee's concerns, is the question of establishing a

capital budgeting system at the federal level. Every state has such a system, differentiating between expenditures whose benefits extend over a long period and those which are for day-to-day operations. I believe that we should follow this same approach in Washington; that it will make our budgeting process both more rational and more understandable to the American public., probably more efficient, and, most importantly, a budget better enabling us to see consumption versus investment patterns.

With regard to the overall process, I believe it is a fair statement that most state legislatures operate both more efficiently than Congress and produce balanced budgets. This raises in my mind the question of why we need three different stages in our system: budget, authorization, appropriation. Perhaps we could do this in one step, certainly we could do it in no more than two. If we are seeking greater efficiency, we could surely start here.

On a related subject, Mr. Chairman, there are other institutions within Congress that would certainly be among those to be closely reviewed if the goal were to simply kill for the sake of killing. For instance -- and I realize that this may be sensitive -- there is the Joint Economic Committee. That is a body which does excellent work through its studies and hearings, but it has no legislative jurisdiction. Yet I, for one, think that singling out the JEC would be a serious error -- a classic



case of throwing out the baby with the bathwater. It would surely be counterproductive if one of the results of reorganization is that we lose what focus we have on central policy issues.

Similarly, there is the Congressional Budget Office and the Joint Committee on Taxation, whose roles overlap those of the House and Senate Budget Committees and the House Ways and Means and Senate Finance Committees. Can greater efficiency be achieved here?

Staffing of Congressional bodies is also an important issue, and warrants your attention. Some committees have had unusually large increases in their investigatory budgets in recent years, as I am sure you know. I have appended a list which shows that several have had increases of sixty to over one hundred percent over the past six years. In the same period the budget for the Small Business Committee has grown only 22 percent, the smallest increase of any committee except Standards of Official Conduct (which, of course, is a special case where funding is tied to its varying workload). I would submit that the result is a lean and efficient staff for the Small Business Committee.

The balance of my testimony concentrates principally on committee structure in the House of Representatives, and on the role played by the Committee which I chair. Before others raise

it, let me be candid: as Chairman of the Committee on Small Business, I have a vested interest in the results of your deliberations. I have some "turf" to defend, although it is my hope not to be overly defensive about it.

I. Recommendations for Change

Committee Jurisdictional Overlap

I do not truly believe that our principal problems are problems of Committee jurisdiction. Unless we were to pare down to a handful of committees -- an idea I do not support because I do not believe such a structure could provide adequate visibility and focus to the range of issues upon which we must deliberate and act -- problems of jurisdictional overlap and tensions between Committees are inevitable. Re-shuffling jurisdiction simply to create different overlaps and tensions is not the answer. We will never get things done without the will to cooperate and strong leadership.

The Small Business Committee has never had a legislative jurisdictional problem of any kind, to my knowledge. We have neither interfered legislatively with, nor been subject to interference by, any other committee. As a result, we have never contributed to "gridlock." Instead, we have sought to provide a

timely and necessary focus on issues of central importance to this key economic sector.

Caucuses, Task Forces, Committee and Subcommittee Size,  
Number of Assignments, etc.

All too often Members are scheduled to be in two or more different places at the same time. And time constraints frequently prevent them from being as well prepared as they should be for the meetings they do attend.

Members over-extend themselves not only by seeking -- and receiving -- too many committee and subcommittee assignments, but also because of the multiplicity of outside forces that demand their attention. Conflicts are often not between two committee meetings, but between a committee meeting and something else sponsored by a party caucus, the Library of Congress, the DSG, a state's caucus, the Northeast-Midwest Coalition, the Arts Caucus, the Competitiveness Economic Leadership Institute, etc. The list could be continued almost indefinitely.

Often there is little we can do about such ad hoc groups. However, there is something we can do. We are presently permitted to transfer staff funds to these types of groups with no clearance process, helping to ensure that they will indeed create activities that compete for our most valuable asset, our

time. If we are going to streamline, let's not start with what has been called "the heart and soul of the Congress, its Committees," but start here.

Presently in the House there are 23 committees. Three -- Rules, Appropriations and Ways & Means -- are exclusive committees. Another three are special cases: Budget, Intelligence and Standards of Official Conduct. The rest include eight "major" committees and nine "non-major" committees. By my count, these 23 committees have a total of 119 subcommittees. The average "major" committee has 47 Members, while the average "non-major" committee has 35.

I believe that we could achieve significant progress by establishing and enforcing firm limits on the size of committees, the number of subcommittees they could have, and on the size of permitted subcommittees. For instance, we might consider establishing a maximum membership for "major" committees of 30 or 35 Members, and a maximum size for "non-major" committees of 20 or 25 Members.

The size of subcommittees could also be limited. I don't know exactly what the limit should be, but we should try to equalize subcommittees if we can. Perhaps on a committee with four subcommittees they should have no more than roughly twenty-five percent of the full committee's membership. A higher level

might be appropriate, but it should certainly be something less than the sixty percent limit imposed by a new rule this year -- a "limit" which I consider to be absurdly high.

I remember early in my career here when my friend Henry Reuss pushed for, and got, nine subcommittees for the Banking Committee. Later, under then-Chairman St. Germain, there were three-fourths or more of the full committee's members on the Housing Subcommittee and on the subcommittee dealing with Financial Institutions, but with very few members on most of the other subcommittees. This was, I felt, unwise and unwieldy.

There could also be a further limit on the number of subcommittees per committee -- I'd suggest five for "major" committees and three for those in the "non-major" category. This step alone would reduce the number of subcommittees by 27. There is no magic in these numbers, except insofar as they show how we can indeed achieve major change within the context of the existing committee structure.

Because of the reduced size of committees and subcommittees, along with the reduction in the number of subcommittees, I would advocate a change in Caucus rules on the number of subcommittees on which a Member can serve. For a Democratic Member, this might be three or four, down from the current limit of five.

These measures, if adopted, would result in less unwieldy committees and subcommittees, and afford Members a better chance to become true specialists in a few areas.

Because these recommendations call for such significant reductions in committee and subcommittee sizes, it might be prudent to implement them in two stages. Interim targets would be established for the 104th Congress, with full compliance to be achieved in the 105th. As a corollary to this, however, I would urge that no one be given protection through any kind of "grandfather clause," and the granting of waivers should cease. Today a large number of Members are covered by past "grandfather" protections. For instance, 16 Members who serve on the three Exclusive committees also serve on one or more other committees (not including temporary assignments to Budget, Ethics or Intelligence). Similarly, 62 Members serve on two "major" committees (some of these also serve on a "non-major" committee as well). And finally, another 40 Members serve on three or more committees. In all, this comes to 118 Members whose committee assignments would not be allowed under existing rules -- more than one-fourth of the House. Of these, approximately 62% are Democrats, slightly higher than the 59% of total House membership held by Democrats.

An alternative would be to let the proposed changes come into effect by attrition, with or without an outside deadline.

It shouldn't take inordinately long, at least in the House -- this year we have a total of 42 new subcommittee chairs -- or a 35 percent turnover. At the full committee level the turnover was even greater, with 41½ of the House committees getting new chairs (counting one, Merchant Marine and Fisheries, as one-half because the change occurred fairly late in the 102nd Congress).

#### Scheduling of House Meetings

These steps alone would reduce the competing demands on Members' attention and enable them more thoroughly to carry out their responsibilities. But I would urge you also to give consideration to scheduling issues that bear on these questions as well. I personally do not believe that the House should adopt what has become known as the "Senate system" of meeting for three weeks and then scheduling one week for Members to attend to business back home. I fear this could further make permanent Washingtonians out of Representatives, something we need less rather than more of. But I do believe that the bi-partisan leadership of both Houses, in consultation with the President, should seek to set a broad legislative agenda so Members can be better prepared for issues and debates with a better idea of when they will be considered.

And I would stress that what is important for Members is not the schedule itself -- we can and do work around whatever it

might be -- but the need for as much certainty and predictability as possible. I don't think there is anything more frustrating for Members than having to constantly juggle their schedules due to schedule changes. Leaders should stick to the announced schedule as closely as possible, making exceptions only when truly serious extraneous circumstances dictate.

#### Referrals and Rules for Floor Action

One thing that has unduly stymied appropriate consideration of important issues in Congress has been the ability of Committees of competing jurisdiction to "bottle up" issues unreasonably through open-ended joint or sequential referrals. I urge you to consider recommending serious time limits on referrals so that committee proposals can have a reasonable chance of reaching the Floor and the full House can work its will. Further, there is a growing and disquieting trend toward more and more use of highly restrictive rules for Floor action, preventing thoughtful Members from both sides of the aisle from presenting amendments for consideration.

When I served in the New York state legislature, there was a triumvirate who exercised almost total power. The Governor, the Assembly Speaker and the Majority Leader in the State Senate would get together, present "emergency" legislation at the last minute, and insist that it be passed, unread and essentially



undebated. It was efficient, and in many instances the product was not all that bad. But it failed to meet the test of true democracy.

In contrast, when I arrived in Congress in 1975 I found the opposite process, with power diffused widely. I remember a bill in the 1970's -- the one creating the Department of Education -- where it took two or three weeks for the House to complete its work. I said then that we needed to do something to help preserve our most precious commodity, our time. I wrote a letter to the Speaker saying, in effect, that we needed more focus in House debates through greater use of modified closed or modified open rules. But now, I worry that the pendulum has swung too far. We need to allow controversy to flourish and ideas to be presented, debated and decided upon through a process that provides a responsible balance between order and openness. I think that more judicious use of the powers of the Rules Committee can help to achieve this balance.

#### Term Limits for Chairing Committees; Seniority Rules

In what might best be categorized as "food for thought," I think that you might well want to consider a reform that has been proposed by a number of commentators: limiting the terms of committees chairs to, perhaps, eight years. I raise this cautiously because of the many, many instances of very capable

committee leadership that have extended for periods longer than this. Yet I also recognize that there is something to be said for bringing in new leadership from time to time.

A related matter concerns the establishment of seniority within committees. Present rules call for Members, selected on the same day, to have their seniority determined by the minute of their selection by the Steering and Policy Committee. And that determination fixes their committee seniority forever. So, 20 years later, although Members have served on a Committee the exact number of years, months and days, that one minute difference can determine who will be Chairman for the next ten years. Surely, same day seniority should be entitled to equal consideration in the selection process of Committee and Subcommittee Chairs. I cannot think of a more arbitrary approach with such momentous consequences, and therefore I would strongly urge your committee to look into this situation and to recommend a remedy to this unfair procedure.

My overall goal in the preceding recommendations is to propose a structure in which Congress can do its job more effectively. Would these proposed changes also save money? Perhaps, but I am not among those who would put that as one of the highest priorities in this exercise. I believe that Congress should remain a co-equal branch of government and that, as such, Congress needs to have the resources to make informed and

intelligent decisions. We should not come to rely solely on information provided by the Executive branch, regardless of which party controls the White House.

## II. Role of the Small Business Committee

Earlier I noted that I come before you as the Chairman of a Committee, with the usual pluses and minuses that such a status would normally imply. I am not unbiased, nor do I think you would expect me to be. But I would like to take a few moments to share with you my reasons for thinking that the Committee on Small Business has been and will continue to be critical as we address the nation's economic and social problems.

### Congressional Recognition of Small Business

The special nature and needs of the small business sector of our economy were recognized by the establishment, over fifty years ago, of a Select Committee on Small Business. In 1971 its status was deemed to be of such importance that it was elevated to a Permanent Select Committee. And in 1974, the last time major Congressional reform occurred, the House decided that it should become a full Standing Committee with legislative jurisdiction over programs designed to assist small businesses, and wide-ranging oversight jurisdiction to help ensure that the

voice of small business could be heard within the Halls of Congress.

By 1985 membership on the Committee had grown to 40 Members, and today it has 43 Members, 26 Democrats and 17 Republicans. The authorized size is 45; there is one vacancy from each party. I have never once asked that the Committee's size be increased -- the growth has come about because Members see the importance of small business to the nation and to their own districts.

Among the Members are eleven from minority groups and seven women. It is telling that approximately 25 percent of the Committee's Members are from minority groups, not counting women, as opposed to only 14 percent in the House as a whole. Similarly, women constitute 16 percent of the Committee's membership, but only 11 percent in the whole House. Clearly, minorities and women see the Small Business Committee as a forum for the special consideration of issues most important to them.

#### Small Business -- A Unique Economic Sector

The small business community is not a special interest group, and small business development and entrepreneurship are not subsidiary issues. The small business sector is a critical sector of our economy, with unique needs, problems and opportunities, that has become the primary catalyst of economic

growth as our overall economic structure has evolved. Neither economic growth nor job growth has come from our industrial giants -- they have come from small business.

President Clinton has long recognized the importance of small business to our economy. During the campaign, on October 1, he said, "... 85 percent of the new jobs in this country have been created in units of under 50." In his State of the Union he commented on how small businesses have created "... a big majority of the new jobs for more than a decade." And on March 10, when he announced a program to help alleviate the credit crunch, he said:

"... small business is a big part of our lives."

"[Small businesses] are the cultivators of an essential part of our history, our heritage, our culture."

"Today's small businesses are a barometer of the economic recovery."

"...this has turned out to be, so far, a jobless recovery because small business job creation hasn't offset big business job losses."

Moreover, concerns about the potential and the problems of the small business sector have always been largely bi-partisan. Each and every Member of Congress has thousands of small business owners among their constituents, and even more who work for those businesses. The contributions those businesses make to local

economic growth and development concern us all, regardless of ideology or party.

Small Business and the Economy

The continued and growing bi-partisan interest in the Committee reflected the gradual realization in Congress of the importance of the small business sector to the continued growth and health of our economy. That importance has only increased. One study suggested that as many as eighty percent of new jobs are created by small businesses; others have suggested that this estimate is too high, and that only about fifty percent of new jobs are created in smaller enterprises. While the truth probably lies somewhere between these two numbers, the startling fact is that even the lowest estimate attributes fully half of all new jobs to the small business sector. This alone demonstrates the importance of small business in our economy. The programs within the Committee's legislative jurisdiction have enabled -- and continue to enable -- small business to play its crucial role.

The number of small businesses in the United States increased by more than 49 percent in just the last ten years. Of the 21.3 million businesses in the nation, 99 percent are small. They employ 54 percent of the workforce, account for 54 percent

of all sales, and produce 50 percent of the private gross domestic product.

The federal government relies heavily on the small business sector to help meet its needs. In Fiscal Year 1992 the government contracted for 180 billion dollars in the private sector. Of this, 100 billion dollars went to small business contractors and subcontractors. Almost one-fourth of small business procurement dollars went to minority and women-owned small businesses. Approximately 4 billion dollars was awarded to such firms through the Small Business Administration's Minority Business Development Program.

Thanks primarily to the credit crunch, entrepreneurs have been unable to find adequate financing for their businesses, stifling growth when we need it most. The Small Business Administration's loan guarantee programs are now seriously oversubscribed, principally because borrowers who would normally qualify for standard bank loans have been denied credit from those sources. These are programs which, I should add, are among the nation's most efficient at creating new, permanent jobs. It is estimated that the cost per job to the federal government under SBA's guaranteed loan program is approximately 600 dollars. No other federal incentive program comes close to this kind of efficiency.

Federal Assistance Programs

Over the years, federal assistance to the small business sector has been immensely successful. Approximately 650,000 direct and guaranteed loans, totalling 75 billion dollars, have been approved under SBA programs. Specialized assistance programs have been established for Vietnam-era and disabled veterans, the handicapped and certain organizations employing them, low-income individuals and businesses in high unemployment areas, fixed-asset financing, export assistance, and a new program providing very small or "micro-loans" to non-traditional borrowers.

Other Committee initiatives include establishing and/or supporting:

- disaster loan programs under which over 1 million loans for nearly 17 billion dollars have been awarded;
- surety bond assistance under which more than 400,000 bonds have been guaranteed for small contractors;
- Small Business Development Centers (more than 700 of them) to provide technical and management services to small businesses in all 50 states, the District of Columbia, Puerto Rico and the Virgin Islands;



- volunteer counseling services by both retired and active business men and women -- over 12,000 of them -- through SBA's SCORE program;
- SBA's Small Business Institute program, providing project-based counseling to small business clients, utilizing more than 500 colleges, universities and business schools throughout the country.

#### Minority- and Women-Owned Businesses

A very significant component of the Committee's work over the past six years has been fostering minority- and women-owned business development. In recent years there has been a dramatic increase in women- and minority-owned businesses. Since 1982, the number of women-owned businesses doubled to over 5.3 million. And the receipts of these businesses tripled from under 100 billion dollars to nearly 300 billion dollars. During the same period, black-owned businesses increased by 38 percent to 424,000, with receipts -- 20 billion dollars -- double what they had been ten years ago. Hispanic-owned businesses nearly doubled, too, as is the case with businesses owned by Asian-Americans, native Americans and other minorities.

As President Clinton has emphasized, assisting the economic development of all our diverse citizens is essential for the long-term well-being of our society and its competitiveness in

the world. In 1988 the Small Business Committee completely overhauled the SBA's Minority Business Development Program to stress business development above all else and to provide a realistic and workable structure for bringing minority-owned firms into the mainstream of the economy.

The Committee has taken the lead in recognizing and supporting the growing trend toward ownership of small businesses by women. How important is this? One study estimates that by 1992 women-owned businesses employed as many Americans as the number of employees working for the Fortune 500 companies. But this does not mean that there are not a wide array of barriers to growth of this sub-sector. For example, while women-owned businesses account for approximately 30 percent of all businesses, they receive a mere 1.3 percent of federal procurement dollars.

To address this and other issues, the Committee initiated, and Congress passed, the landmark Women's Business Ownership Act in 1988. The Act's training and counseling program has already assisted over 15,000 women across the country, helping businesses get started or grow. Another key feature was the Act's credit amendments to require greater access to credit for women borrowers.

Technology and Innovation

Small businesses do more than just create more new jobs -- the jobs are good ones, on the whole. People are constantly surprised when I tell them about careful empirical studies, conducted by both the Small Business Administration and the National Science Foundation, which demonstrate that small companies contribute, on average, more than twice as many industrial innovations per employee than are brought to market by larger companies. That's one of the reasons why small businesses of today often become the giants of tomorrow. Look at Haloid, now Xerox. Or Apple and Cray in the computer field. The examples are legion, but the point is clear: smaller enterprises, in an appropriate business environment, are crucial to the growth and health of our economy.

Small business has been and will remain a key source of the development of new technology, and of assuring that such work is brought to market in commercially viable ways. Our committee, recognizing the importance of innovation in this economic sector, developed a major federal initiative to target federal research endeavors toward small businesses. The Small Business Innovation Research program (SBIR), begun in 1982, has become one of the most successful technology programs in the country. In less than ten years some 2.7 billion dollars in federal research and development contracts have been targeted to small, high-tech

companies by the eleven participating federal agencies. A recent GAO study found that every dollar in SBIR awards generates an additional four dollars in commercial spinoff. Last year Congress as a whole recognized the importance of this program by authorizing legislation that will double its impact over the next five years, to over one billion dollars a year in targeted research and innovation.

#### Advocacy

During the 1980's there were efforts to abolish the Small Business Administration and to gut or eliminate its programs. Congress rejected these proposals, reflecting what I believe to be a consensus in Congress and on the part of the American people that helping to sustain and bolster this key element of our economy is in the national interest. The Small Business Committee played a leading role in beating back these efforts to eliminate or curtail the SBA.

The Committee has also had occasion to involve itself in issues that profoundly impact the small business community, but which are not exclusively within the Committee's legislative jurisdiction. Most often these efforts raised issues and concerns that are not raised elsewhere. I believe that this is a major and invaluable facet of the Committee's responsibilities,

that simply must be performed, and are not and often cannot be performed elsewhere, either by another Committee or Subcommittee.

A recent example of this is in the most rapidly-growing segment of the economy, franchising, which employs some seven million Americans and accounts for 750 billion dollars in sales - over one-third of all retail sales. Done right, franchising is a wonderful way in which people of modest means can become direct participants in capitalism -- owners of their own business. Done wrong, individuals can be and are "ripped off" and can lose their life's savings. And increasing numbers of franchise investors have found that instead of owning their own businesses, they have purchased, at best, low-wage managerial positions with none of the benefits and protections they would have if they were regular employees. Most franchisors are reputable, but too many are not. And their victims are disproportionately women and members of minority groups.

Our Committee has taken the lead in reviewing this situation and crafting legislative alternatives to address the problems we have discovered. I believe that these efforts, thanks in great part to the support they have received from Representative Mfume and other Members of the Congressional Black Caucus, have helped focus attention on an area where the opportunity for meaningful federal action might otherwise have laid dormant.

Similarly, going back many years, our Committee helped to identify, publicize and work to rectify the "credit crunch" where reputable, solid applicants were denied loans because of a combination of government over-regulation and bank timidity. I believe our efforts helped put the spotlight on this problem and on the potential economic benefits -- measured in the tens of billions of dollars -- that would flow from changing this unduly restrictive environment.

The Committee has also served as a forum to review broad federal policies as they impact on small businesses. For instance, we will be in a position to review health care reform proposals from the perspective of the small employer, and to recommend ways to help minimize adverse consequences. It is a fact that government requirements do have different impacts on entities of different sizes, and the Small Business Committee has helped, I believe, to sensitize the Congress as a whole on this point, to the benefit of our economy and our constituents.

Any discussion of this aspect of the Committee's work must include our fight to repeal Section 89 of the tax code. This provision, with its onerous paperwork requirements, became the paramount legislative priority for all employers -- large and small, profit and non-profit. I respectfully submit that there would have been no chance for repeal of Section 89 without a Small Business Committee to pay heed and take the lead on behalf

of the millions of employers across the nation who were struggling under the weight of nearly incomprehensible regulations.

Another area where the Committee made a great difference involved so-called "lender liability" rules promulgated by the Environmental Protection Agency -- rules that had the effect of small businesses being unable to get credit because of potentially open-ended liability to which lenders might become subject. While other committees had neither the time nor the desire to become involved, the Small Business Committee held hearings and worked with the EPA, lenders and borrowers to address the problem. As a result, we helped create an environment in which EPA could and did propose revised regulations that substantially eased the situation and opened up credit to smaller enterprises.

The Committee also tackled the impact of wetlands regulations on small concerns. This affected farmers and other landowners as well as homebuilders and others who sought to develop land but found themselves caught up in a complex, time-consuming and uncertain regulatory process. Again we held hearings which quite probably helped bring on the moratorium on use of the wetlands manual that had been developed by EPA, the Corps of Engineers and other involved agencies.

Another on-going issue on which the Committee has been working is the need for a secondary market for small business loans. Just as Fannie Mae and Freddie Mac help expand the capital available for housing, so would a secondary market mechanism foster borrowing opportunities for small businesses. The Committee has held a number of hearings over the past eight years on this proposal, working to refine it and marshal support for it. It appears that these efforts may finally bear fruit this Congress.

Hosts of other issues deserve mention, but civil rights and family leave stand out. During 1989 and 1990, both of these matters came before Congress, and in each instance there were serious and legitimate concerns on the part of the small business community. The Small Business Committee sought to have those concerns listened to, and when civil rights and family leave came up for action again in 1991 and 1992, a great many of the concerns that we had helped raise were taken into account, resulting, I believe, in better legislation that takes into account the varying needs of disparate parts of our economy. Put briefly, our role made a difference. Would we have been able to perform this vital role for the small business community if we hadn't had the status of a full committee? Absolutely not.

There are countless other areas where the Committee has brought its special expertise to bear. One was ensuring that



trade legislation take into account the special needs of small businesses. Another was minimum wage legislation and the special rules in that arena which pertain to very small enterprises. And we have been involved in seeking solutions to any number of other problems including the impact of McCarron-Ferguson on small business, product liability concerns, pension reform, etc. The list could go on and on.

Mr. Chairman, thank you again for giving me the opportunity to share these thoughts with you today. I'd be pleased, as best I can, to address any questions you might have for me.

Committee Authorization  
(\$ in thousands)

Committee	1986	1992	% Increase
Agriculture	1,353	2,258	66.88
Armed Services	1,331	2,464	85.12
Banking, Finance	2,589	4,336	67.48
District of Columbia	277	342	23.47
Education and Labor	2,855	4,111	43.99
Energy and Commerce	4,217	6,287	49.09
Foreign Affairs	2,353	3,841	63.23
Government Operations	2,421	3,283	35.61
House Administration	904	1,942	114.82
Interior (Natural Res.)	1,456	2,192	50.54
Judiciary	1,662	2,430	46.20
Merchant Marine	1,760	2,322	31.93
Post Office	1,327	1,911	44.0
Public Works	1,909	2,894	51.60
Rules	532	723	35.90
Science and Technology	1,967	2,901	47.48
Small Business	864	1,055	22.11
Std of Official Conduct	486	400	-17.69
Veterans Affairs	465	740	59.14
Ways and Means	2,673	4,780	78.83

STATEMENT OF SENATOR DANIEL K. INOUE  
CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS  
BEFORE THE  
JOINT COMMITTEE ON THE ORGANIZATION OF THE CONGRESS  
MAY 4, 1993

MR. CHAIRMEN AND MEMBERS OF THE JOINT COMMITTEE ON THE ORGANIZATION OF THE CONGRESS, WE ARE PLEASED TO HAVE THE PRIVILEGE OF APPEARING BEFORE YOU TODAY TO DISCUSS THE STATUS OF THE COMMITTEE ON INDIAN AFFAIRS IN THE SENATE.

I HAVE READ WITH INTEREST THE TESTIMONY OF THE CO-DIRECTORS OF THE RENEWING CONGRESS PROJECT ON "COMMITTEE SYSTEM REFORM" AND I WELCOME THE OPPORTUNITY TO ADDRESS THE OBJECTIVES FOR ORGANIZATIONAL REFORM CONTAINED THEREIN.

BUT FIRST, I BELIEVE THAT IT IS ABSOLUTELY INCUMBENT UPON US TO EXAMINE THE INDIAN AFFAIRS RESPONSIBILITIES OF THE CONGRESS WITHIN THE CONTEXT OF THE HISTORY THAT BROUGHT US TO THIS POINT TODAY.

UNLIKE MANY OTHER COMMITTEES OF THE CONGRESS THAT HAVE BEEN ESTABLISHED TO DEAL WITH MATTERS OF CONTEMPORARY CONCERN OR WHICH REFLECT THE GREAT ISSUES IN THIS DECADE OF THE 1990s, THE RESPONSIBILITY FOR INDIAN AFFAIRS HAS ITS ORIGINS IN THE CONSTITUTION OF THE UNITED STATES -- ARTICLE I, SECTION 3, CLAUSE 8 -- IN WHICH THE CONGRESS IS VESTED WITH PLENARY AUTHORITY OVER INDIAN AFFAIRS AND THE CONDUCT OF COMMERCE WITH THE INDIAN NATIONS.

THIS RESPONSIBILITY OF THE CONGRESS FOR INDIAN AFFAIRS CANNOT THUS BE LIGHTLY TAKEN, NOR CAN THE CONGRESS DIVEST ITSELF OF THIS RESPONSIBILITY IN THE ABSENCE OF AN AMENDMENT TO THE CONSTITUTION. SO THIS IS WHERE WE

BEGIN.

FOR OVER 160 YEARS, THE ORGANIZATION OF THE SENATE HAS REFLECTED ITS COMMITMENT TO HONOR THIS CONSTITUTIONAL CHARGE BY MAINTAINING A PERMANENT STANDING COMMITTEE ON INDIAN AFFAIRS. THE ONLY ABERRATION FROM THIS PATTERN WAS THE THIRTY-YEAR HIATUS, FROM 1946 TO 1976, WHEN JURISDICTION OVER INDIAN AFFAIRS WAS DELEGATED TO A SUBCOMMITTEE OF THE PUBLIC LANDS COMMITTEE, WHICH IN 1948, BECAME THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS.

WE BEGIN WITH THE PREMISE THAT INDIAN NATIONS ARE SOVEREIGN -- THE UNITED STATES CONSTITUTION, THE DEBATES OF THE CONTINENTAL CONGRESS, AND THE WRITINGS OF OUR FOUNDING FATHERS HAVE RECOGNIZED THIS SOVEREIGNTY FROM THE EARLIEST DAYS OF OUR UNION.

FOR THE LAST TWENTY-THREE YEARS, EVERY PRESIDENT OF THE UNITED STATES HAS REAFFIRMED THIS PRINCIPLE, IN RECOGNITION OF THE GOVERNMENT-TO-GOVERNMENT RELATIONSHIP THAT THE UNITED STATES HAS HISTORICALLY HAD WITH THE INDIAN NATIONS.

PRESIDENT BUSH EXPRESSED HIS RECOGNITION OF THE SOVEREIGNTY OF INDIAN TRIBAL GOVERNMENTS BY ESTABLISHING AS A MATTER OF FEDERAL POLICY THAT TRIBAL GOVERNMENTS ARE AN INTEGRAL PART OF THE FAMILY OF GOVERNMENTS IN THE UNITED STATES -- A FAMILY CONSISTING OF THE FEDERAL, STATE, AND TRIBAL GOVERNMENTS.

THE TWO HUNDRED YEAR HISTORY OF DEALINGS WITH THE INDIAN NATIONS WHICH PRECEDED THIS ENLIGHTENED POLICY WERE UNHAPPILY, NOT A HISTORY THAT WE CAN POINT TO WITH ANY PRIDE, BECAUSE OUR DEALINGS WITH THE INDIAN NATIONS HAS BEEN ONE OF DISHONORABLE DEALINGS, DECEPTION AND DECEIT.

IN THE EARLY DAYS OF OUR HISTORY, THE CONDUCT OF OUR RELATIONS WITH

THE INDIAN NATIONS WAS A MATTER OF THE HIGHEST PRIORITY IN THE CONGRESS. WE RELIED UPON THE SUPPORT OF THE INDIAN TRIBES IN OUR FIGHT FOR INDEPENDENCE -- IT WAS THE INDIAN PEOPLE WHO PROVIDED FOOD TO OUR TROOPS -- WHO FOUGHT SIDE BY SIDE WITH REVOLUTIONARY SOLDIERS -- AND WHO SUSTAINED GENERAL WASHINGTON AND HIS MEN AT VALLEY FORGE.

YEARS LATER, WE DECLARED WAR ON THE INDIAN NATIONS, AND FOR OVER FIFTY YEARS, WE UNDERTOOK A CONCERTED EFFORT TO EXTERMINATE THE TRIBES -- THIS WAS THE ERA NOW KNOWN AS THE INDIAN WARS -- IN WHICH THE WAR DEPARTMENT BECAME THE INSTRUMENT OF FEDERAL POLICY TOWARD THE INDIAN NATIONS.

ANTHROPOLOGISTS ESTIMATE THAT THERE WERE AS FEW AS 10 MILLION INDIANS AND AS MANY AS 50 MILLION INDIAN PEOPLE OCCUPYING THE TERRITORY THAT CAME TO BE THE UNITED STATES AT THE TIME OF FIRST EUROPEAN CONTACT. THE DECIMATING EFFECTS OF THE INDIAN WARS PERIOD REDUCED THE INDIAN POPULATION TO 250,000.

BUT DESPITE OUR BEST EFFORTS TO WIPE OUT THE NATIVE PEOPLE OF AMERICA, THEY SURVIVED -- AND SO OUR NEXT ATTEMPT TO DEAL WITH THE SO-CALLED "INDIAN PROBLEM" -- THE PROBLEM OF MAKING ROOM FOR WHITE SETTLEMENT IN THE EASTERN UNITED STATES AND LATER WEST OF THE MISSISSIPPI -- WAS THROUGH TREATIES WITH THE INDIAN NATIONS, AND LATER, THE FEDERAL POLICY OF REMOVAL.

AND WHILE THE TREATIES, TOO, WERE A RECOGNITION OF THE SOVEREIGNTY OF THE INDIAN NATIONS AND WERE CONSTRUED TO BE AS MUCH A PART OF THE SUPREME LAW OF THE LAND AS OUR TREATIES WITH FOREIGN NATIONS -- OF THE 800 TREATIES THAT WE ENTERED INTO WITH THE INDIAN NATIONS, 370 OF THEM WERE NEVER RATIFIED BY THE SENATE.

WE WERE ADAMANT IN OUR INSISTANCE THAT THE INDIANS ABIDE BY THE TERMS OF THE 430 TREATIES THAT WERE RATIFIED, BUT FOR OUR PART, WE PROCEEDED TO -- AND HAVE CONTINUED TO -- VIOLATE PROVISIONS IN EVERY SINGLE ONE OF THEM.

NONETHELESS, IN EXCHANGE FOR THE CESSION OF MILLIONS OF ACRES OF INDIAN LAND TO THE UNITED STATES, WE UNDERTOOK COMMITMENTS -- COMMITMENTS OF HEALTH CARE AND EDUCATION AND THE PROTECTION OF INDIAN LANDS AND RESOURCES -- COMMITMENTS WHICH WERE UNDERSTOOD TO BE "FOR AS LONG AS THE SUN RISES IN THE EAST AND SETS IN THE WEST, AS LONG AS THE RIVERS FLOW FROM THE MOUNTAINS TO THE SEAS, FOR AS LONG AS THE GRASS GROWS GREEN AND THE RIVERS RUN CLEAR".

WE ALSO ADOPTED A POLICY OF REMOVAL, IN WHICH WE ROUNDED UP THE REMAINING MEMBERS OF INDIAN TRIBES AND FORCIBLY MARCHED THEM ACROSS THE EASTERN HALF OF THE UNITED STATES -- THERE WERE MANY "TRAILS OF TEARS", NOT JUST ONE -- AND THOUSANDS OF INDIANS DIED ALONG THE WAY FROM EXPOSURE AND STARVATION. OKLAHOMA BECAME THE GREAT "DUMPING GROUND" FOR INDIANS.

BECAUSE THE TRADITIONAL WAYS OF INDIAN EXISTENCE WERE ALIEN TO THE EUROPEAN EXPERIENCE, WE ADOPTED A POLICY OF ESTABLISHING RESERVATIONS, FOLLOWED BY POLICIES OF "CIVILIZATION" AND "ALLOTMENT".

WE SOUGHT TO CONTROL THE TRAVERSE OF INDIANS ACROSS THE WIDE EXPANSES THAT WERE THEIR TRADITIONAL HUNTING AND FISHING AND GATHERING GROUNDS, BY PLACING THEM ON RESERVATIONS.

WE THOUGHT WE COULD "CIVILIZE" THE INDIAN BY MAKING HIM A FARMER, AND GIVING HIM AGRICULTURAL IMPLEMENTS TO TILL THE BARREN LAND ON WHICH WE HAD PLACED HIM.

WE THOUGHT THAT THE TRADITIONAL COMMUNAL EXISTENCE OF THE TRIBES

WENT AGAINST THE GRAIN OF WHAT WE CONSIDERED TO BE AMERICAN, SO WE AUTHORIZED THE RESERVATIONS TO BE BROKEN UP INTO SMALL PARCELS FOR ALLOTMENT TO EACH TRIBAL MEMBER.

IT WAS THROUGH THE POLICIES OF TREATY-MAKING AND OF ALLOTMENT THAT THE FIVE HUNDRED AND FIFTY MILLION ACRES OF LAND OVER WHICH INDIANS ONCE EXERCISED DOMINION AND CONTROL WAS REDUCED TO THE FIFTY MILLION ACRES OF LAND HELD IN INDIAN OWNERSHIP TODAY.

ALL DURING THIS TIME OF ATTEMPTING TO "CIVILIZE" THE INDIANS, WE ACTIVELY UNDERTOOK A CAMPAIGN OF ELIMINATING ANY VESTIGE OF INDIAN CULTURE, SONG, DANCE AND ART -- THE SPEAKING OF INDIAN LANGUAGES WAS A PUNISHABLE OFFENSE IN PUBLIC SCHOOLS -- AND FOR YEARS AND YEARS, WE TOOK INDIAN CHILDREN AWAY FROM THEIR PARENTS AND SENT THEM TO BOARDING SCHOOLS, WHERE THEY COULD BE "CLEANSED" OF ANYTHING INDIAN.

FORTY YEARS LATER, RESPONDING TO THE DEVASTATING RESULTS OF THE ALLOTMENT ERA AND OUR EFFORTS TO ASSIMILATE THE INDIAN PEOPLE, WE SHIFTED POLICY DIRECTION ONCE AGAIN, AND THIS TIME, CALLED FOR THE REORGANIZATION OF TRIBAL GOVERNMENTS.

BUT IN LESS THAN TWENTY YEARS, WE ADOPTED YET ANOTHER POLICY -- THIS TIME, A CONCERTED EFFORT AT ASSIMILATION KNOWN AS THE TERMINATION ERA -- IN WHICH RELATIONSHIPS WITH THE FEDERAL GOVERNMENT WERE TO BE SYSTEMATICALLY TERMINATED -- AND ONLY A FEW YEARS LATER, THIS EFFORT WAS COUPLED WITH A POLICY OF RELOCATING INDIANS TO THE MAJOR URBAN CENTERS OF THE COUNTRY.

TODAY, AND FOR THE LAST -- ALMOST -- TWENTY-FIVE YEARS, WE HAVE MANAGED TO STEER A SOMEWHAT MORE CONSISTENT COURSE, IN WHICH THE POLICY OF INDIAN SELF-DETERMINATION AND SELF-GOVERNANCE HAS BEEN THE GUIDING

PHILOSOPHY.

BUT I BELIEVE IT IS WORTH REVIEWING THIS HISTORY BECAUSE IT REVEALS WHY WE CANNOT LOOK AT COMMITTEE STRUCTURE AND CONGRESSIONAL RESPONSIBILITIES IN THE ABSENCE OF THEIR HISTORICAL CONTEXT.

OUR RELATIONSHIP WITH THE INDIAN NATIONS ARISES OUT OF OUR CONSTITUTIONAL RESPONSIBILITIES -- BUT OUR RECORD IN CARRYING OUT THOSE RESPONSIBILITIES HAS BEEN FAR FROM EXEMPLARY.

THE VACILLATIONS IN FEDERAL LAW AND POLICY OVER THE LAST TWO CENTURIES ARE TESTAMENT TO THE FACT THAT WE HAVE EXPENDED CONSIDERABLE EFFORT IN DEVELOPING "WASHINGTON" SOLUTIONS TO PROBLEMS IN INDIAN COUNTRY.

IT HAS ONLY BEEN IN THIS ERA OF SELF-DETERMINATION THAT THE FEDERAL GOVERNMENT HAS BEGUN TO LISTEN AND BE GUIDED BY THOSE WHO HAVE THE REAL AND WORKABLE SOLUTIONS TO THE PROBLEMS WHICH CONFRONT INDIAN COMMUNITIES -- THE INDIAN PEOPLE THEMSELVES.

SCHOLARS OF OUR HISTORY WITH THE INDIAN NATIONS ARE CONSISTENT IN THEIR VIEW THAT THERE NEEDS TO BE A FOCAL POINT IN THE CONGRESS -- A STEADY KEEL TO GUIDE THE SHIP OF STATE IN INDIAN MATTERS -- BOTH IN THE FORMULATION OF POLICY AND IN THE OVERSIGHT AND MONITORING OF THE WORK OF THE FEDERAL AGENCIES.

THE INDIAN PROGRAM RESPONSIBILITIES WITH WHICH WE HAVE CHARGED EXECUTIVE BRANCH AGENCIES ARE WIDELY DISPERSED -- THEY INVOLVE ALMOST EVERY DEPARTMENT OF THE FEDERAL GOVERNMENT -- THERE IS NO CENTRAL POINT OF COORDINATION AND OVERSIGHT OF THESE EFFORTS, OTHER THAN IN THE INDIAN COMMITTEES OF THE CONGRESS.

WE PRIDE OURSELVES AS A NATION THAT HONORS THE HUMAN RIGHTS OF ALL



PEOPLE, AND YET THE HISTORY OF OUR RELATIONS WITH OUR OWN NATIVE PEOPLE IS A SAD AND EMBARRASSING ONE.

EVEN IF WE WERE NOT CHARGED WITH LEGAL OBLIGATIONS AND A TRUST RESPONSIBILITY, WE WOULD STILL HAVE TO RECOGNIZE THE MORAL IMPERATIVE THAT WE, AS A NATION, ARE CHARGED WITH -- WHEN IT COMES TO IMPROVING THE CONDITIONS OF LIFE IN RESERVATIONS COMMUNITIES.

AS TO THAT LATTER OBJECTIVE, I DON'T THINK I NEED TO CITE STATISTICS TO ANY ONE HERE. MOST OF US KNOW THAT INDIAN COMMUNITIES HAVE THE HIGHEST UNEMPLOYMENT RATES IN THE NATION -- WITH AN AVERAGE OF 57 PERCENT AND A HIGH OF 90 PERCENT IN MANY AREAS OF INDIAN COUNTRY.

THE ATTENDANT SOCIAL PROBLEMS THAT ACCOMPANY EXTREME POVERTY -- SUICIDE AND ALCOHOLISM, HOPELESSNESS AND DESPAIR -- ARE HIGHER THAN IN ANY OTHER SEGMENT OF OUR POPULATION.

ELEVEN PERCENT OF ALL INDIAN HOUSING HAS NO POTABLE WATER. AN ALARMING 56 PERCENT OF INDIAN HOMES HAVE INADEQUATE WATER SYSTEMS OR SEWER SYSTEMS NOT IN COMPLIANCE WITH POLLUTION CONTROL LAW, OR HAVE NO SOLID WASTE DISPOSAL FACILITY. HOUSING NEEDS ARE GREATER THAN THOSE OF ANY OTHER GROUP OF AMERICANS. HEALTH CARE EXPENDITURES REPRESENT ONLY ONE-TENTH OF WHAT IS AVAILABLE TO OTHER AMERICANS. THESE ARE THE VESTIGES OF OUR PAST.

AT A TIME WHEN WE ARE EFFECTIVELY ENGAGED IN A CONCERTED, FOCUSED EFFORT TO ADDRESS THESE PERVASIVE PROBLEMS --

AND AT A TIME WHEN WE ARE FURTHER CHALLENGED WITH THE REALITY THAT THE RESOURCES TO DO SO GROW MORE SCARCE WITH EACH PASSING DAY --

WE SIMPLY CANNOT AFFORD TO RETURN TO THE OUTMODED ORGANIZATIONAL STRUCTURE OF TWENTY YEARS AGO THAT DISPERSED THE INDIAN RESPONSIBILITIES

OF THE SENATE ACROSS NUMEROUS COMMITTEES, FRAGMENTING ITS FOCUS, UNDERMINING ANY EFFECTIVE COMPREHENSIVE OVERSIGHT OF INDIAN PROGRAMS, AND THEREBY ENABLING THE EXECUTIVE BRANCH TO LOSE SIGHT OF THE GOAL OF COORDINATING PROGRAMS AND SERVICES DESIGNED TO ADDRESS THE GRAVE CONDITIONS IN RESERVATION COMMUNITIES.

EVEN ASSUMING THERE WAS SOME MERIT TO THE JURISDICTIONAL ARRANGEMENT OF THE 1970s, INDIAN ISSUES ARE NO LONGER NATURAL RESOURCE ISSUES.

TODAY, THE FUTURE OF INDIAN PEOPLE LIES IN THE STRENGTH OF INDIAN GOVERNMENTS, AND THE CONSOLIDATION OF GOVERNMENTAL AUTHORITY IN A MANNER THAT IS DESIGNED TO FOSTER ECONOMICALLY-HEALTHY INDIAN COMMUNITIES.

TWENTY YEARS OF INDIAN SELF-DETERMINATION AND SELF-GOVERNANCE HAS CHANGED THE LANDSCAPE OF THE FEDERAL-INDIAN RELATIONSHIP. THE ROLE OF THE FEDERAL GOVERNMENT HAS CHANGED AND MUST CONTINUE TO CHANGE TO ADAPT TO THESE CHANGED CIRCUMSTANCES. THE OLD PATERNALISTIC GUARDIAN-WARD RELATIONSHIP NO LONGER OBTAINS.

TODAY, INDIAN GOVERNMENTS ADMINISTER THE VAST MAJORITY OF FEDERAL PROGRAMS THROUGH THE MECHANISM OF SELF-DETERMINATION CONTRACTS. TODAY, TRIBAL GOVERNMENTS HAVE ASSUMED TOTAL RESPONSIBILITY FOR THE OPERATION OF THE BUREAU OF INDIAN AFFAIRS AGENCY OFFICES, AND ARE NOW PREPARING TO ASSUME RESPONSIBILITY FOR THE ADMINISTRATION OF B.I.A. AREA OFFICE FUNCTIONS.

TODAY, TRIBAL GOVERNMENTS OPERATE 8 HOSPITALS AND 332 OUTPATIENT HEALTH CARE FACILITIES, 59 SMALLER HEALTH STATIONS AND SATELLITE CLINICS, AND 172 ALASKA NATIVE VILLAGE CLINICS.

TODAY, INDIAN GOVERNMENTS OPERATE 87 SCHOOLS AND DORMITORIES, SLIGHTLY OVER HALF OF ALL B.I.A. FACILITIES, AND ADMINISTER A FAR GREATER NUMBER OF EDUCATION PROGRAMS. TODAY, THERE ARE 21 TRIBALLY-CONTROLLED COMMUNITIES COLLEGES AND ONE TRIBAL UNIVERSITY.

TODAY, THE CONDUCT OF GAMING ACTIVITIES ON INDIAN LANDS HAS BECOME A MAJOR SOURCE OF ECONOMIC GROWTH IN INDIAN COUNTRY -- A \$5 BILLION DOLLAR INDUSTRY AND GROWING. TODAY, INDIAN GOVERNMENTS AND TRIBALLY-CHARTERED BUSINESSES ARE ACTIVELY ENGAGED IN DEFENSE CONTRACTING AND MANUFACTURING.

TODAY, INDIAN GOVERNMENTS ARE FORGING NEW RELATIONSHIPS WITH STATE GOVERNMENTS -- TO PROVIDE A COMPREHENSIVE FRAMEWORK FOR THE EXERCISE OF CIVIL AND CRIMINAL JURISDICTION -- FOR THE TAXATION OF BUSINESS ACTIVITIES CONDUCTED ON TRIBAL LANDS -- AND FOR THE SETTLEMENT OF COMPETING CLAIMS TO WATER RESOURCES AND LAND.

TODAY, FEDERAL LAW RECOGNIZES THE AUTHORITY OF TRIBAL GOVERNMENTS TO REGULATE ENVIRONMENTAL QUALITY ON INDIAN LANDS, TO REGULATE HUNTING AND FISHING ON INDIAN LANDS, AND TO REGULATE ENERGY DEVELOPMENT ON TRIBAL LANDS.

TODAY, THE RELEVANT EXPERTISE IN THE FIELD OF INDIAN AFFAIRS IS NOT A KNOWLEDGE OF FEDERAL-INDIAN PROGRAMS OR NATURAL RESOURCES, BUT AN UNDERSTANDING OF THE GOVERNMENTAL STATUS OF INDIAN NATIONS -- THEIR SOVEREIGNTY AND HOW IT IS EXERCISED -- AND THE RELATIONSHIP OF INDIAN GOVERNMENTS TO THE STATE AND FEDERAL GOVERNMENTS.

IN SHORT, THE FUNCTION OF THE COMMITTEE ON INDIAN AFFAIRS IN TODAY'S SENATE IS ONE OF ASSURING THAT THE RELATIONSHIP OF THE UNITED STATES GOVERNMENT AND THE INDIAN TRIBAL GOVERNMENTS IS PREMISED UPON AND IS

CARRIED OUT IN A MANNER THAT IS CONSISTENT WITH THE POLITICAL AND LEGAL FOUNDATIONS THAT WERE FIRST RECOGNIZED IN THE CONSTITUTION.

IT IS IN THIS DYNAMIC CLIMATE THAT THE COMMITTEES OF THE CONGRESS MUST RISE TO THE CHALLENGE OF ADAPTING FEDERAL POLICY, DEVELOPING AND OVERSEEING FEDERAL PROGRAMS, TO MEET THE GROWING DEMANDS OF THE SIGNIFICANT METAMORPHOSIS THAT IS GOING ON IN INDIAN COUNTRY TODAY.

BEFORE CONCLUDING, I WOULD LIKE TO TAKE A FEW MOMENTS TO ADDRESS THE PREPARED TESTIMONY OF THE RENEWING CONGRESS PROJECT, AND TO CORRECT A FEW OF THE FACTUAL ERRORS AND OMISSIONS CONTAINED THEREIN AS THEY RELATE TO THE COMMITTEE ON INDIAN AFFAIRS.

UNFORTUNATELY, THE WIDELY-DISSEMINATED ORNSTEIN/MANN TESTIMONY FAILS TO TAKE INTO ACCOUNT THE 180 YEARS OF SENATE ORGANIZATION THAT PRECEDED MR. ORNSTEIN'S WORK AS A STAFF MEMBER OF THE STEVENSON COMMITTEE.

HAD THEY REVIEWED THE HISTORY OF THE SENATE, THEY WOULD HAVE FOUND THAT THE TIME PERIOD UPON WHICH MR. ORNSTEIN RESTS HIS CONCLUSIONS WAS IN FACT AN ABERRATION FROM WHAT HAS BEEN THE STANDARD PRACTICE IN THE SENATE FOR 160 YEARS.

FOR THE FIRST 150 YEARS, THERE WERE STANDING COMMITTEES ON INDIAN AFFAIRS IN BOTH THE HOUSE AND THE SENATE.

THEN, FOR THIRTY YEARS, FROM 1946 UNTIL 1976, THE INDIAN AFFAIRS FUNCTION WAS ORGANIZED AS A SUBCOMMITTEE OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS. BUT CONTRARY TO MR. ORNSTEIN'S RECOLLECTION, IN 1976, THE PROPOSED LEGISLATIVE REORGANIZATION PLAN WOULD HAVE PLACED THE INDIAN AFFAIRS COMMITTEE IN THE COMMITTEE ON LABOR AND HUMAN RESOURCES, NOT THE NEWLY-FORMED ENERGY AND NATURAL RESOURCES COMMITTEE.

HOWEVER, THE SENATE CHOSE TO OVERRIDE THE LEGISLATIVE REORGANIZATION RECOMMENDATIONS WITH RESPECT TO INDIAN AFFAIRS AND INSTEAD AUTHORIZED THE ESTABLISHMENT OF A SELECT COMMITTEE ON INDIAN AFFAIRS, PRIMARILY TO OVERSEE THE ENACTMENT OF THE RECOMMENDATIONS JUST ISSUED BY A JOINT COMMISSION OF THE CONGRESS -- THE AMERICAN INDIAN POLICY REVIEW COMMISSION, WHICH HAD BEEN ESTABLISHED IN THE 94TH CONGRESS AND SUBMITTED IT REPORT TO THE 95TH CONGRESS IN 1977. IN THE YEARS WHICH FOLLOWED, THE SENSIBILITY OF CONSOLIDATING JURISDICTION OVER ALL OF INDIAN MATTERS IN ONE COMMITTEE SOON BECAME EVIDENT.

FROM THE TIME OF ITS RE-ESTABLISHMENT IN 1976, THE INDIAN AFFAIRS COMMITTEE, UNLIKE MOST SELECT COMMITTEES, WAS GIVEN LEGISLATIVE AUTHORITY OVER VIRTUALLY ALL ASPECTS OF INDIAN AFFAIRS.

THUS, THE CONCLUSION OF THE MANN/ORNSTEIN REPORT THAT THE SELECT COMMITTEE ON INDIAN AFFAIRS SHOULD BE "EXHIBIT A" IN "WHY THE SYSTEM HAS GONE OUT OF CONTROL" BECAUSE "SELECT COMMITTEES ... MEAN LESS FOCUS FOR THE STANDING COMMITTEES THAT HAVE REAL SUBSTANTIVE JURISDICTION" REFLECTS A MISUNDERSTANDING OF THE HISTORY OF THE INDIAN AFFAIRS COMMITTEE.

LIKEWISE, THE REPORT'S COMMENT THAT "IT IS BEMUSING, IN A WAY, SIXTEEN YEARS LATER, TO SEE CURRENT ATTEMPTS TO MAKE THIS COMMITTEE PERMANENT TO AVOID ITS ELIMINATION" IS INDICATION THAT THE AUTHORS ARE UNAWARE THAT THE COMMITTEE ON INDIAN AFFAIRS WAS MADE A PERMANENT COMMITTEE OF THE SENATE IN 1984, NEARLY TEN YEARS AGO.

PERHAPS THE AUTHORS MISUNDERSTOOD THE SENATE'S ACTION IN FEBRUARY OF THIS YEAR, WHEN IT ACTED TO REMOVE THE WORD "SELECT" FROM THE NAME OF THE COMMITTEE -- AN ACTION WHICH WAS TAKEN TO REFLECT THE REALITY THAT THE COMMITTEE ON INDIAN AFFAIRS IS A PERMANENT COMMITTEE OF THE SENATE

WITH SUBSTANTIVE LEGISLATIVE AUTHORITY OVER ISSUES OF CONCERN TO INDIAN COUNTRY.

IN CONTRAST TO THE MANN/ORNSTEIN REPORT'S CONCLUSIONS ABOUT THE INDIAN AFFAIRS COMMITTEE, IT IS INSTRUCTIVE TO LOOK AT THE GOALS THAT THEY ARTICULATE FOR CONGRESSIONAL ORGANIZATION AS THEY RELATE TO A STANDING COMMITTEE ON INDIAN AFFAIRS.

THE AUTHORS RECOMMEND THAT COMMITTEES BE ORGANIZED TO: (1) ENABLE THE SIMULTANEOUS CONSIDERATION OF MANY IMPORTANT SUBSTANTIVE MATTERS; (2) ENABLE THE CONGRESS TO LEGISLATE, INVESTIGATE, AND OVERSEE EXECUTIVE BRANCH BEHAVIOR ACROSS THE RANGE OF ISSUE AREAS AND EXECUTIVE BRANCH AGENCIES AND DEPARTMENTS; AND (3) ASSURE THE DEVELOPMENT OF IN-DEPTH KNOWLEDGE AND EXPERTISE. THE AUTHORS NOTE FURTHER THAT BY STRUCTURING COMMITTEES AND CREATING CENTERS OF JURISDICTION, THE CONGRESS CAN SET PRIORITIES AND INDICATE AREAS OF GREATER OR LESSER IMPORTANCE.

EACH OF THESE OBJECTIVES HAS BEEN ACHIEVED BY THE SENATE IN RECOGNIZING THE NEED FOR A PERMANENT STANDING COMMITTEE ON INDIAN AFFAIRS.

THE RENEWING CONGRESS REPORT ALSO NOTES THAT "JURISDICTIONAL ALIGNMENTS ARE CRITICAL -- IF AN IMPORTANT PRIORITY IS TOO FRAGMENTED, OR GETS NO ATTENTION AT ALL, IT WILL BE IGNORED OR DELAYED". I FULLY AGREE.

DISMANTLEMENT OF THE JURISDICTION OF THE COMMITTEE ON INDIAN AFFAIRS WOULD RESULT IN PRECISELY THE KIND OF FRAGMENTATION THAT THE REPORT'S AUTHORS WARN AGAINST.

FOR TO ASSURE THAT THE CONGRESS DID NOT ABDICATE ITS CONSTITUTIONALLY-MANDATED RESPONSIBILITIES FOR INDIAN AFFAIRS --

-- THE OVERSIGHT OF INDIAN EDUCATION AND HEALTH AND SOCIAL SERVICES

AND WELFARE AND EMPLOYMENT WOULD HAVE TO GO TO THE COMMITTEE ON LABOR AND HUMAN RESOURCES AND THE COMMITTEE ON FINANCE;

-- THE OVERSIGHT OF THE EXERCISE OF CIVIL AND CRIMINAL JURISDICTION BY TRIBAL GOVERNMENTS WOULD HAVE TO GO TO THE COMMITTEE ON THE JUDICIARY;

-- THE OVERSIGHT OF INDIAN HOUSING PROGRAMS WOULD HAVE TO GO TO THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS;

-- THE OVERSIGHT OF THE EXERCISE OF TRIBAL GOVERNMENTAL REGULATORY AUTHORITY OVER ENVIRONMENTAL MATTERS WOULD HAVE TO GO TO THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS;

-- THE OVERSIGHT OF INDIAN AGRICULTURE, NUTRITION AND INDIAN FORESTRY PROGRAMS WOULD HAVE TO GO TO THE COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY;

-- THE OVERSIGHT OF INDIAN TREATY FISHING RIGHTS AS THEY AFFECT THE REGULATION OF FISHING IN INTERNATIONAL WATERS OR AS THEY ARE AFFECTED BY THE MAGNUSON ACT OR AS ALASKA NATIVES ARE AFFECTED BY THE MARINE MAMMAL PROTECTION ACT WOULD HAVE TO GO TO THE COMMITTEE ON SCIENCE, COMMERCE AND TRANSPORTATION;

-- THE OVERSIGHT OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN WITHIN THE SMITHSONIAN INSTITUTION WOULD HAVE TO GO TO THE COMMITTEE ON RULES AND ADMINISTRATION; AND

-- THE OVERSIGHT OF INDIAN LANDS AND NATURAL RESOURCES AND WATER RIGHTS WOULD HAVE TO GO TO THE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

HAVING SERVED ON A FEW OF THESE COMMITTEES IN MY 34 YEARS IN THE CONGRESS, I KNOW THAT THESE OTHER COMMITTEES ARE ALREADY OVERBURDENED. I DOUBT THAT EVEN WITH THE BEST OF INTENTIONS, THEY COULD AFFORD THE KIND

OF ATTENTION AND FOCUS THAT IS ENABLED BY CONSOLIDATING THIS JURISDICTION IN ONE COMMITTEE.

AND OF COURSE THERE ARE OTHER ISSUES, SUCH AS THE CONDUCT OF GAMING ACTIVITIES ON INDIAN LANDS, INDIAN SOVEREIGNTY, THE EXERCISE OF TAXATION AUTHORITY BY TRIBAL GOVERNMENTS, THE PROTECTION OF NATIVE AMERICAN RELIGIOUS FREEDOM RIGHTS, THE ECONOMIC DEVELOPMENT OF RESERVATION COMMUNITIES, BORDER ISSUES OF INDIAN TRIBES LOCATED ON THE BORDERS OF MEXICO AND CANADA, INDIAN GRAVE PROTECTION AND REPATRIATION OF SACRED ARTIFACTS, TO MENTION BUT A FEW, THAT WOULD NOT EASILY LEND THEMSELVES TO THE JURISDICTION OR EXPERTISE OF THE EXISTING STANDING COMMITTEES.

FINALLY, THE AUTHORS OF THE RENEWING CONGRESS REPORT HAVE ASKED US TO CONSIDER THE FOLLOWING OBJECTIVES FOR CONGRESSIONAL REFORM -- (1) WHETHER THEY IMPROVE CONGRESS' CAPACITY TO DELIBERATE; (2) WHETHER THEY IMPROVE CONGRESS' ABILITY TO IDENTIFY AND HIGHLIGHT IMPORTANT PROBLEMS IN SOCIETY AND TO OVERSEE THE PERFORMANCE OF OTHER INSTITUTIONS, INCLUDING THE EXECUTIVE BRANCH; AND (3) WHETHER THEY ARE ABLE TO ACT ON CONGRESS' AGENDA WITH COMPETENCE, REPRESENTATIVENESS AND APPROPRIATE DISPATCH.

IN ADDITION, THE AUTHORS OBSERVE THAT: (1) LARGER COMMITTEES HAVE MORE DIFFICULTY DELIBERATING; (2) THE APPROPRIATE FOCUS FOR CONGRESSIONAL COMMITTEES SHOULD BE ON SUBSTANTIVE AREAS OF POLICY; (3) COMMITTEES SHOULD BE MORE EQUAL IN BREADTH AND WORKLOAD; (4) THERE IS VALUE IN CONSOLIDATING CURRENTLY DIVIDED JURISDICTION IN IMPORTANT COMPREHENSIVE POLICY AREAS; (5) IT IS IMPORTANT FOR COMMITTEES TO BE ABLE TO IDENTIFY AND PULL TOGETHER IMPORTANT NEW POLICY AREAS; (6) COMMITTEE MEMBERSHIP MUST BE REPRESENTATIVE OF THE INSTITUTION AS A WHOLE; AND (7) WE SHOULD NOT PUNISH ARBITRARILY COMMITTEES THAT HAVE BEEN ASSERTIVE AND EFFECTIVE.



I BELIEVE THAT EACH OF THESE OBJECTIVES AND CONSIDERATIONS ARE COMPELLING REASONS TO MAINTAIN THE COMMITTEE ON INDIAN AFFAIRS AS A PERMANENT STANDING COMMITTEE OF THE SENATE.

OVER THE PAST SIXTEEN YEARS, THE COMMITTEE HAS GROWN FROM A COMMITTEE OF FIVE MEMBERS TO A COMMITTEE OF EIGHTEEN MEMBERS IN THE 103RD SESSION OF THE CONGRESS. I BELIEVE THAT THIS GROWTH IN MEMBERSHIP IS A DIRECT REFLECTION OF THE INTEREST AND IMPORTANCE THAT MEMBERS NOW PLACE ON ASSURING THAT THIS NATION DEALS HONORABLY AND EFFECTIVELY WITH ITS NATIVE PEOPLE.

AND, WHILE THE COMMITTEE ON INDIAN AFFAIRS RANKS 16TH IN AMOUNT OF FUNDS ALLOCATED FOR THE OPERATION OF THE 19 SENATE COMMITTEES, THE COMMITTEE RANKS FIFTH IN THE NUMBER OF REPORTED BILLS AND RESOLUTIONS.

THE RESPONSIBILITIES OF THE CONGRESS ARE TO THE INDIAN GOVERNMENTS, NOT TO INDIVIDUAL INDIAN CITIZENS AS A CONSTITUENT GROUP. THIS IS REFLECTED IN THE FACT THAT THERE IS A WHOLE TITLE OF THE UNITED STATES CODE THAT SPELLS OUT THE NATURE OF THIS GOVERNMENT-TO-GOVERNMENT RELATIONSHIP.

SO, LET US BALANCE 30 YEARS OF INDIAN AFFAIRS AS A SUBCOMMITTEE AGAINST 160 YEARS OF INDIAN AFFAIRS AS A PERMANENT STANDING COMMITTEE OF THE SENATE AND OPT FOR THE LATTER.

OUR CONSTITUTIONALLY-MANDATED RESPONSIBILITIES IN THE FIELD OF INDIAN AFFAIRS SHOULD DICTATE THIS RESULT. THIS NATION'S FIRST AMERICANS DESERVE NO LESS.

STATEMENT OF SENATOR JOHN McCAIN  
VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS  
UNITED STATES SENATE  
BEFORE THE  
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

MAY 4, 1993

Chairman Boren, Chairman Hamilton, and members of the Joint Committee, I want to thank you for your invitation to appear before you today to testify on the issue of committee structure. I am pleased to join my good friend and the Chairman of the Committee on Indian Affairs, Senator Inouye, in providing this committee with a background on the history, jurisdiction, and responsibilities of the Committee on Indian Affairs.

Mr. Chairman, a wise man once said, "Those who fail to learn the lessons of history are condemned to repeat the lessons of history." In the context of federal-Indian relations, nothing would be more tragic. Indeed, as you will note from my testimony, in almost every instance where a change has occurred in federal-Indian policy, it is the Indian people who have always suffered for the convenience of those in Washington.

After reviewing the attached memorandum from the Congressional Research Service on the history of committees on Indian affairs in the House and Senate from the 1st to the 103rd Congresses, it is interesting to note that changes in Congressional committee structure have often been followed by significant and profoundly devastating changes in federal-Indian policy.

For example, after the Legislative Reorganization Act was passed in 1946, the Senate Indian Affairs Committee was one of five committees combined into the new Senate Public Lands Committee. Six years later, the termination era, one of the darkest chapters in federal-Indian policy, became the dominant federal policy for the next two decades. Perhaps the goal of congressional reform was achieved, but the Indian people were forgotten.

I am not here to argue against congressional reform. I believe the Congress is in need of reform--but not at the expense of those who have benefitted least from our experience under the constitution. From time immemorial, tribes have been and will continue to be permanent governmental bodies exercising those basic powers of government, as do federal and state governments, to fulfill the needs of their members. Under our constitutional system of government, the right of tribes to be self-governing and to share in our federal system must not be diminished.

Mr. Chairman, our constitution confers on the Congress the ultimate authority and responsibility for the relations between the Federal government and the tribes. With this authority and responsibility comes the duty to ensure the fulfillment of the trust. These are not passing whims or fancies of the day. They are solemn legal and, I believe, moral obligations which are deeply embedded in our history as a nation. The renowned scholar, Felix Cohen, perhaps said it best:

"Like the miner's canary, the Indian marks the shifts from fresh air to poison gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall of our political faith\*\*\*."

The very 1st Congress spent much of its time in 1789 and 1790 enacting legislation relating to Indians. During that Congress, the War Department was established and was delegated substantial responsibility over Indian affairs. The Northwest Ordinance was enacted with the famous pledge that "the utmost good faith shall always be observed toward Indians." The first of several Trade and Intercourse Acts were enacted to prohibit the acquisition of Indian lands by non-Indians without Federal approval. During this same period, Secretary of War Henry Knox advised President Washington on the military necessity for negotiating with tribes as nations. Knox believed that this policy was also necessary to distinguish the national character of the new American government from the previous conduct of the British colonial government toward the Indian nations. Secretary Knox stated that:

"But, in future, the obligations of policy humanity, the justice, together with that respect which every nation sacredly owes to its own reputation, unite in requiring a noble, liberal, and disinterested administration of Indian affairs."

For most of the next one hundred years, the Congress and the President exerted considerable effort to negotiate, ratify and implement treaties between the United States and the Indian tribes. In 1832, the responsibility for Indian affairs was shifted from the Department of War to the Department of the Interior and the Commissioner of Indian Affairs became responsible for negotiating the treaties and implementing their provisions.

The treaties between the United States and the tribes all vary in some particulars. However, they also contain some common principles and provisions. The underlying concept of every treaty was that the tribes agreed to cede vast land areas to the United States while reserving to themselves a permanent homeland. In return for the ceded lands, the United States promised to provide protection against encroachment by non-Indians. Tribes were assured that they could continue to govern their own affairs free from interference by local authorities. Many of the treaties promised Federal assistance in the development of agriculture, education, health and various economic pursuits.

The treaty era formally ended in 1871 when the Congress declared that the United States would no longer negotiate treaties with the tribes. Soon thereafter, in 1887, Congress enacted the first of a series of allotment acts. Under these laws, the reservations were to be broken up into parcels owned by individual Indians. The intent of Congress was to encourage Indian people to become farmers and promote the non-Indian concept of individual ownership of land. Much has been written about both the purpose and effects of the allotment acts. It is not my purpose here to revisit the

controversy which surrounds these laws. However, it is important to understand the consequences of the allotment era if we are to understand the situation of Indian people today.

When the allotment process began in 1887, there were about 138 million acres of land in Indian ownership. When the allotment era ended in 1934, there were 52 million acres of land left in Indian ownership. In less than 50 years, 86 million acres of land passed out of Indian ownership. Perhaps of even greater significance was the fact that the allotment program devastated Indian cultures and traditional forms of governance. The legacy of the allotment era is with us today in many forms. Checkerboard jurisdictions and fractionated land ownership are but two consequences of the allotment era which hinder proper management of Indian resources and the exercise of tribal self-governance.

The allotment era was replaced with a renewed federal emphasis on tribal self-governance with the enactment of the Indian Reorganization Act in 1934. Tribes were encouraged to adopt constitutions and reassert control over their internal affairs. Some Federal efforts were made to consolidate the tribal land base and to improve the management of tribal natural resources. Most tribes expended great effort to reassert their inherent sovereign powers of self-governance and to once again take control of their reservations.

During the 1950's Federal policy shifted again. Congress began the era of termination with the adoption of House Concurrent Resolution 108. Although the Indian Reorganization Act was not repealed, it became official Federal policy to terminate the existence of federally-recognized tribal governments. Like the allotment policy of an earlier era, the termination policy led to disastrous results. President Nixon best summarized the situation in his 1970 Special Message to the Congress on Indian Affairs:

\*\*\*The removal of Federal trusteeship responsibility has produced considerable disorientation among the affected Indians and has left them unable to relate to a myriad of Federal, State and local assistance efforts. Their economic and social condition has often been worse after termination than it was before\*\*\* The very threat that this (trust) relationship may someday be ended has created a great deal of apprehension among Indian groups and this apprehension, in turn, has had a blighting effect on tribal progress. Any step that might result in greater social, economic or political autonomy is regarded with suspicion by many Indians who fear that it will only bring them closer to the day when the Federal government will disown its responsibility and cut them adrift.

"In short, one extreme policy, forced termination, has often worked to produce the opposite extreme: excessive dependence on the Federal government. In many cases this dependence is so great that the Indian community is almost entirely run by outsiders who are responsible and responsible to Federal officials in Washington, D.C., rather than to the communities they are supposed to be serving."

The termination era officially ended when House Concurrent Resolution 108 was finally repudiated and repealed during the 100th Congress. Our current Federal policy of tribal self-determination came about in 1975 as a result of the proposal contained in President Nixon's Special Message to Congress in 1970. The goals of the self-determination policy are to reduce Federal domination of Indian programs and services while strengthening tribal capabilities and capacities for self-governance. As we know from the hearings held on the Self-Determination Act during the last Congress, the policy has generally worked and has been enthusiastically embraced by the tribes.

Mr. Chairman, I have gone on at some length here and I have not even touched upon the substantial body of law relating to Indian affairs which has been developed by the Federal courts. I do want to say that the courts have been much more consistent in their handling of Indian affairs than has been the case here in Congress. The courts have been extremely diligent in their protection of the inherent authority of the tribes to



regulate their own affairs. They have also been consistent in their view that the Congress possesses the ultimate authority and responsibility for Indian affairs.

As this committee prepares to submit its recommendations regarding committee structure, I believe it is important that we avoid the mistakes of the past. In this regard, it is abundantly clear that abrupt swings in Federal policy toward Indians have always produced negative results.

In his testimony before this committee, Mr. Norman Ornstein of the American Enterprise Institute has suggested that Chairman Inouye and I are attempting to make the Committee on Indian Affairs permanent in order to avoid its elimination. Mr. Ornstein also stated that the origin of the Indian Affairs Committee was "to deal with a specific problem." (Presumably, Mr. Ornstein's membership on the Stevenson Committee also made him an expert on Indian affairs.) Not only did Mr. Ornstein fail to recognize that the Senate Indian Affairs Committee has been a permanent committee since 1984, but he appears to hold the view that the devastating consequences of over two centuries of vacillating federal-Indian policies can be reduced to a single problem and miraculously solved by a "Select" Committee within a brief period of time. Such a viewpoint ignores the fact that our country long ago undertook solemn legal and moral obligations to the original inhabitants of this Nation. Unfortunately, inconsistent federal policies, inept and often corrupt management of the federal government's trust responsibility for Native

Americans and their resources have helped perpetuate an appalling standard of living for Indians.

Mr. Chairman, it has also come to my attention that some hold the view that the Committee on Indian Affairs has become too much of an advocate for Native Americans. Well, let's examine some of the socioeconomic conditions which these people must contend with on a daily basis to see whether it is necessary for someone--anyone--to advocate on behalf of Native Americans.

According to the 1980 census, there are about 1 1/2 million Native Americans--half of whom reside on reservations--half of whom live below the national poverty level. Those who live below the poverty level are not marginally poor. They live vastly below even the standards we set for poor people.

Over one-fifth of Indians are twice as poor as those Americans who live at the poverty level.

Over one-half of adult Indians are considered unemployed. Most other Indians have long ago abandoned hope of finding employment and are not counted among the unemployed. Of those Indians who are fortunate to have found employment, the majority work for less than \$7,000 a year.

The Indian population is expanding rapidly. The number of Indians who are eligible for Federal services has doubled since 1975. On many reservations, most of the population is under 18 years of age. By the year 2000, most Navajos will be under the age of 10.

The paradox of dramatic growth in Native American population is that it occurs while Indian mortality rates remain incredibly high. On the Pine Ridge Reservation in South Dakota, the infant mortality rate is 400 percent greater than the national average. Nationwide, only 1 of every 8 Americans dies before the age of 45, but 3 out of 8 Indians will not see their 45th birthday.

Medical care for Indians has improved somewhat over the abysmal conditions that Indians have had to endure for most of this century. However, there is little cause for rejoicing as medical conditions for Indians remain inexcusably inadequate. Every 1,400 Indians must share the services of one doctor. In testimony before the Senate Committee on Indian Affairs, the director of the Indian Health Services (IHS) has warned that IHS has become a health care rationing agency rather than a health care provider. Because of inadequate funding for IHS, 26,000 Indians were denied necessary medical care last year. Today, most IHS care is limited to treating only emergency conditions.

This inventory of misery for Native Americans is virtually limitless. Every aspect of Indian life is included. There is an enormous shortage of housing for Indian families. Many homes are without running water. There is an appalling lack of community sanitary facilities like wastewater treatment systems and landfills.

No less than housing, education is also an elusive acquirement for Indians. Little more than half of Native Americans graduate from high school. For some tribes, the dropout rate soars to as high as 75 percent. A college education is a luxury that few Indians enjoy--7 percent to be precise.

Mr. Chairman, the Congress has often responded to these desperate conditions of Indian life--conditions which certainly qualify as dire emergencies--by reducing funding for Indian programs. Since 1975, appropriations for Indian programs have declined by 40 percent in constant dollars. Even more mystifying, is that these reductions occurred while all other domestic spending steadily increased. Mr. Chairman, all Americans resent unwanted governmental interference in their affairs. But we do not expect governmental indifference to our gravest problems.

The quiet internalization of despair among Indians has deadly consequences. Alcohol and substance abuse are epidemic. Alcoholism among Native Americans is reportedly greater than six times--six times--the national average.

Mr. Chairman, there is little reason to hope that these grim statistics will differ when the results of the 1990 census are examined. Our work is not complete. Over the long and tragic course of America's treatment of them, Indian leaders have persistently urged the Federal government to work with them to arrive at sensible solutions to their problems. In 1961, at a meeting in Chicago of over 400 tribal leaders, that request was eloquently renewed in this urgent appeal:

"What we ask of America is not charity, not paternalism, even when benevolent. We ask only that the nature of our situation be recognized and made the basis of policy and action."

The Joint Committee must ask itself a fundamental question: How can the Congress best strengthen and improve the capacity of Federal and tribal governments to effectively and efficiently provide necessary programs and services to the Indian people?

I believe the answer to that question is that a permanent Committee on Indian Affairs must be maintained. The Senate Committee on Indian Affairs exists to ensure that all levels of government possess the integrity, accountability and capability to meet the needs of Indian citizens. We must make certain that the Indian people are receiving the full benefit to be derived from their trust lands and resources as well as the full benefits of programs and services which are intended for their assistance and well-being. To do

this without an Indian Affairs Committee would require virtually all Senate Committees to exercise some degree of jurisdiction over Indian affairs. One does not have to guess what the consequences might be under such a fragmented system. Federal programs enacted prior to the establishment of the Senate Indian Affairs Committee, reveal that Indian people and their homelands were virtually ignored or subjected to inappropriate policies the consequences of which continue to haunt us all today.

Federal environmental programs offer a good example. The environmental problems on Indian lands are serious, widespread, and complex. Yet most Americans and Members of Congress are unaware of how much our Nation is comprised of Indian lands. The total land mass of Indian reservations is equal to the size of New England and the state of Maryland, Delaware, and New Jersey combined. The Navajo Nation alone is equal to the size of the State of West Virginia.

In monetary terms, the funds that are needed to address environmental problems on Indian lands are enormous, and far beyond the scarce resources of Indian tribes. What has been the federal response? A 1989 EPA report found that \$48 billion had been awarded to States and cities under title II of the Clean Water Act, while only \$25 million had been awarded to Indian tribes despite a documented need for at least \$750 million. In other words, in the first fifteen years of federal aid under this landmark legislation, Indian tribes received less than one-half of one percent of available funds. Their needs were virtually ignored.

In July 1992, the EPA issued a report subtitled "Environmental Risk in Indian Country." On page two, the report states:

"Before 1984, EPA's regulatory programs did not take into account the unique constitutional status of Indian lands. In addition, most of EPA's authorizing legislation had no language addressing responsibility for environmental protection on Indian lands. As a result, while EPA has fostered its partnership with the States, environmental protection on Indian lands often lagged behind."

The report goes on to conclude:

"\*\*\*most Indian tribes lack inadequate environmental infrastructure on which to base sound environmental management decisions. Over the past 20 years, while EPA established partnerships with the States, tribes were underserved due to legal uncertainties and political powerlessness. While EPA's Indian policy established necessary framework for creating strong tribal EPA partnerships, tribes still often lack the infrastructure, resources, and expertise to sustainably manage their lands."

"The vulnerability is all the more critical when the risk profile for American Indians is extended out into the future. Tribes are among the fastest growing population groups in the U.S., a trend that will place additional pressures on limited reservation resources. Already tribes face endemic poverty and severe unemployment and are investigating a variety of options to increase employment and income on reservations."

"All of these options, from oil and gas development to tourism to waste disposal, will have environmental impacts that will require planning and management."

"As the pressure to pursue these developments increases, will tribes have the resources to address the problems they bring? Unless EPA makes significant changes, the answer to this questions will be no."

Since 1987, the Senate Committee on Indian Affairs has held numerous oversight hearings concerning environmental problems on Indian lands and has begun to develop both short and long term solutions to these problems. In doing so, the committee has worked closely with the Senate Environment and Public Works Committee. While we do



not always agree on the appropriate course of action, the fact is that we have been able to make considerable progress at reversing decades of oversight and neglect.

The Committee on Indian Affairs has worked with other committees of jurisdiction to address tribal needs or concerns on legislation intended for the well-being of all Americans, such as tax incentives, education, AIDS, agriculture, energy, veterans affairs, job training programs, and small business. The point is that while the issues confronting Indian country today reach far beyond the jurisdiction of the Committee on Indian Affairs, we are able to identify problems and develop solutions because of the expertise we have developed and because of our status as a permanent full committee.

The Indian Affairs Committee is vested with the primary legislative and oversight responsibilities for federal programs and policies intended for the benefit and well-being of the Indian people, such as Indian land and water settlements, Indian health care, Indian education, Indian gaming, and Indian housing. Again, because of the expertise we have developed and because of our status as a permanent full committee we have been able to begin reversing decades of paternalistic federal control over Indian programs.

One example of the committee's work with Indian tribes to further the goal of tribal self-determination is the enactment in 1988 of the Self-Governance Demonstration Project (Title III, Pub. L. 100-472). The Self-Governance Project authorizes participating tribes, under an annual funding agreement with the Secretary of the Interior, to plan,

consolidate, and administer programs services and functions administered by the Bureau of Indian Affairs (BIA) and to redesign programs, activities, functions or services and reallocate federal funds. A tribe can choose to contract for all or part of the services and programs provided by the BIA. Funds for the annual funding agreements are allocated out of agency, area, and central office accounts of the BIA to the tribe on the basis of what that tribe would have received in funds and services in the absence of the agreement.

The Self-Governance program has been well received and efforts are underway to make the program permanent. The success of this program can be attributed in large part to the vision held by the participating tribes; a vision which is perhaps best captured in a statement by the Lummi tribe:

"The Self-Governance Demonstration Project is an historic effort to break a pattern of dominance and dependency. While some Federal programs in the past have allowed Indian Tribes to implement certain limited programs, Self-Governance offers the chance for us to assume total control of our economic, political, and social futures, and to demonstrate that we can accomplish what the BIA has not been willing or able to do in 120 years."

In closing, let me note that while the socioeconomic problems in Indian country are great, the opportunities are even greater. There is a renewed sense of optimism among Native Americans today, and I believe much of the credit for this sense of hope can be directly attributed to the personal time and effort that Chairman Inouye has spent listening to and working on the concerns of the Indian people. It has been my privilege to serve with him as the Vice Chairman.

As the Joint Committee continues to study the operations of the Congress and prepares its recommendations, I urge you to take to heart the following words of Peterson Zah, President of the Navajo Nation:

"Indeed, helping the American Indians to help themselves is neither a Democratic issue nor a Republican issue; it's not a conservative policy or a liberal policy; it's not even a "special interest" issue. Rather, it is a "human" issue that must, and deserves to be, addressed from a national perspective on a bipartisan basis, and with a real sense of urgency warranted by the deplorable conditions existing in Indian country-- conditions which truly are a national disgrace."

Again, thank you for this opportunity to testify on this important topic. I would be pleased to respond to any questions.



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April 18, 1993

TO : Honorable John McCain  
Attention: Dan Lewis

FROM : Roger Walke  
Analyst in American Indian Policy  
Civil Rights Section  
Government Division *Rec*

SUBJECT : House and Senate Standing and Select Committees on Indian  
Affairs, 1st-103d Congresses

This memorandum is in response to your request for a history of committees on Indian affairs in the House and the Senate from the 1st to the 103d Congresses. This memo is not an exhaustive listing of all committees that ever had jurisdiction over any aspect of Indian matters, since the time required for such a listing would be far beyond what was available. As agreed, this memo is essentially an expansion and update of a CRS history of Indian affairs committee jurisdiction prepared by the late Richard S. Jones, long-time specialist in American Indian policy in CRS.

The memo divides the history of these committees into four periods: the period of temporary select committees (1789-1820), the period of permanent standing committees (1820-1947), the period of no standing committees (1948-1984), and the period of one permanent committee (1984-present).

#### **Period of Temporary Select Committees on Indian Affairs, 1789-1820**

Congressional authority over Indian affairs is derived from the Constitution, which assigns to Congress power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes" (Art 1, sec. 3).

During the early Congresses, Indian matters were considered either by the whole Senate or House, by select committees appointed for that purpose, or by various other committees.

The Senate, beginning in the 1st Congress, created temporary select committees to consider and report on specific Indian matters, especially treaties. The first treaty ever submitted to the Senate by a President was an Indian treaty, the 1789 treaty of Fort Harmar with the Six Nations; it was referred to a temporary select committee, and became the occasion for President George Washington and the Senate to develop ratification procedures and wording that would be used for all treaties, both Indian and foreign. Such short-lived Senate select committees were created, as needed, in most Congresses in this period, including the 2d-3d, 5th, 7th, 9th-11th, 13th, and 15th Congresses. In the 14th and 15th Congresses, the Senate began referring Indian treaties to other standing committees (Foreign Affairs or Public Lands) but still might create select committees for specific Indian matters.<sup>1</sup>

The House, in the 1st Congress, created a select committee on Indian affairs. The select committee was reconstituted in the 2d, 4th, 6th-10th, 12th, and 14th-18th Congresses. Thus a select committee on Indian affairs existed in the House during much of the 1789-1821 period.<sup>2</sup>

#### Period of Standing Committees on Indian Affairs, 1820-1947

Early in the 16th Congress, on January 3, 1820, the Senate established a Standing Committee on Indian Affairs<sup>3</sup> having jurisdiction over Indian affairs legislation. This was followed in the House of Representatives by establishment of a Standing Committee on Indian Affairs in December 1821.<sup>4</sup>

Throughout the nineteenth century and into the twentieth, there existed other standing committees in the Senate, and select committees in both Houses, that had jurisdiction over various aspects of Indian affairs. These included committees to investigate trespassing on Indian lands as well as damages from Indian attacks on civilians, and committees to coordinate legislation affecting specific tribes or groups of tribes.

Table 1 lists these additional committees for the years 1838 to 1920. From 1908 to 1920, as the table shows, there were no select committees in either House.

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<sup>1</sup> U.S. Senate Executive Journal, Vols. 1-3, 1789-1829, *passim*.

<sup>2</sup> This paragraph was originally prepared by Carol Hardy-Vincent, Analyst in American National Government, CRS Government Division.

<sup>3</sup> U.S. Congress. Annals of the Congress of the United States. 16th Cong., 1st Sess., Vol. 35, 1855 ed. p. 51. [Hereafter cited as *Annals*.]

<sup>4</sup> *Annals*, 17th Cong., 1st Sess., Vol. 38, 1855 ed. p. 548.

In 1921 all existing standing Senate committees<sup>6</sup> dealing with Indian legislation were consolidated with the existing Committee on Indian Affairs.

**TABLE 1. Additional Committees Having Jurisdiction Over Indian Affairs, 1838-1920  
(Other Than Standing Committees on Indian Affairs)**

Year(s)	Senate	House
1838		Select Committee on Indian Fighters
1878	Joint Committee on Transfer of the Indian Bureau	
1879-1880	Select Committee to Examine into Removal of Northern Cheyennes	
1881	Select Committee to Examine into Circumstances Connected with Removal of Northern Cheyennes from the Sioux Reservation to the Indian Territory	
1885-1892	Select Committee on Indian Traders (1886-1886) Select Committee on Indian Depredations (1889-1892) Select Committee on the Five Civilized Tribes (1887-1892)	Select Committee on Expenditures for the Indians and Yellowstone Park (1885-1887) Select Committee on Indian Depredation Claims (1887-1891)
1893-1908	Select Committee to Investigate Trespassers on Indian (Cherokee) Lands Select Committee on the Five Civilized Tribes Standing Committee on Indian Depredations	
1909-1920	Standing Committee on Indian Depredations Standing Committee on the Five Civilized Tribes Standing Committee to Investigate Trespassers on Indian Lands	

<sup>6</sup> Indians Affairs, Five Civilized Tribes, Indian Depredations, to Investigate Trespassers on Indian Lands.

### Period of Cessation of Full Standing Committees, 1946-1954

The Senate Indian Affairs Committee was one of the five committees<sup>6</sup> combined in 1947 into the new Senate Public Lands Committee, in accordance with provisions of the Legislative Reorganization Act of 1946 (60 Stat. 812).<sup>7</sup> Indian Affairs became a Subcommittee of the new Committee. In 1948 the Public Lands Committee changed its name to the Committee on Interior and Insular Affairs.<sup>8</sup>

In the House, the Indians Affairs Committee was in 1947 subsumed under the House Public Lands Committee, by provision of the Legislative Reorganization Act of 1946. As in the Senate, it became a Subcommittee on Indian Affairs. The House Public Lands Committee changed its name to the House Committee on Interior and Insular Affairs in 1951.<sup>9</sup>

<sup>6</sup> Public Lands and Surveys, Mines and Mining, Territories and Insular Affairs, Irrigation and Reclamation, Indian Affairs.

<sup>7</sup> See Senate Manual, 80th Cong., 1st Sess., 1947. Standing Rules of the Senate, p. 38-9: "(m). Committee on Public Lands, to consist of thirteen Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subject: . . . '15. Relations of the United States with the Indians and the Indian tribes. '16. Measures relating to the care, education, and management of Indians, including the care and allotment of Indian lands and general and specific measures relating to claims which are paid out of Indian funds.'" (Rule XXV)

<sup>8</sup> See Senate Manual, 81st Cong., 1st Sess., 1949. Standing Rules of the Senate, p. 37-8: "(m). Committee on Interior and Insular Affairs, to consist of thirteen Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects: . . . '15. Relations of the United States with the Indians and Indian tribes. '16. Measures relating to the care, education, and management of Indians, including the care and allotment of Indian lands and general and specific measures relating to claims which are paid out of Indian funds.'" (Rule XXV)

<sup>9</sup> See House Manual and Digest, 69th Cong., 3rd Sess., 1921. Rules of the House of Representatives, p. 297: "16. To the relations of the United States with the Indians and the Indian tribes—to the Committee on Indian Affairs. "This committee was created in 1821, and had jurisdiction of appropriations from 1855 to 1920 (IV, 4204).

"It has broad jurisdiction of subjects relating to the care, education, and management of the Indians, including the care and allotment of their lands (IV, 4206). It also reports both general and special bills as to claims which are paid out of Indian funds (IV, 4206)." (Rule XI)

See also Constitution, Jefferson's Manual and Rules of the House of Representatives, Eighty-first Congress, 80th Cong., 2d sess., 1949, p. 345-8: "(n). Committee on Public Lands.

". . . 15. Relations of the United States with the Indians and the Indian tribes. '16. Measures relating to the care, education, and management of Indians, including the care and allotment of Indian lands and general and special measures relating to claims which are paid out of Indian funds. "This committee was created in 1905 (IV, 4194). The jurisdiction as defined in the rule was made effective January 2, 1947, as a part of the Legislative Reorganization Act of 1946, and combined the Committees on Mines and Mining (created in 1865, IV, 4223), Insular Affairs (created in 1899, IV, 4213), Irrigation and Reclamation (created in 1893, IV, 4307), Indian

In addition, the Joint Committee on Navajo-Hopi Administration was created in 1951 by P.L. 81-474 (84 Stat. 44). It was officially abolished by the Navajo-Hopi Settlement Act of 1974 (88 Stat. 1712).

It should be noted that in 1975 the House Committee on Education and Labor was given jurisdiction over Indian education.<sup>10</sup> Moreover, bills concerned with other aspects of Indian affairs (Indian health, for example) have on occasion been referred to various committees in addition to, or other than, House Interior and Insular Affairs. (In cases where comprehensive bills overlap the jurisdiction of several committees, the Speaker may refer a bill to several committees simultaneously or sequentially).<sup>11</sup> In the Senate, similarly, there are areas where a bill may, depending on the subject matter and language, be referred to committees other than, or in addition to, the committee with primary jurisdiction.

In 1977, in the 95th Congress, jurisdiction over Indian affairs in the Senate was transferred to the newly created Select Committee on Indian Affairs, as part of the reorganization plan effectuated at that time (the Committee on Interior and Insular Affairs was reconstituted as the Committee on Energy and Natural Resources). At that time the Select Committee was to exist for two years, after which Indian affairs jurisdiction was to pass to the Committee on Labor and Human Resources.<sup>12</sup> The Select Committee was extended, however, for two years in 1978<sup>13</sup> and again in 1980 for another three years.<sup>14</sup>

Affairs (created in 1821, IV, 4204), and Territories (created in 1825, IV, 4208)." (Rule XI)

See also Constitution . . . [Etc.], Eighty-third Congress. 82nd Cong. 2nd Sess., 1953. p. 348-4: "10. Committee on Interior and Insular Affairs . . . "(p) Relations of the United States with the Indians and the Indian tribes. "The name of this committee was on February 2, 1951, changed from 'Public Lands' to 'Interior and Insular Affairs.'" (Rule XV)

<sup>10</sup> See Constitution . . . [Etc.], Ninety-fourth Congress. 93rd Cong., 2nd Sess., 1976, p. 358-9: "(g). Committee on Education and Labor . . . "Effective January 8, 1975 (H. Res. 988, 93rd Congress), this committee was given jurisdiction over . . . Indian education (a matter formerly within the specific jurisdiction of the Committee on Interior and Insular Affairs but eliminated from cl. 1(j)(6)), Rule X)." (Rule X)

<sup>11</sup> See *Ibid.* p. 408: "Referral of Bills, Resolutions, and other matter to committees . . . ". . . (c) In carrying out paragraph (a) and (b) with respect to any matter the speaker may refer the matter simultaneously to two or more committees for concurrent consideration or for consideration in sequence (subject to appropriate time limitations in the case of more parts (reflecting different subject and jurisdictions) and refer each such part to a different committee, or refer the matter to a special ad hoc committee appointed by the Speaker with the approval of the House (from the members of the committees having legislative jurisdiction) for the specific purpose of considering that matter and reporting to the House thereon, or make such other provision as may be considered appropriate." (Rule X)

<sup>12</sup> S. Res. 4. 95th Congress. Congressional Record, Feb. 4, 1977. p. 3691.

<sup>13</sup> S. Res. 406. 96th Congress. Congressional Record, Oct. 14, 1978. p. 818847.



A resolution to make the Select Committee on Indian Affairs a permanent committee of the Senate (S. Res. 127) was introduced in the first session of the 98th Congress. The measure was reported on November 2, 1983, from the Committee on Rules and Administration (S. Rept. 98-294). By unanimous consent the Senate agreed on November 18, 1983, to provide for the continuation of the Select Committee on Indian Affairs until July 1, 1984, while the proposal to make the committee permanent was further considered in the second session of the 98th Congress.<sup>15</sup>

On June 6, 1984, the Senate agreed to S. Res. 127, making the Select Committee on Indian Affairs a permanent committee of the Senate, after agreeing to an amendment to establish a temporary select committee of the Senate to conduct a study of the Senate committee system.<sup>16</sup>

Meanwhile, in the House in 1977 Indian affairs jurisdiction was vested in a newly created Subcommittee on Indian Affairs and Public Lands within the Committee on Interior and Insular Affairs.<sup>17</sup> In 1979, however, jurisdiction over Indian affairs was vested in the entire Committee.<sup>18</sup> This was the first time since 1820 that a body of Congress had neither a committee nor a subcommittee on Indian Affairs.

#### **Period of Single Permanent Committee on Indian Affairs, 1984 to the Present**

Since 1984, when the Senate Select Committee on Indian Affairs was made permanent, it has been the only full committee on Indian affairs in either House. In 1993 the word "Select" was removed from the Committee's title (S. Res. 71, 103d Congress), although without making a change in its jurisdiction.

From 1979 to 1992, the House had no committee or subcommittee on Indian affairs, but in the 103d Congress, after the House Interior and Insular Affairs Committee was renamed the Committee on Natural Resources (H.Res.

<sup>14</sup> S. Res. 448. 96th Congress. Congressional Record, Dec. 11, 1980. p. S16257-60.

<sup>15</sup> Congressional Record, November 18, 1983, p. S17193.

<sup>16</sup> Congressional Record, June 6, 1984. p. S6869.

<sup>17</sup> Rules of the House Committee on Interior and Insular Affairs. Congressional Record, Feb. 2, 1977. p. 3420.

<sup>18</sup> Rules of the House Committee on Interior and Insular Affairs. Congressional Record, Feb. 8, 1979. p. H646.

CRS-7

5, 103d Congress), a new Subcommittee on Native American Affairs was created.<sup>19</sup>

As noted above, some aspects of Indian matters may be handled by other committees. For instance, the Senate Energy and Natural Resources Committee deals with matters relating to the Alaska Native Claims Settlement Act of 1971 (P.L. 92-203, as amended), and the Senate Labor and Human Resources Committee generally handles certain Indian education programs and other Indian-related programs. In the House, for instance, the Education and Labor Committee retains jurisdiction over Indian education.

Please call me at 707-8641 if you have any questions regarding this request.

RW/ria

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<sup>19</sup> Rules of the Committee on Natural Resources. Congressional Record, 103d Cong., 1st Sess., Feb. 4, 1993, p. H1570-572.

OPENING STATEMENT OF REP. JENNIFER DUNN  
May 6, 1993

Thank you, Mr. Chairman...

As we prepare to hear from an outstanding panel of very distinguished members of the House, I wanted to take just a moment to say a word about the Public Works & Transportation Committee, on which I am proud to serve.

One of the reforms that I hope to pursue with my colleagues here on the Joint Committee concerns the staff ratios of House Committees. And the Public Works Committee really serves as a model in this regard.

Unlike the committee staffs in the Senate, House Committees are not required to provide a fair share of staff resources to the minority party. Earlier this year, I lead an effort in the House to make this reform by requiring that at least 1/3 of the committee staff funding resources go to the minority party. That effort was defeated, unfortunately, along largely partisan lines.

That is unfortunate because, in my estimation, most members of the majority would like to operate their committees in a more bipartisan fashion.

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dunn

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As I said earlier, the Public Works & Transportation Committee, under the solid leadership of Chairman Mineta and the Ranking Republican, Mr. Shuster, has operated in exactly that fashion. Virtually 1/3 of the staff resources are allotted to the minority. The result of that, as I have witnessed in my short term of service on the committee, is a professional staff that works together rather than against each other. I believe that is what the American people expect of us. The same point has been made by various witnesses before this Joint Committee, including the widely respected Messrs. Ornstein and Mann from the American Enterprise Institute and the Brookings Institution, respectively. My hope is that this Joint Committee will ultimately issue a report that recommends that all House Committees follow the successful and professional example set by the Public Works & Transportation Committee. I believe the taxpayers would be well served by such an action.

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Testimony of  
Rep. Patricia Schroeder (D-Colorado)  
The Joint Committee on the Organization of Congress  
May 6, 1993

Thank you for allowing my colleagues and me to testify before your committee today.

We are here today to send a simple message: it is time to consolidate and focus children and family issues in the Congress.

By consolidating the number of committees that have primary jurisdictions over children and family issues, you will not only be acting in our children's interest, but you will also be fulfilling your mission to promote policy cohesion, eliminate duplication, and maximize our limited resources.

The House Select Committee on Children, Youth, and Families officially closed last Friday. Many of us were saddened because it was the only committee in the House with a comprehensive focus on families. Indeed, it was the only committee with the words "children", "youth", or "families" in it. While there is a place in Heaven for those who help children, there is apparently none in Congress.

Usually a committee shuts down when its work is done. In the Select Committee's case, it was shot down when its work was needed most. In fact, it was never given a chance at life. There was no debate and no vote.

The Caucus for Women's Issues, a bi-partisan legislative service organization which I co-chair, has formed a Task Force on Children, Youth, and Families, to make sure that someone is keeping an eye on our children in Congress. Rep. Cynthia McKinney, who is here today with me, is chairing that Task Force.

We can only keep our eye on the ball. But you have an opportunity to hit the ball out of the park. You have the opportunity to improve how this institution legislates and oversees laws and policies that affect our country's most precious natural resource--our children.

The conditions of America's kids have not improved much since 1983, when the Select Committee was formed. While the Select Committee was able to investigate, research, and document the problems of this country's children, youth, and families, we didn't have the legislative authority to act on our findings.

Today, we are asking you to reorganize the committee system so that there is a committee with focus and legislative authority to act on behalf of our children.

Now is the time for boldness. The atmosphere for change is electric. Proposed changes in campaign finance reform compliment what you are trying to do organizationally. This is especially true in children and family issues. Whether we like it or not, issues that garner PAC contributions drive legislative action in Congress. Children's issues have never been seen as a "power" issue in Congress. Babies don't vote, toddlers don't have PACs, and kids don't host golf weekends.

Fortunately, the climate is changing, in large part due to the new dynamic freshman class and due to the existence of your committee. As a maverick from way back, I salute you and urge you to seize upon this opportunity for change. I'm confident that you will act in a way that sends a clear message to the American people that you heard their plea for change in Washington.

As you can see from the poster before you, issues that affect children and families are scattered through 13 of the 22 standing committees in the House. This is why the House formed its Select Committee on Children, Youth, and Families in 1983.

Children's issues are so dispersed in the Congress that Americans who live outside of Washington have a difficult time figuring out where to go if they want to voice their opinion.

Let me give you an example. The foster care program gives states funds to care for children who for extreme reasons, such as child abuse, cannot stay in their home. It would make sense that the House Education and Labor Committee would have jurisdiction--that committee has jurisdiction over child abuse, juvenile justice, runaway youth, and child adoption, and consequently the bulk of the expertise in Congress on these topics.

The House Ways and Means Committee, whose purpose is to primarily raise revenues, has sole jurisdiction of the foster care program.

This example is replicated throughout the area of children and family issues. The House Education and Labor Committee shares jurisdiction for juvenile justice with the House Judiciary Committee, jurisdiction for child abuse with the House Ways and Means Committee, and jurisdiction for nutrition with the House Agriculture Committee and the House Science, Space, and Technology Committee.

When you add the growing practice of multiple referrals to the myriad subcommittee jurisdictions kids' issues cross-cut, you can imagine the informational traffic jam people working on these issues encounter. You also can understand why many Americans don't consider Congress to be family-friendly.

A good example is what happened to the child care issue in 1988. I don't think anyone here would deny that child care was one of the critical family issues of the 1980's. But here in Congress, it was a political and procedural mess. Two major committees, Education and Labor and Ways and Means, held equal claim to the issue and both committees demanded primary jurisdiction.

Consequently, two separate bills proposing two separate approaches to federal child care support emerged. Congress, unable to make a decision on who had primary jurisdiction, passed both bills. We can only hope that states can comply with the program as promulgated by two separate set of regulations, and that families can negotiate the federal system and figure out how to get the help they need.

It's to avoid situations like this that we ask you to consider a major streamlining effort on behalf of children, youth, and families and create a Committee on Human Resources, which would replace, incorporate, and expand on the functions of the current Committee on Education and Labor.

This new committee would have primary jurisdiction over education, training, employment, and social services, child and family nutrition programs, justice, and other income security programs, including SSI, family support programs, JOBS programs for welfare recipients, and EIC.

The committee would have a Subcommittee on Children that would take up issues that principally affect children, such as Head Start, early intervention, child abuse, child care, juvenile justice, and nutrition.

Health care would not be in this committee's jurisdiction. Revenue-raising activities would remain with the existing committees of primary jurisdiction, but related policies would be in the Human Resources Committee.

On the other hand, if you tinker rather than overhaul, then at the very least we ask you to create a subcommittee on children, similar to that in the Senate Labor and Human Resources Committee, with specific primary jurisdictions for children's issues.

No matter what course you take, I would also urge you to consider creating an added focus on family issues by creating a Congressional Council on the Family, to coordinate legislative action over children, youth, family, and aging issues.

The members of such a council would be the chairs and ranking members of the committees with primary jurisdictions over these issues. The creation of such a council would demonstrate that Congress understands what the American people already know: issues affecting our children and our elderly overlap and are interconnected. Our policies should be, too.

I have outlined three courses of action this committee can take if we are serious about being responsive to America's families. Please be bold and act. Send a message to your constituents from California to Maine that Congress is listening to them and is intent on changing and improving this institution so that we can better address their needs.



Subject Matter Covered by the Select Committee on  
Children, Youth, and Families

Currently, more than 13 of the 22 standing committees in the House share jurisdiction over issues and programs affecting children, youth, and families. The following compilation highlights issues affecting this population that are considered by the various committees:

Agriculture—food stamps, nutrition (including WIC), consumer programs

Armed Services—medical care and human relations for military personnel and their families, Selective Service

Banking, Finance and Urban Affairs—housing, regulation of the housing industry (including landlord-tenant relations); community development and planning

District of Columbia—all matter pertaining to children, youth and families in the District of Columbia

Education and Labor—elementary, secondary and vocational education; child nutrition, youth, employment and training, child labor; equal employment opportunities, youth camp safety; juvenile justice, runaway youth; child care and early childhood services; education of the handicapped; child abuse; child adoption; alcohol and drug abuse education; volunteer programs

Energy and Commerce—maternal and child health; consumer product safety; mental health; alcohol and drug abuse treatment; mental retardation; environmental health; car safety

Foreign Affairs—international education; children of overseas foreign service officers and military; refugee children

Natural Resources—national parks and outdoor recreation; all matters pertaining to Indian children; all matters pertaining to children residing in U. S. territories

Judiciary—immigration, refugees, juvenile courts, civil rights, crime and child support enforcement

Post Office and Civil Service—health benefits for Federal employees; alternative work schedules; census

Public Works and Transportation—surface transportation, urban and mass transportation, airline and car safety

Science, Space and Technology—environmental health, safety; biomedical and pharmaceutical activities of executive departments and agencies; science education; R&D involving governmental programs on health, biomedicine, nutrition and disability

Ways and Means—disability insurance; health care and delivery systems, including Medicaid; public assistance, including welfare reform, supplemental security income, Aid to Families with Dependent Children, social services including child day care, child support, foster care, eligibility of welfare recipients for Food Stamps; unemployment compensation; tax credits for child and dependent care and jobs for targeted youth; tax exemptions for charitable organizations

The Committees on Appropriations, Budget and Government Operations have jurisdictions which are generally applicable to the issues and programs affecting children, youth, and families.

EVA M. CLAYTON  
1ST DISTRICT, NORTH CAROLINA

COMMITTEES

AGRICULTURE

SUBCOMMITTEES

SPECIALTY CROPS AND NATURAL RESOURCES

ENVIRONMENT CREDIT AND RURAL

DEVELOPMENT

DEPARTMENT OPERATIONS AND

NUTRITION

SMALL BUSINESS

SUBCOMMITTEES

PROCUREMENT TAXATION AND

TOURISM

RURAL ENTERPRISES, EXPORTS AND

THE ENVIRONMENT

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PRESIDENT

DEMOCRAT FRESHMAN MEMBERS

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TESTIMONY OF CONGRESSWOMAN EVA M. CLAYTON (D-NC-1)  
THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS  
MAY 6, 1993

I appreciate the opportunity to join my colleagues in offering support for reorganizing our committee structure so that children and family issues can be more coordinated in a way that would allow maximum benefits to those for whom they are intended.

For years now, we have had a system that distributes the responsibility for the welfare of families and children to a wide range of unrelated agencies and committees. Following the abolition of the Select Committee on Children, Youth and Families, we lost the ability to track the progress of government initiatives that are supposed to protect and insure the welfare of this vulnerable group of citizens.

Meanwhile, social and economic indicators that determine the well being of families and children, continue to paint a picture of neglect and inequality. Over the past twelve years we have seen more families than ever fall below the poverty line. This, even though many of the heads of households are working forty hours or more per week. We have experienced an enormous growth in homelessness, with women and children making up a alarming number of that population. Child abuse and neglect are at their highest level in twenty years, and hunger is still a serious problem in this, the richest nation on earth. In addition, we still have an infant mortality rate higher than that of any other industrialized nation in the world.

These conditions exist despite the many federal, state and local programs already in place to combat and correct the problems. There are committees in Congress with the will and the resources to develop clear-cut solutions that get immediate results. The option to reorganize is clearly available to us if we choose to seize this opportunity. I fully support the creation of a Human Resources Committee that serves as a clearinghouse for all activities dedicated to the preservation of children and families. It is not only "doable," it is also viable. We need only organize ourselves in a manner such that the left hand knows

what the right hand is doing. In this atmosphere of change, it is time to take up the challenge of refining the systems that look out for our most precious resources...families and children.

It is not an easy thing to do. Many people will stand guard over what they consider to be their "turf," and will wage fierce battles to protect whatever powers they imagine come with that territory. To those people I say, think not of yourself or what you will lose in this process. Think, rather of the children and families who will gain from your willingness to change for the better.

TESTIMONY  
BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

By Rep. Carolyn B. Maloney  
Thursday May 6, 1993

Mr. Chairman, I am delighted to join Congresswoman Schroeder and my other colleagues in appearing before your committee today.

I am here this morning because America's children are our most precious resource and because they are in serious trouble. Children are our poorest Americans. More than one in five live below the poverty line.

Yet, when you look at the House Committee structure, children do not appear to enjoy the same status or level of concern in Congress as the Merchant Marine or the Post Office.

Clearly, we need to set new priorities and reform our committee structure to reflect the growing needs of children and families.

As a freshman member of Congress, I was appalled earlier this year when I tried to explain to children's advocates visiting my office the crazy quilt of Congressional committees assigned to children's issues.

On foster care, you go to the Ways and Means Committee. On juvenile crime, you go to the Justice Committee. On child care, I discovered, it is not clear where you go.

As Congresswoman Schroeder has pointed out, two separate committees last year drew up two separate bills on child care support. It was the epitome of waste and duplication of effort.

Even worse it is still not clear which committee has oversight authority of child care funds being spent in our cities. Day care advocates recently informed me that New York received \$54 million in federal funds for day care but created only 212 new day care slots in New York City with the money. Clearly, this is an issue worthy of followup. But which committee in the House should do it? I am still working on that one.

I urge this committee to help reset our priorities and seriously consider the options which Congresswoman Schroeder has offered.

At the very least we need to make certain that the House Committee structure reflects not only the needs of Congress, but also the needs of the people we represent, including our children.

**TESTIMONY OF  
CONGRESSWOMAN CYNTHIA MCKINNEY (D-GA)  
THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS  
MAY 6, 1993**

Thank you for allowing my colleagues and me to testify before your committee today.

I am here today to stress the need for Congress to have within its structure a place to focus on children and family issues.

With the official closing of the House Select Committee on Children, Youth and Families, there is not one place in the infrastructure of the House where the needs of children are stressed or where otherwise neutral policy concerning kids and families is researched. This country's politicians have systematically left children out of every major policy decision, leaving kids as one of the most "at risk" groups in this country. Is the United States that hostile towards the needs of its own children?

Children cannot vote, they cannot lobby, they cannot make hefty campaign contributions. But still-- it is imperative that their issues be addressed. We **NEED** a place in Congress where the voices of these our silent constituents will be heard.

In the 11th Congressional District of Georgia, homes infested with lead paint poison our children. In neighborhoods like Hyde Park, where communities are trying to recover from the horrors of environmental injustice, children are playing in toxic soil. On any given day at Clara B. Jenkins Elementary School in Augusta, Georgia, children are absent from

school because of illness resulting from the waste left behind by unscrupulous companies.

Georgia ranks 45th of the 50 states in health care rankings, 46th in life expectancy, 45th in infant mortality. And while 71.3% all white children are covered by employment-related insurance, only 38% of Black children and 39% of Latino children enjoy such coverage.

We must focus our focus attention on such problems, because for each one of those numbers, there is a child. And I know that in the United States of America, the world's sole superpower, we can do better for our children.

But who is going to speak to these issues? Where in this Congress do I, as their Congressional Representative, go to fight for justice and fairness to our children? There needs to be a place where someone beats the drum for American children. They need a shelter, specifically designed to advocate for their needs.

The time is NOW. Please consider creating a Congressional Council on the Family. Our children, the children of the United States, deserve better than what they're getting.

HONORABLE G. V. (SONNY) MONTGOMERY

JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

MAY 6, 1993

Mr. Chairman and members of the Joint Committee, I appreciate your invitation to participate in hearings on the organization and operation of the Congress. You indicated your focus at this series of hearings would be committee structure. I will summarize my remarks but ask that my entire statement, with copies of three letters attached, be made a part of the hearing record.

Some members of the House and Senate, as well as a large part of the general public, believe there should be comprehensive changes in the way we conduct our business. Numerous proposals have been discussed and I agree there should be some change in the makeup of committees; however, I am not among those who believe that radical changes are needed. Although many of us are sometimes frustrated with the way the House conducts its business, I believe the system works. I think the leadership does a good job of scheduling. Having one week off and working long hours during the other weeks of the month doesn't help members.

Given the complex issues we must deal with, I believe the House is quite efficient. With limited debate and specific rules governing debate, committee leaders and the House leadership move

a significant number of bills through the Congress. For instance, the 102nd Congress was very productive for veterans. The House considered more than 30 veterans' bills, which resulted in 24 new public laws affecting veterans' benefits and services.

And there is great cooperation among the committees. A couple of years ago we moved a comprehensive crime bill through the House, which involved six or seven committees. We enacted a Desert Storm benefits package in 1991 involving several committees, and last year we enacted an economic conversion bill that required the input and cooperation of several committees.

This year we have adopted the budget and are now working on the reconciliation bill. The House quickly moved the economic stimulus package submitted by the President. So I am not among those who think the House structure needs major work or that efficiency is sorely lacking.

I am especially concerned about prior testimony before this committee proposing consolidation of committees and elimination of several minor committees, including the Veterans' Affairs Committee. One of the CRS options presented to the Joint Committee would place veterans' programs under a massive Human Resources Committee. Another would split and distribute the jurisdiction of Veterans Affairs among several other committees.



It was recently reported in Roll Call that someone suggested that all veterans programs be placed under the Armed Services Committee. Armed Services already oversees the largest budget in government. Would it make sense to place the second largest Department, with 260,000 employees, under Armed Services as a large subcommittee? Would veterans programs be given the same attention there? Would a single subcommittee be able to provide proper legislative and oversight attention to all VA programs, including housing, employment, education, compensation, pensions, insurance, and a medical system comprised of 171 medical centers; more than 350 outpatient, community and outreach clinics; nearly 200 psychological counseling centers; and numerous nursing homes and domiciliaries.

VA medical care is funded at more than \$15 billion. In 59 regional offices, VA administers benefit programs totalling more than \$16 billion. It manages one of the world's largest education programs. It operates and maintains 114 cemeteries across the nation and administers one of the largest home loan programs and one of the largest insurance programs in the country.

To advocate that veterans' programs as a whole be demoted entirely to subcommittee representation sends the wrong message to our 27 million veterans -- that their benefit and health service programs do not deserve the high priority that we have

given them in the past. I hope that is not the message this committee sends to them.

Part of the problem with the current system could be that some committees may be too large. Rather than increasing the size of committees, the Joint Committee might want to give some thought to making them smaller. Committees should be limited to five subcommittees. I also believe that members should serve on no more than two committees and no more than five subcommittees. And I would have no problem with prohibiting full committee chairpersons from chairing a subcommittee. These kinds of reforms would allow new members to become more actively involved in debate on the issues and would allow them to gain leadership positions more quickly.

I don't have a major problem with the matter of jurisdiction. I have worked closely with other committee chairpersons and seldom do we have any difficulties resolving our differences.

About the only serious concern I have regarding House procedure involves waiving points of order on appropriations bills. Usually the problem involves conference reports with the other body. On many occasions, the Senate will incorporate legislative language into its appropriations bills and, too often, this language remains in conference reports sent back to

the House. Many other standing committee chairmen feel the way I do about this, and we have expressed our concerns to the Speaker.

Rather than restructuring committees, I would hope this committee would ask for an explanation as to why the House and Senate need two fair employment offices, two payroll offices, two computer centers, two purchasing offices and two page schools, to name a few instances of duplication. There certainly could be improved cooperation and coordination between the two bodies for greater efficiency.

If some of these recommendations are pursued, I believe the House and Senate will be more efficient and the taxpaying public will be better served.

Finally, Mr. Chairman, I want to associate my remarks with those of Senator Jay Rockefeller, Chairman of the Senate Committee on Veterans Affairs. We work well together. Chairman Rockefeller has set out valid reasons why our two committees are effective. He mentioned our bipartisanship. He also made the important point that the two Veterans' Affairs Committees have identical jurisdiction and asked that this Joint Committee give that factor significant weight as you evaluate what committee structure to recommend. I am in complete agreement with the points made by the Senator.

You have a very difficult task ahead of you and I wish you well. Again, I appreciate your invitation to present my views to the Joint Committee.



Vietnam Veterans of America, Inc.  
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In Service to America

April 29, 1993

Representative Lee Hamilton, Co-Chair  
Joint Committee on the Organization of Congress  
175D Ford House Office Building  
Washington, D.C. 20515

Dear Representative Hamilton:

As noted in the televised hearings of the Joint Committee on C-Span, and in The Washington Post, dated Monday, April 26, 1993, one method currently contemplated of reforming the congressional committee system is to reduce the numbers of standing committees and reconfigure jurisdictions. An example cited is that of combining the Veterans Affairs and Armed Services committees. At the risk of seeming territorial, Vietnam Veterans of America must express its reasoned opposition. This proposal is completely unacceptable for several poignant reasons.

First and foremost, the programs for which the Veterans Affairs Committee have oversight responsibility bear no relationship whatsoever to those governed by the Armed Services Committees. While it is true that veterans, by definition, were at one time in the armed services, veterans programs have no bearing on the defense concerns of the Armed Services Committees. The Armed Services Committees are tasked with evaluating weapons systems, military staffing, risk levels for various regions of the world, and the obvious strategic planning for base-closures, among other responsibilities. While these are valid interests for active-duty military personnel, the housing, education, health benefits, and compensation programs overseen by the Veterans Affairs Committees have no relation to national security except to the extent that VA is tasked as a medical back-up to the military in times of national emergency. Veterans programs are domestic programs through and through and congressional oversight should reflect this.

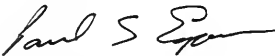
If the abolition of the Veterans Affairs Committees must take place, and for obvious reasons we are unconvinced that this would truly benefit the goals of reorganization in the Congress, it would be far more logical to divide the issues amongst the respective domestic policy-oriented committees which deal with housing, health care, education, employment, and disability compensation programs. These other committees would have far greater success in the oversight of veterans programs because of jurisdictional expertise in similar non-veteran programs. Yet, from an implementation perspective, this option too is unrealistic.

Lumping veterans programs together with domestic programs for the general public bolsters the ever-present fear within the veterans community of the eventual elimination of special and separate veterans programs. Witness the clamoring among veteran service organizations to maintain the sanctity of the VA health care system. Veterans, due to the service commitment they have made to this nation, are a special status, and are eligible for special federal employment, education, health and other programs. If veterans programs are ruled by the same regulators as general programs, it is likely that differentiation will disappear quickly.

Given the organizational structure of the federal government itself, and the existence of a cabinet-level Department of Veterans Affairs, it seems illogical to increase the number of committees with jurisdiction over this behemoth agency. Some of the very problems VA has had the most difficulty tackling involve congressional over-tasking of agency missions without providing necessary resources to accomplish mandatory program responsibilities. It is even less likely that multiple committees with splintered jurisdictional authority over a portion of VA's programs will properly account for the impact of legislation on the agency or the concerns of the Department of Veterans Affairs as a whole, when making adjustments to respective programs in several different committees.

In conclusion, abolishment of the House and Senate Veterans' Affairs Committees would be disastrous for our nations' veterans. Vietnam veterans in particular have faced a continuing battle in ensuring that the needs of our generation are addressed by the VA. The proposed committee reorganization would exacerbate the problems, by giving the bureaucracy additional authority to regulate itself, in the absence of coherent congressional oversight. Subsuming these committees under the jurisdiction of the Armed Services Committees would further reduce needed oversight of agency activities. As shown by the necessity of creating the Court of Veterans Appeals to provide judicial review of VA decisions on benefits, the agency doesn't possess a capability for self regulation unless forced to be accountable.

Sincerely,



Paul Egan  
Executive Director

PSE:krw

cc: Chairman John D. Rockefeller, IV  
Senator Frank Murkowski  
Chairman G.V. Montgomery  
Representative Bob Stump

# The American Legion

★ WASHINGTON OFFICE ★ 1808 K STREET, N. W. ★ WASHINGTON, D. C. 20006 ★  
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April 29, 1993

OFFICE OF THE  
 EXECUTIVE DIRECTOR

Honorable Thomas S. Foley  
 Speaker  
 US House of Representatives  
 Room H-148 Capitol  
 Washington, DC 20515

Dear Mr. Speaker:

The American Legion is deeply disturbed by Representative Dan Glickman's recent recommendation to eliminate the Veterans Affairs Committees of the Senate and House of Representatives. To follow this recommendation would be a terrible mistake.

The Veterans Affairs Committees perform a tremendous service for those who have proudly served this great nation on the fields of battle, in missile launch facilities, aboard ships at sea, in planes over enemy territory, beneath the oceans and on the homefront. They also insure that the surviving spouses and children of our comrades who made the supreme sacrifice are properly cared for and treated with honor.

These committees were established to insure this government would never forget the sacrifices made by ordinary people in extraordinary situations. Veterans are taxpayers who took time out of their personal agenda to perform "national community service."

In an earlier era, this nation forgot the contributions of veterans who secured the freedoms we still enjoy today. Many "Minutemen" lost all of their earthly possessions during their service to a new nation. Many lost their farms because they were not present to plant or harvest their crops. Those who lost an arm or hand had to retrain themselves to survive. Those who left school to fight for freedom never returned to the classroom, because school was for boys not men.

Our society has corrected these inequities and the Veterans Affairs Committees have become an important part of the solution, providing oversight of existing programs to insure there is no slippage into the ways of the past. Thanks to the Veterans Affairs Committees, over 27 million veterans are now represented on the President's Cabinet; 171 medical facilities provide quality health care for disabled and indigent veterans; the CAT scan and Seattle foot were discovered through VA research; and

millions of veterans bought homes and millions more have received a college education.

The veterans community clearly has helped to build today's America, especially the middle class. Military service has provided a stepping stone from poverty to prosperity for many who dared to dream of a better way of life. To deny the "heroes of democracy" an advocate committee in each chamber is not consistent with the actions of a grateful nation.

Sincerely,

*Roger A. Munson*  
ROGER A. MUNSON  
National Commander





**S**  
SERVING  
WITH  
PRIDE

April 29, 1993

Honorable G.V. Montgomery  
Chairman  
House Veterans Affairs Committee  
U.S. House of Representatives  
Washington, DC 20515-2403

Dear Chairman Montgomery:

Attached is a copy of a letter sent to all members of the Joint Committee on Organization.

AMVETS sincerely hopes this will assist your efforts to ensure the continuation of the Veterans Affairs Committees as distinct committees dedicated to serving America's veterans.

Sincerely,

A handwritten signature in cursive script that reads "Michael F. Brinck".

Michael F. Brinck



**A M V E T S**

NATIONAL  
HEADQUARTERS  
4547 Forbes Boulevard  
Lanham, Maryland  
20706-9961  
TELEPHONE 301-459-9600  
FAX 301-459-7924  
PTS 8-344-3552



S  
SERVING  
WITH  
PRIDE

Robert L. Jones  
National Executive Director

April 29, 1993

Honorable David Lyle Boren  
United States Senate  
Washington, DC 20510-3601

Dear Senator Boren:

I am writing to request your continuing support for the Senate and House Veterans Affairs Committees. These committees are invaluable in ensuring that the Department of Veterans Affairs provides quality services to the nation's veterans.

The Veterans Committees have little jurisdictional overlap with other committees and serve a model of bipartisan cooperation to an electorate increasingly critical of Congressional gridlock.

Senator Boren, the VA is the second largest federal department, and requires the attention only a dedicated committee can provide. The members and staffs of the Veterans Committees have developed a tremendous base of knowledge about a wide range of VA benefits affecting America's 27 million veterans, including the nation's largest healthcare system - a system that can and should be used as a model for national healthcare reform. This depth of experience helps to assure the dynamic nature of veterans programs and allows the Congress to focus taxpayers' resources in the most effective manner. To waste this talent would be disastrous for those veterans for whom the VA is the final safety net.

As always, AMVETS looks forward to your reply and your support for America's veterans.

In service to America's veterans,



Robert L. Jones  
Executive Director

A M V E T S

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RLJ/mb

cc: Hon. Jay Rockefeller  
Hon. Frank Murkowski  
Hon. "Sonny" Montgomery  
Hon. Bob Stump

## STATEMENT OF CHARLIE ROSE

JOINT COMMITTEE ON  
THE ORGANIZATION OF CONGRESS  
Thursday, May 6, 1993  
11:00 a.m., room SC-5

THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOUR COMMITTEE. MY COMMENTS PERTAIN ONLY TO THE HOUSE. AND I'LL BE MERCIFULLY BRIEF.

I'VE BEEN ON THE COMMITTEE SINCE 1974, AND CHAIRMAN FOR THE LAST 2½ YEARS. THE 102ND CONGRESS SAW MANY COMMITTEE-INITIATED IMPROVEMENTS IN THE HOUSE, AND ALTHOUGH THE COMMITTEE HAS BEEN BUFFETED IN RECENT MONTHS BY REFORM ENTHUSIASM, AND A DOSE OF PARTISANSHIP, I EXPECT WE WILL SOON BE ON EVEN KEEL. ALL OF THIS EXPERIENCE LEADS ME TO A FEW SIMPLE CONCLUSIONS. MY FIRST CONCLUSION IS:

IF MEMBERS WANT TO CONTROL THEIR INSTITUTIONS, STABLE ADMINISTRATIVE COMMITTEES ARE ESSENTIAL.

## \* MEMBER CONTROL \*

WHY WOULD MEMBERS NEED TO CONTROL THEIR INSTITUTIONS? AFTER ALL, FLOOR AND COMMITTEE PROCEDURES HAVE EVOLVED OVER THE LAST 200 YEARS. YOU'D THINK THEY'D BE PERFECT BY NOW.

BUT THEY AREN'T. WHEN THEY WERE FIRST ADOPTED, AND AS THEY HAVE BEEN AMENDED, EACH CHAMBER'S INTENTION WAS TO PERFECT ITS OPERATING RULES. SO WHY IS CHANGING THESE RULES A PART OF YOUR MANDATE?

IT'S BECAUSE TIME HAS A WAY OF DISTORTING THINGS. A TIRE WITH A FLAT SPOT DOESN'T DRIVE SMOOTH -- IT BECOMES MORE OUT OF ROUND WITH TIME.

## \* TOOLS OF THE TRADE \*

MEMBERS, AND EACH CHAMBER, MUST HAVE ALL THE TOOLS NECESSARY TO CARRY OUT THEIR CONSTITUTIONAL FUNCTIONS, EVEN IN TIMES OF LIMITED RESOURCES.

THESE TOOLS ARE NOT PROVIDED THROUGH FLOOR OR COMMITTEE PROCEDURES AND RULES. THEY ARE PROVIDED THROUGH LAWS, RULES, AND REGULATIONS -- ALL OF WHICH ARE EXERCISES OF CONSTITUTIONAL RULE-MAKING -- WHICH GIVE MEMBERS, THE LEADERSHIP, AND EACH CHAMBER, THE WHERE-WITH-ALL TO FUNCTION.

THE TOOLS ARE MADE UP OF STAFF, OFFICE EQUIPMENT, PHONES, THE ABILITY TO TRAVEL, THE FRANK, AND A MANY OTHER RESOURCES. AND DETERMINING WHAT THOSE RESOURCES ARE, THE PROPER MIX, AND HOW THEY MAY BE USED, IS NOT A STATIC MATTER. FAX MACHINES DIDN'T EXIST A FEW YEARS AGO, BUT TODAY YOU USE THEM CONSTANTLY. VIDEO-CONFERRING FOR COMMITTEE HEARINGS IS ALREADY HERE. WHAT RULES SHOULD APPLY? WHO PAYS? ARE THERE ANY LIMITATIONS? AND SO

FORTH.

**\* WHO'S IN CHARGE \***

AN ADMINISTRATIVE COMMITTEE CAN RESPOND RAPIDLY TO SUCH CHANGES -  
- GENERALLY THROUGH ADMINISTRATIVE ACTION -- AND LEGISLATION  
WHERE NECESSARY. A FLAT TIRE ON THE LEGISLATIVE VEHICLE CAN BE  
EASILY FIXED. AND WHERE LIMITED RESOURCES ARE INVOLVED, IT'S  
MEMBERS WHO DECIDE ON WHEN, AND HOW TO FIX IT.

LAST YEAR'S HOUSE REFORMS GAVE US A "DIRECTOR OF NON-LEGISLATIVE  
AND FINANCIAL SERVICES", AND AN "INSPECTOR GENERAL". BOTH WERE  
CREATED TO CARRY OUT POLICY. BUT WHO MAKES THE POLICY? WHO  
INTERPRETS THE POLICY WHEN QUESTIONS ARISE? CAN THERE BE  
EXCEPTIONS WHEN JUSTIFIED? WHO DECIDES ON THE EXCEPTIONS? TO  
WHOM DO THESE EMPLOYEES REPORT?

**\* MEMBERS MUST DECIDE \***

MY ANSWER IS THAT MEMBERS MUST DECIDE. I HAVE THE RESPONSIBILITY  
FOR "OK"ING BETWEEN 2 AND 6 THOUSAND VOUCHER ENTRIES PER WEEK.  
MOST ARE ROUTINE. BUT THERE ARE ALWAYS A FEW REQUIRING MY  
DISCRETION ON BEHALF OF THE COMMITTEE. AND THAT IS A MEMBER  
RESPONSIBILITY -- NOT STAFF.

**\* ROTATING MEMBERSHIP \***

SHOULD THERE BE CONSISTENCY OVER THE YEARS IN THE WAY THIS  
RESPONSIBILITY IS CARRIED OUT? WOULD A ROTATING MEMBERSHIP ON  
THE COMMITTEE CONTRIBUTE TO CONSISTENCY? MY EXPERIENCE SUGGESTS  
OTHERWISE, LEADING ME TO MY NEXT CONCLUSION:

RE-INVENTING THE WHEEL WON'T IMPROVE IT. YOU MUST CAPITALIZE ON  
THE EXPERIENCE OF THE PAST.

ROTATING MEMBERSHIP MEANS THAT LESS COLLECTIVE EXPERIENCE WILL BE  
BROUGHT TO BEAR ON INTERNAL ADMINISTRATIVE NEEDS AND PROBLEMS,  
MANY OF WHICH ARE RECURRING. FOR EXAMPLE, EVERY 10 YEARS WE HAVE  
A REDISTRICTING CYCLE. ONLY SOMEONE WHO WAS ON THE COMMITTEE  
DURING THE PREVIOUS REDISTRICTING CYCLE, WILL KNOW HOW BEST TO  
DEAL WITH ALLOWANCE PROBLEMS DURING THE CURRENT CYCLE.  
OTHERWISE, YOU MUST REINVENT THE WHEEL.

A ROTATING MEMBERSHIP ALSO MEANS THAT MEMBERS BECOME CAPTIVE TO  
STAFF, WHO CARRY THE COMMITTEE'S INSTITUTIONAL MEMORY. THEN WHO  
IS IN CONTROL -- MEMBERS OR STAFF? THERE IS A VERY REAL BENEFIT  
TO TENURE OR SENIORITY, AND THE EXPERIENCE THAT BRINGS TO THE  
ADMINISTRATION OF THE CHAMBERS. DON'T ENGAGE CHANGE FOR CHANGE  
SAKE, NOR SIMPLY TO ADDRESS CURRENT INCUMBENTS. IF A LEADER  
ISN'T UP TO THE JOB, PROCEDURAL CHANGES WON'T HELP. AND THEY'RE  
SURE TO HAVE UNINTENDED CONSEQUENCES.

**\* OVERSEEING THE BUREAUCRACY \***

ROTATING MEMBERSHIP COULD HAVE ANOTHER NEGATIVE IMPACT. MY

COMMITTEE HAS UNDERTAKEN MANY INTERNAL ADMINISTRATIVE FUNCTIONS, ESSENTIAL TO THE OPERATION OF THE HOUSE. WE REPORTED ON THE HOUSE BANK, AND CONDUCTED THE INVESTIGATION OF THE HOUSE POST OFFICE. WE HAVE IMPROVED EVERYTHING FROM FOOD SERVICES TO COMMUNICATIONS AND COMPUTER SERVICES, AND WE ARE CURRENTLY TRANSFERRING FUNCTIONS TO THE DIRECTOR OF NON-LEGISLATIVE AND FINANCIAL SERVICES. SO IN ADDITION TO ORIGINATING INTERNAL CHANGE, WE'RE RESPONSIBLE FOR OVERSEEING THE LEGISLATIVE BUREAUCRACY -- DAY TO DAY.

WE ACT AS A TRAFFIC COP, A BRAKE, AND AS AN ORIGINATOR OF IDEAS AND POLICY, WHICH THE BUREAUCRACY THEN IMPLEMENTS. YOUR OWN EXPERIENCE WITH BUREAUCRACIES SURELY VERIFIES THE NEED FOR AN OVERSEER. ADMINISTRATIVE COMMITTEES SERVE THAT NEED. SHOULDN'T THEY BE COMPRISED OF THE MOST EXPERIENCED INDIVIDUALS IN THE CHAMBER? SHOULDN'T THOSE INDIVIDUALS CONTINUE TO SERVE AND BUILD UP INSTITUTIONAL EXPERIENCE?

**\* REINVENTING HOUSE ADMIN \***

MY COMMITTEE'S ADMINISTRATIVE AND LEGISLATIVE JURISDICTION IS CHAMBER FOCUSED. WE AUDIT AND SETTLE ALL HOUSE ACCOUNTS, AND ENSURE THE PROPER ENROLLING OF BILLS. WE HANDLE ELECTION CONTESTS, AND LIBRARY OF CONGRESS LEGISLATION. AND WHAT ISN'T CHAMBER-BASED, IS FOCUSED ON OUR NATION'S CAPITAL, SUCH AS AUTHORIZING MEMORIALS AND OVERSEEING SMITHSONIAN FUNCTIONS. OVER THE LAST TWO HUNDRED YEARS THIS COMMITTEE EVOLVED FROM THE JURISDICTIONS OF DOZENS OF OTHER COMMITTEES -- THE COMMITTEE ON ACCOUNTS (WHICH GOES BACK TO THE FIRST CONGRESS), THE COMMITTEE ON ENROLLED BILLS, THE COMMITTEE ON THE RESTAURANT, THE ELECTIONS COMMITTEE -- JUST TO NAME A FEW. IF THE HOUSE DIDN'T ALREADY HAVE A HOUSE ADMINISTRATION COMMITTEE, IT WOULD HAVE TO INVENT ONE, AND PRESUMABLY A STABLE ONE, TO ENSURE CONSISTENT ADMINISTRATION OF THE UTILITIES WHICH SUPPORT THE HOUSE AND ITS MEMBERS.

**\* BI-PARTISAN EXPERIMENT \***

BUT I'M NOT ENAMORED WITH THE STATUS QUO. SO WHEN THE HOUSE PROVIDED AN OPPORTUNITY TO EXPERIMENT WITH BI-PARTISAN ADMINISTRATIVE OVERSIGHT, MY RANKING MINORITY MEMBER AND I DECIDED TO GIVE IT A TRY. THE BI-PARTISAN SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT HAS JUST GOTTEN OFF THE GROUND. IT WILL TAKE SOME TIME TO SEE IF WE CAN MAKE IT FLY. BUT WE'RE MAKING EVERY EFFORT TO KEEP IT IN THE AIR. I'M SURE YOU CAN APPRECIATE EVERYONE'S SENSITIVITY, IN STRAYING FROM STRICT MAJORITARIAN PRINCIPLES IN THE ADMINISTRATION OF THE CHAMBER, AND HOW EASILY THIS EXPERIMENT COULD FALL APART, WITH CHANGES IN COMMITTEE MEMBERSHIP AND LEADERSHIP.

BUT BI-PARTISAN DOES NOT MEAN BI-CAMERAL. I WANT TO MAKE CLEAR THAT EACH CHAMBER SHOULD CONTINUE TO CONTROL ITS OWN RESOURCES -- ADMINISTRATIVE AND LEGISLATIVE. WE REALLY DON'T HAVE THE ENGINEERING KNOW-HOW TO BUILD THAT BRIDGE YET.

## \* PROCESS VS SUBSTANCE \*

AS YOU PROCEED IN YOUR ANALYSIS, I URGE YOU TO REMEMBER THAT REFORM CAN'T REPLACE LEADERSHIP DEFICIENCIES. REFORM ISN'T A SUBSTITUTE FOR SUBSTANCE. REFORM CAN'T COMPENSATE FOR INSTITUTIONAL CULTURE, WHICH IS CONSTANTLY CHANGING. SO IF YOU ARE GOING TO RECOMMEND CHANGES TO THE COMMITTEE SYSTEM, PARTICULARLY THE ADMINISTRATIVE COMMITTEES, DON'T GO OVERBOARD. WHOLESAL CHANGE IS SIMPLY UNNECESSARY AND UNWISE.

## \* CLOSING \*

LET ME END MY COMMENTS BY SAYING THAT THERE'S NO PRAISE, AND I DON'T GET PAID EXTRA, FOR ENSURING THAT THE MEMBERS, AND THE CHAMBER, ARE FUNCTIONAL. THAT'S CERTAINLY TRUE OF YOUR JOINT COMMITTEE JOB. AND SENATOR FORD KNOWS THAT WITH RESPECT TO HIS JOB IN THE SENATE. I WOULD ONLY RESTATE MY OPENING REMARK, THAT MEMBERS SHOULD CONTROL THE ADMINISTRATIVE RESOURCES OF THEIR OWN CHAMBERS, AND THERE SHOULD BE CONSISTENCY, SO YOU DON'T HAVE TO REINVENT THE WHEEL. THAT IS TRUE, IF FOR NO OTHER REASON, BECAUSE WHAT YOU DO AS A MEMBER, AND HOW YOU DO IT, IS AFFECTED BY THE ADMINISTRATIVE RESOURCES AT YOUR DISPOSAL. AND THAT IN TURN, DIRECTLY AFFECTS THE LEGISLATIVE PROCESS. THANK YOU.

STATEMENT OF  
NORMAN Y. MINETA, CHAIR  
AND  
BUD SHUSTER, RANKING REPUBLICAN MEMBER  
COMMITTEE ON PUBLIC WORKS  
AND TRANSPORTATION  
U.S. HOUSE OF REPRESENTATIVES  
MAY 6, 1993

### Introduction

It is an honor to appear before you. The task before you is as important as it is difficult. The significance of your work will be as great as you dare make it, but it is clear that a great deal is riding on your work. You have the potential to greatly improve the way this nation governs itself.

We are here to offer what assistance we can, not only on the immediate question of committee structure and jurisdiction, but also on several other issues which we believe greatly determine, for better or for worse, how well this institution does the public's business.

A great deal has been said about the importance of committees to the work of Congress, and that is absolutely true. Much of the real legislative work that is done day in and day out is done in the committees, and if that were not so, Congress simply would not be able to function.

Many of the ills of Congress, some real, some imagined, are now attributed to committees and to the committee structure. In some respects the committee structure does need to be modified to perform its functions better, but in other respects committees are not the cause of the problem and will not be the cure.

For example, much is said of the overloaded schedules of Members, and how often we are scheduled to be in two or more places at once. And we all know that overscheduling is a fact of life here. But what is less credible is that this is somehow caused primarily by the Committee structure. Overscheduling is a function of the responsibilities of being a Member



of Congress, and there is nothing we can do to committees that will relieve overscheduling. Whether we cut the number of committees in half or double the number of committees, members will still be overscheduled.

What the public cares about is not our schedules, but our ability to deliberate, to hear all sides of an issue, to set our agenda, and then to act. They neither know nor care how many committees we have, and they are right in assigning no importance to this question.

What does dramatically effect our ability to do what the public wants us to do - to deliberate, to hear them, to set an agenda, and to act - is the question of how well the alignment of committee jurisdictions matches up to the real world issues we are asked to resolve. To the extent the issues of the day fit more or less neatly into the "boxes" of committee jurisdiction, this House can get on with the work at hand, which is to resolve those issues. To the extent the issues of the day do not fit into one committee box or another, or that it is unclear which is the proper box, the committee system too often bogs down in jurisdictional struggles and game playing, often distracting us from the substantive issues involved and delaying or ultimately blocking us from resolving anything.

The most important task you could perform in enabling this institution to resolve the issues put before it, therefore, would be to align committee jurisdictions as nearly as possible to avoid multiple, overlapping, and just plain confusing jurisdictions. This is important not simply because neatness matters, but because this change would do more to improve the ability of Congress to accomplish its work than any other change.

The rising proportion of multiple jurisdiction referrals is one important example of the problem.

It should not surprise us that committee jurisdictions need periodic updating, since the nature of the issues we face is constantly changing. The last major reorganization of committee jurisdictions was nearly fifty years ago. We did not then have major environmental issues before us, or a space program, or a strongly interdependent world economy. In fact, we did not have serious economic competitors anywhere in the world. The committee structure right for 1946 cannot possibly be the committee structure right for the 1990s.

In our view, Ornstein and Mann had it right when they urged you to "consolidate and partially realign committee jurisdictions, to highlight important emerging policy areas and to create a better balance in the workload and attractiveness among standing committees." They also stated, again correctly in our view, that "jurisdictional changes...should make substantive sense by consolidating currently divided jurisdiction in important comprehensive policy areas."

We recognize that there is no jurisdictional alignment which could eliminate all cases of multiple and disputed jurisdiction. Yet, when it comes to avoiding as many jurisdictional quagmires as possible, we have done better in the past, and we clearly should do better in the future.

### Committee Jurisdiction

Reform of the current committee system, specifically jurisdictional realignment, is probably the most challenging issue facing the Joint Committee. That challenge stems from the fact that the committee system is the key functioning unit of the legislative process.

Committees have long been the central structural components of Congress, and their history, in many respects, is a reflection of the history of the Nation and of Congress. They have been called petty baronies and fiefdoms, the little legislatures, the nerve ends, and the workshops and laboratories of Congress.

The fact is that Congress' reliance on committees is very striking. In the contemporary Congress, the vast majority of policy disputes on Capitol Hill are resolved during committee consideration of bills. Legislation is seldom considered on the House or Senate Floor without a committee's stamp of approval. As the core of Congress' deliberative process, committees enable Congress to address coherently a wide range of issues. They provide Congress with the expertise, skill, and organizational structure necessary to cope with the increasingly complex and technical questions in both the domestic and international arenas. They also ensure a forum for the broadest possible participation of diverse interests and constituencies in the formative stages of the legislative process. They are, in short, the window through which much of the democratic participation in lawmaking is made possible.

In addition, the careers and reputations of Members of Congress are often molded by their committee activities. Through committees, Members most frequently contribute to policy, gain media and constituency attention for their involvement with an issue, and develop their closest working relationships with colleagues, executive officials, and lobbyists.

In his description of the origins of power in modern social and economic organizations, social scientist Max Weber said power comes from knowledge, and "technical knowledge... by itself, is sufficient to ensure... a position of extraordinary power." Without the existence of the specialized committee system, it would be difficult for Congress to respond intelligently to national problems. It would be forced to surrender its coequal position in the formulation and promulgation of law to the executive branch and its vastly superior resources of manpower, money, and information-gathering technology.

A strong and effective Congress depends on a strong and effective committee system and no characteristic of that system is more critical than its jurisdictional structure. If the goals are to improve Congress' capacity to decide independently public policy issues; to provide it with the tools necessary to set agendas and priorities and to express its collective voice when it chooses to do so; and to enhance its overall deliberative process by strengthening its ability to consider and debate issues, to process and communicate information, and to educate members and the public, then the committee system, specifically committee jurisdiction, should be reformed. The fact of the matter is that reform is long overdue.

It's been nearly 50 years since Congress underwent a major jurisdictional reform, and nearly 20 years since we have seen even moderate jurisdictional reform. In that time, the world has changed, values are different, and issues which were once relatively nonexistent and inconsequential have now emerged as priorities. Issues like acid rain and the ozone layer were absent from the environmental dialogue of the 70s and the early 80s. Public works, once regarded as simply "pot holes and concrete" is now considered in terms of more global economic issues like "productivity and competitiveness." And, most obvious, with the end of the cold war, U.S. security policy and institutions are undergoing careful self-examination as we determine what our role in the new world should be.

Along with this changed world has come a change in what we legislate. Bills now deal with new and ever-changing subject areas. They deal with subsets of major issues that raise jurisdictional questions never raised before. They deal with issues that cross traditional lines of jurisdiction and that challenge the very principles on which these are based.

Unfortunately, while change has been rampant, committee jurisdiction, as formally defined in the Legislative Reorganization Act of 1946 and incorporated in chamber rules, has remained fairly constant. Although periodic adjustments have been made since 1946, most notably in the 1970s, there has not been comprehensive restructuring. Indeed, since 1946, most changes have merely codified existing practice and precedent rather than revised and modernized jurisdiction to reflect current policy problems. Critics charge that committee jurisdictions are outdated, too fragmented, overlapping and often fail adequately to delineate complex and interdependent issues. Critics further charge that committee jurisdictions lack coherence, are irrational, have too little relevance to current and emerging domestic or international policy issues, and are an impediment to effective policy-making.

We believe this to be the case – that the current committee jurisdiction system has been building on the past and not planning for the future. As a result, the legislative process has been adversely affected. One example is the rising number of multiple referrals which has led to wasteful duplication of effort, slowdowns in the legislative process, jurisdictional bickering among committees, lack of accountability, and constant negotiations among competing and contradictory positions and claims.

Although some multiple referrals are inevitable, the rising trend in multiple referrals is a clear indication that we are trying to fit current issues into the increasingly outmoded boxes of a committee system essentially built nearly half a century ago.

Since their inception in the House in 1974, multiple referrals have become a significant part of the legislative workload. Of all the measures introduced in the last Congress – bills, simple resolutions, joint resolutions, concurrent resolutions – 17.9 percent were referred to more than a single committee (see Attachment A). The proportion of multiple referrals has nearly *tripled* since the first Congress they were allowed. In fact, last Congress' percentage of joint referrals continues the steady but ever-increasing trend since 1974. If the current trend of referrals continues for the 103rd Congress, more than 20 percent of all measures will involve more than one committee. To date, four out of five multiple-referred measures this Congress involve more than two committees.

Multiple referrals have an even greater impact on committees than chamber-wide figures suggest. Each bill in this category generates two, three, or more referrals involving the equivalent number of committees and many subcommittees. Seen this way, about one-quarter of the average committee's legislative workload consists of measures shared wholly or in part with other committees. This steady and significant increase in the number of joint referrals is a testament to the fact that committee jurisdiction in the House has become outdated. The concept of shared jurisdiction has taken on new meaning. Initial referrals err on the side of being more inclusive rather than less, as does the determination of sequential referrals and appointment of conferees. Needless to say, politics sometimes is determinative of jurisdictional outcome.

A great deal of time and effort is expended in dealing with committee jurisdiction both by Members and staff. Introduced bills are reviewed to make sure initial referral jurisdiction is protected. Bills are monitored through the committee hearing and markup process. Reported bills are reviewed to make sure one committee action has not intruded

upon the jurisdiction of another. Suspension bills are reviewed since oftentimes they do not go through the committee process. Senate action is monitored because of its liberal application of germaneness. Conference issues are screened because of Senate action and the ever-increasing phenomenon of omnibus bills that invariably affect a number of committees. Conference appointments are reviewed since the recent designation of equal versus lesser conferees has taken on jurisdictional significance of its own. Determination of conferees can also be an extraordinarily time-consuming and difficult negotiating process. For instance, a month of negotiations ensued before about 140 conferees were appointed from several House committees to iron out bicameral differences on the 1990 Clean Air Act.

All of this translates into a never-ending paper flow of memos and letters to the Speaker from Members, staff and committees. Strategy sessions, discussions and negotiations on jurisdictional matters consume hours of time. Cases are made and arguments presented. Members meetings are held – in committee and with the Leadership. Intercommittee relationships are strained – some marked by wariness and hostility because certain committees are more aggressive in initiating conflict with rival panels. The bottom line is that it seems that we spend a great deal of our time watching what other committees do and looking over our shoulders guarding against attacks on our jurisdiction.

We believe that the answer to all this is to reform committee jurisdiction – and, in doing that, to be guided by the principles of rationality and exclusivity.

We serve on the Committee on Public Works and Transportation.

We are the Transportation Committee of the House. Yet, does it make sense that we don't have jurisdiction over all transportation modes and policies?

We have jurisdiction over surface and air transportation. Does it make sense that we don't have jurisdiction over water transportation?

Our jurisdiction over surface transportation includes highways, roads, bridges, and trucks. Does it make sense that we don't have jurisdiction over railroads?

We have jurisdiction over transit. Does it make sense that we don't have jurisdiction over all federal transit systems? We note the Washington Metro system in particular.

We have jurisdiction over transportation generally. Does it make sense that we don't have jurisdiction over all regulatory, safety, and research and development aspects of transportation?

We are also the Public Works Committee of the House. Yet, does it make sense that we don't have exclusive jurisdiction over all aspects of public buildings?

As the Public Works Committee, we also have jurisdiction over water resources and water pollution. Yet, does it make sense that we don't have exclusive jurisdiction over all water policy?



Today's transportation system is a highly sophisticated, integrated system with a significant impact on the economy, energy, and the environment. Transportation issues, ranging from economic regulation to technology to the safety and security of the traveling public, are linked with one another and are linked across modes of transportation. Overall transportation policy can only be addressed by looking at the big picture.

The competitive pressures of the global economy have forced the transportation system to become more efficient. Intermodalism – the movement of goods and people using a combination of modes of transportation – has become a major component of our transportation system. The marketplace has discovered that intermodalism is a tool of great value: it enhances competition and lowers costs, to the benefit of the consumer, by providing greater choices that offer the most efficient service.

A few statistics will help illustrate the point. United Parcel Service, which is regulated as a motor carrier, moved over 582,000 trailers on the Nation's railroads in 1992, resulting in payments to the railroads of over \$460 million. For the industry as a whole, since 1982 when the effects of railroad and motor carrier deregulation really kicked in, intermodal container and trailer loadings have increased 97.5 percent. This growth continues unabated: even during the recession of 1991-1992, intermodal growth continued at a 5 to 7 percent annual rate.

Of course intermodalism is not limited to truck and rail transfers. Containers often arrive on vessels and are then transferred to rail or truck. And intermodalism is not limited to freight transportation. Our clogged passenger transportation network is increasingly concerned with the efficient movement of people between airports, intercity rail, mass transit, and highways.

Whether we are dealing with freight or passenger transportation, national policy should be directed toward promoting and facilitating the transfer of people and goods between modes. Yet how can the United States have an effective national intermodal transportation policy if different committees have jurisdiction over different pieces of the puzzle, and if the Transportation Committee can legislate on the ports through which goods come in, on the trucks that carry those goods inland, and the roads and bridges over which the trucks travel, but not on the vessels that come into the ports or the railroads that transport the goods?

Too often, regulatory and safety issues that are common to the various modes of transportation are approached differently by the different committees. Furthermore, committees that deal with one mode of transportation tend to promote that mode without regard to competing modes. Can we establish a coherent national policy for passenger transportation when one committee is responsible for developing the national aviation system and another committee is responsible for developing a national high speed rail system?

In addition, the relationship between transportation and the economy is synergistic. Economic activity generates transportation demand and transportation helps the economy grow. For example, the number and characteristics of jobs created by the economy generate transportation needs, and the personal income generated by those jobs has a major impact on the demand for personal travel. Nearly all economic activities directly or indirectly use transportation – the food we eat, the clothes we wear, the medicines we take, the books we read, nearly all the essentials of modern life, are delivered over the transportation system – and improvements in transportation, such as improved safety and increased economic

productivity. Furthermore, the transportation network plays a pivotal role in serving new demands and enabling the economy to respond to emerging opportunities. Yet, how can the United States develop the kind of transportation policies which will foster economic productivity and promote competition if we on the Transportation Committee are precluded from addressing all aspects of transportation?

These are a few examples of the kinds of issues that the Transportation Committee, if it truly is a transportation committee, must and should address. Whether it's the environment, world energy, technology, economic regulation, or safety and security of the traveling public, transportation represents a wide range of interdependent issues. We believe that the value of realigning committees along functional lines will lead to comprehensive, or at the very least coordinated, consideration of major issues.

We are also the Public Works Committee of the House. As such, we are concerned with those facilities that represent high capital investment, are publicly owned or regulated, have strong links to economic development, have a long service life, and interact with other parts of a system. However, current jurisdiction over a number of public works matters is fragmented. Realigning of committee jurisdictions with exclusivity in mind would provide for more rational, systematic, and comprehensive policy-making, oversight, and foresight. One such area is water.

We truly have one national waterway system in our country. No longer can we distinguish between inland waterways, navigable waters, coastal waters, oceans, rivers, lakes and streams. Rivers, fed by streams, flow into lakes and coastal waters. Two hundred years ago, Lewis and Clark wrote of the interconnectedness of our country's waters. Today, that's

best illustrated by a national system that serves as an important mode of commercial transportation. Through the years, our waterways have become increasingly integrated. For instance, barges load grain in Duluth then cross Lake Superior to Huron, Erie, and Ontario, heading up the Saint Lawrence River and out to the Atlantic Ocean.

Today, the integration of our waterway system has moved beyond transportation to include issues of water supply, management, and quality. These, too, are interrelated.

To maintain the intended use of a waterway, water quality planning must consider the need for wastewater treatment facilities and planned or existing water resources projects, such as reservoirs, locks and dams, flood control structures, or irrigation works. Conversely, planning for water resource projects must consider water quality standards, and the need to provide wastewater treatment facilities in the project area. This comprehensive planning is necessary because water resource projects usually reduce the concentrations of oxygen in waterways. Bacteria in waterways require oxygen to eliminate wastes that enter the waters. Water resource projects usually impound waterways and thereby decrease their oxygen content. If a wastewater treatment facility is located near a water resource project, higher waste removals could be required to overcome low oxygen concentrations in the stream. Locks and dams also impound water and reduce the ability of streams to assimilate wastes. Similarly, irrigation water, as it returns to a stream, carries sediments and chemicals that cause increased needs for pollution removal at wastewater treatment facilities discharging to the streams.

In addition, planning for water supply facilities must be integrated with water quality planning. This integrated planning is important because improperly treated wastewater

discharges can contaminate surface and ground waters used for water supply. Slugs of waste that pass through wastewater treatment facilities during upsets or storm events may be trapped in reservoir sediments and release pollution for months after the event. Moreover, these contaminants, including bacteria, viruses, and toxic substances, can present pollution hazards to the public. For instance, chlorine in the discharge of a wastewater treatment facility can combine with organics in the receiving water to form toxic chlororganics that threaten public health and are expensive to remove at downstream water treatment facilities.

Our Nation's water infrastructure includes facilities that make use of water bodies as modes of transportation, store water in times of plenty for use in times of shortage, distribute water for various uses, guard against damages incurred from excess water or water erosion, and treat contaminated water. Among these are overlapping concerns. To ensure an effective national water policy requires consideration of all these key interconnected issues.

Another example of fragmented jurisdiction is public buildings. Known as the "building committee" of the Congress, the Committee on Public Works and Transportation's jurisdiction over public buildings is well established. In fact, the Committee and its predecessors have had jurisdiction over public buildings and grounds issues since the 1800s. No other committee can make this claim. During the 1800s, the House Committee on Public Buildings and Grounds, the predecessor of the current Committee, authorized construction of individual public buildings, including courthouses and hospitals, through separate pieces of legislation.

However, our Nation's public buildings program is more than the mere construction and completion of public buildings. It includes leasing of real property, transfer of occupied or improved property, and disposal of surplus unoccupied or unimproved properties. It also includes various issues related directly to construction and "property arrangements" such as planning, design, development, cost assessment, repair, alteration, naming and operation. Some of these are simply phases of construction or leasing; some speak to activities that will occur in the building after it is constructed or leased including energy conservation, indoor air pollution abatement, smoking and security measures. All are part of our national public buildings program and should be in a single committee's jurisdiction in order to encourage coordinated policies.

To conclude our comments on committee jurisdiction and structure, we would emphasize two examples of where the consolidation of issue areas in a single committee is most lacking, most urgently needs to be addressed, and makes most sense in terms of public policy. They are:

- o Rail and marine transport specifically, should be included in the same committee with jurisdiction over all other modes of transportation. Every action we take in one mode of transportation affects other modes, and those intermodal effects should be faced in committee, rather than having one committee champion one mode as its special interest and another committee champion another mode. Ornstein and Mann recommend making rail and marine transport part of Public Works and Transportation, and we agree.

- o Water pollution is one of the most difficult issues to divide among committees, for the simple reason that water itself, and therefore, the pollution it carries, is essentially indivisible. Water flows constantly and naturally between rivers, lakes, groundwater, estuaries, and coastal waters. Our efforts to make the pollutant one committee's jurisdiction when it passes through one location and another committee's jurisdiction when it passes through a different location are clearly unworkable. The result has been constant difficulty, not only for Congress, but also for the public. Today, for example, we have one legislative scheme for non-point runoff pollution draining into coastal waters and another for the rest of the country. Water pollution ought to be in one committee, and it makes most sense to have it in the committee which also does inland water transportation, flood control, and most of the existing water pollution programs, including, most notably, the Federal Water Pollution Control Act.

### The Authorization/Appropriations Process

An inherent part of aligning committee jurisdictions so that committees have clear and distinct areas of responsibility is assuring that there is a clear line between the responsibilities of the Appropriations Committee on the one hand and the authorizing committees in the other. This is central not only to minimizing the inefficiencies and conflicts which result when the division of responsibilities is not clear, but also, as Ornstein and Mann urge, to "create a better balance in the workload and attractiveness among standing committees."

The Congress has throughout its history separated authorizing and appropriating responsibilities and has allocated those responsibilities in different ways between authorizing and appropriation committees. In theory, the Rules of the House build a wall between the two sets of committees, but as we all know, the practice is entirely different.

Indeed, from the standpoint of an authorizing committee, the practice is getting worse all the time. While there have always been exceptions, and there need to be exceptions, to Rule XXI to deal with special circumstances, these have become so numerous in recent years that serious problems now exist both in terms of division of labor within the House and in terms of consistency in policy established by Congress.

It has been especially frustrating as an authorizing committee to see a set of rules applied in such an unequal fashion. The Appropriation Committee in the House routinely receives blanket waivers of points of order for Rule XXI violations. An authorizing committee, on the other hand, would not stand a chance of being granted a waiver of Rule XXI in order to appropriate in an authorizing bill.



We have asked the Congressional Research Service to analyze three appropriations bills that include programs within the jurisdiction of the Committee on Public Works and Transportation for the four-year period covering the 101st and 102nd Congresses. The CRS report is attached to this statement (see Attachments B and C). The most important conclusions reached from this analysis are that a high number of provisions in these appropriations bills are protected by waivers and that the percentage of these provisions is growing.

Taking these three appropriations bills as a whole (Energy and Water, Transportation, and Treasury-Postal) for this four-year period, 53 percent of the provisions were subject to waivers. More disturbing is the fact that the percentage of provisions subject to waiver increased sharply from the 101st to the 102nd Congress. This seems to have resulted from the use of "blanket waivers", that is, waivers of entire bills or substantial portions of bills from points of Rule XXI points of order. More than anything, the use of these blanket waivers reveals the situation we are in: violations have become so numerous that it is now easier to cover entire bills with waivers than try to specify individual provisions that are in violation.

Why does this matter? There are at least two adverse consequences to extensive legislation in appropriations bills. The purpose of rule XXI, which prohibits legislation and unauthorized appropriations in appropriations bills and prohibits appropriations in authorizing bills, is really two-fold. First, it divides labor in the Congress. The relatively even division of workload helps assure that the work will in fact be accomplished. Second, it promotes consistency in policy-making to have, to the greatest extent possible, just one committee in each subject area establishing policy.

It has recently been suggested that the authorizing and appropriating processes be combined in the authorizing committees and that the Appropriations Committee be eliminated. The authorizers and the appropriators have always been treated as separate and important parts of the legislative process. As such, it makes sense to have two different sets of committees handling those two parts of the process. Rule XXI divides labor between those two sets of committees. Both Appropriations and the authorizing committees should be retained, but the distinction between their respective functions should be more strictly observed.

When the Appropriations Committee legislates we have a duplication of activity in the Congress. Just as we have problems with overlapping jurisdiction among authorizing committees, we now have more and more overlap between the Appropriations Committee and the authorizing committees in setting legislative policy. In effect, we now have two panels of substantive experts on each substantive issue, each one having the ability to legislate. So, the Appropriations Committee is devoting more and more resources to examining those substantive legislative issues. At the same time, we on the authorizing committee are compelled to spend more and more time keeping tabs on what the Appropriations Committee is doing legislatively to change the programs over which we have responsibility. This is not a model of efficiency.

The second point, more importantly, relates to consistency in policy-making. We all recognize that under the Rules the Appropriations Committee has ways of setting policy: it can choose not to fund a program that has been established in law or it can within limits establish limitations on funding programs. Setting funding priorities is the function of the Appropriations Committee. But when the Appropriations Committee can routinely change carefully considered legislative policy, often without hearings, the legislative process and the American public are not well served.

The authorizing committees, of course, are not without fault. When the authorizing committee has failed to reauthorize a program in a timely fashion, and it is the will of the House to continue funding the program, there should be enough flexibility in the Rules to permit the Appropriations Committee to proceed with funding that program. We would note, however, that better enforcement of the Rules would lead to more pressure on the authorizing committees to move authorizing legislation in a timely fashion.

We do believe, however, that the process can be made to work, and that the Appropriations Committee and the authorizing committees can be given a clear set of instructions under which each would confine itself to the tasks properly before it.

The problem with legislative provisions and unauthorized appropriations arises in two different contexts: (1) the provision has been included in the bill as reported from the Appropriations Committee and must be dealt with when the bill comes to the House floor; and (2) the provision has been included in a Senate amendment to the House bill and must be dealt with when the conference report comes to the House.

As to the first situation, there are at least a couple of ways to deal with this problem. First of all, the Rules might be amended to require a sequential referral to the authorizing committees of provisions that violate Rule XXI. This is, of course, the remedy available when authorizing committees adopt provisions within the jurisdiction of another committee.

It will be argued that this would create a logjam that would keep necessary funding bills from being enacted in time to keep government agencies from closing down. On the other hand, that very possibility would force the Appropriations Committee to deal with the

authorizing committees in advance, with enough time to work out differences. Of course, sequential referrals can be structured with short time limits if need be. We would note in this regard that one of the major problems with the appropriations process is the secrecy in which it is conducted. We often don't know until after the fact the legislative provisions of concern to us.

Secondly, restrictions might be placed on the ability of the House to adopt special rules waiving points of order for violations of Rule XXI. One way to accomplish this would be to prohibit a waiver unless the relevant authorizing committee agreed to it. Similar to the sequential referral, this would give the authorizing committee a say, but in a stronger fashion. This would enable the authorizing committee to prevent the consideration of a provision that was not consistent with the particular program.

Another mechanism for restricting waivers would be to require a two-thirds vote of the House to approve waivers of Rule XXI. This would give an authorizing committee a shot at defeating a waiver, but at the same time would allow the House to proceed with the provision if a compelling enough case were made to proceed.

As for Senate amendments that would violate Rule XXI in the House, some changes have been made in this Congress, although it remains to be seen how much these changes will actually accomplish in practice. Rule XXVIII of the Rules of the House was amended to provide that if a Senate amendment to an appropriations bill reported from conference in technical disagreement proposes to change existing law, then the chairman of the authorizing committee having jurisdiction of the provision may offer a preferential motion to insist on disagreement with the Senate. This will allow the authorizing committee in the House to raise attention to the issue and to get the first vote on rejecting the amendment.

Let us suggest a couple of more direct ways that should be considered to address this problem. First of all, the Rules could be amended to provide a point of order against a Senate provision which would violate Rule XXI in the House. In conjunction with this, the same sorts of restrictions discussed above on rules waiving points of order could be established so that waivers would be restricted, but could be granted in certain circumstances.

Another approach would be to allow conferees from authorizing committees to be appointed to deal with legislative provisions in appropriations bills. This is the mechanism that is used to allow authorizing committees to protect their jurisdiction in conferences involving other authorizing committees.

In summary, there are a number of ways to better ensure that we minimize Rule XXI violations in appropriations bills. While we have occasionally received pledges from the Appropriations Committee of better compliance, the practice has been very uneven and, as the attached CRS report indicates, has been getting worse. For this reason we need to make some changes to ensure better compliance with the Rules.

Congressional Budget Process

As we seek to clearly delineate the role of each committee, we have to address not only the roles of the authorizing committees and the Appropriations Committee, but also the role of the Budget Committee.

Some have questioned whether we need all three levels of the congressional budget process – authorizations, appropriations, and budget. They point to duplication of effort, fragmentation of policy, and counter-productive decision-making. The congressional budget process has been a focus of reform proposals primarily because of its close relationship with the appropriations process. Suggestions have been made about eliminating it and returning to the pre-1974 days of authorization and appropriations.

While we recognize these concerns, we do not support repeal of the congressional budget process. The legislative process is comprised of competing issues and concerns. It demands necessary checks and balances. The congressional budget process helps provide those by functioning as a watchdog for spending actions of both authorizers and appropriators. Without some process for bringing budgetary decisions into perspective, our budget situation would be chaotic at best.

However, support for continuance of the congressional budget process does not necessarily mean support for the process as is. Rather, the congressional budget should be improved in terms of reporting, control, accounting, priority-setting and fiscal policy decision-making.

Four examples illustrate the shortcomings of the current congressional budget process. The first, and most important, deals with the way we make our budget decisions.

It has been nearly twenty years since the enactment of the Congressional Budget and Impoundment Control Act. During that time we have gone from the 1974 Act to Gramm-Latta I, Gramm-Latta II, the Budget Reform Act of 1988, and the Budget Reform Act of 1990. In the interim, there have been a great many reconciliation bills. Each one of the budget reform efforts has attempted to structure a process which would lead to deficit reduction. Unfortunately, that has not happened. The deficit continues to grow. In reality, each of the efforts has been a band-aid approach that has failed to address what may be the fundamental problem with the process; that is, how we make our budget decisions.

Why is it in a particular year that the "right" budget thing to do is freeze spending? Why, at some other time, is it the right thing to cap entitlements? Why are COLAs an issue one year and not another? It just doesn't make sense. Budget decisions seem to be driven by politics and not economics. We lack rationality in what we do. We lack long-term thinking. We lack constancy of policy and purpose.

Let me cite two specific cases. In 1991, when the Committee on Public Works and Transportation was developing the Intermodal Surface Transportation Efficiency Act, we went out of our way to stay within budget. We knew that we had to stay within budget or face a point of order on the Floor if we exceeded the first year spending allocation or the aggregate allocation for the next four years. We labored long and hard with the Senate to craft a bill that met program needs in a fiscally responsible way. We achieved both objectives, and Congress overwhelmingly supported that effort.

Yet, the very next year, Congress cut funding for these programs because of different budget assumptions. Why? What changed in one short year? Shouldn't we have known about it when we wrote ISTEA so that we could have acted accordingly? Wouldn't that have made more sense in terms of program planning? Why were we considered "in budget" in 1991 and "out of budget" by 1992? Is that any way to make sound transportation public policy or any other public policy for that matter?

Another case is reconciliation. This year, one of the programs the Committee on Public Works and Transportation has been directed to reconcile is registration fees for general aviation aircraft. This proposal has been around for years, dating back to the early days of reconciliation. Yet, this is the first year that it appears in reconciliation. Why? What policy decision-making went into concluding that this was the "right thing" to do now? Why now, and not before?

A second example of shortcomings in the current budget process is its treatment of trust funds, specifically the Highway and Aviation Trust Funds. These Trust Funds are unique in a number of ways.

They are self-supporting since all of their resources come from user fees paid by users of the transportation system, not the general taxpayer. In fact, of all the major trust funds (\$500 million or more) in the federal budget, only the transportation trust funds are 100% user-fee financed! No other trust fund can make this claim, not even the Social Security Trust Fund.



Also, these self-supporting Trust Funds do not contribute one cent to the deficit. By law, these Trust Funds are deficit-proof. Highways and transit specifically have a built-in anti-deficit mechanism limiting outlays to income. None of the transportation trust funds have ever contributed to the deficit.

Furthermore, the programs they finance are subject to adequate budget scrutiny. Unlike open-ended entitlement programs, highway, transit capital and aviation spending is limited by authorizing legislation and must periodically be reauthorized by Congress. Spending in these programs is further constrained by the budget process which assumes specific spending funding allocations for the programs.

Finally, these Trust Funds are financed through contract authority – a type of direct spending like entitlement authority – which is provided by the legislative and not the appropriations committee and which creates a binding legal obligation on the part of the United States Government.

Yet, despite their uniqueness, the Highway and Aviation Trust Funds are treated in the congressional budget process as regularly authorized programs which are funded through the appropriations process and which contribute to the deficit.

As a result, the current budget treatment of these funds deceives the public. It incorrectly implies that they are available for other purposes, and it uses any surplus to understate the real deficit. This "smoke and mirrors" approach to deficit reduction also breaks faith with those who support user taxes on the premise that the funds will be used for purposes for which they are raised.

Manipulation of these Trust Funds undermines the integrity of the budget process. By understating general-revenue shortfalls, it dilutes the discipline which the budget process should exert on spending. It actually promotes deficits by allowing more funding of programs financed by deficit-ridden general revenues.

Furthermore, this treatment of the Highway and Aviation Trust Funds damages the programs and fosters inefficiency and waste. Needed highway, transit and aviation projects – including high-priority safety improvements – languish as limitations force down obligations. Efficiencies that come with program stability are lost; inflation erodes the purchasing power of the backlogged funds before they can be spent; and delays greatly increase construction costs.

Perhaps most importantly, these 100% user-financed trust funds are the ultimate example of pay-as-you-go budgeting. Yet, instead of using them as an opportunity to demonstrate how well pay-as-you-go can work, we have turned these trust funds into examples to other industries and constituencies as to why they should resist the pay-as-you-go concept as strenuously as possible. We make multi-year user tax and spending decisions, then our short-sighted, annualized budget process treats the taxes as if they were locked in while treating the spending assumptions on which the tax levels were based as if no one had ever heard of them before. No wonder no new constituency volunteers to pay the costs of its own programs through user fees and a trust fund.

We believe the current budget process treatment of the Highway and Aviation Trust Funds has systematically shortchanged the uniqueness and intended purpose of those Funds.

A third criticism of the current process is that it is based on illogical accounting and scorekeeping rules which skew decision-making toward addressing short-term needs and not long-term solutions.

As noted previously, the highway, transit and aviation programs are financed through contract authority. Contract authority is a form of budget authority. Because it is direct spending and because the legislative committee – in this case, the Committee on Public Works and Transportation – “establishes” the contract authority, the budget authority is scored to our Committee. However, under existing scorekeeping conventions, the outlays, or actual spending, are scored to the Appropriations Committee. That doesn’t make sense because our Committee also legislates obligational ceilings to limit outlays. Furthermore, this bifurcated scorekeeping does not apply to any other program in the budget.

Similarly, the scoring of public buildings lease-purchase activity is also unexplainable. Under current rules, if the Federal Government enters into a contract to lease-purchase a federal building (a long-term lease under which the United States obtains ownership at the end of the lease term), the entire amount of the cost is scored in the first year, as opposed to being scored over the life of the lease. As a result, this discourages lease-purchasing by the Federal Government because in any given year resources are limited. Real estate decisions which are driven by current scoring rules, instead of economics, result in higher life-cycle costs for the Federal Government. The Federal government has had to turn down attractive end-of-term purchase rights simply because arbitrary scoring rules would result in all lease payments to be made over many years to be scored in the first year. Would you buy a house if you had to pay for it all in the first year? The result is we end up spending way too much on endless leasing costs to house the Federal bureaucracy.

A fourth example that highlights areas in which the current congressional budget process needs to be improved is the utility of some of its reporting requirements. There are various reporting requirements imposed by the budget process – allocation reports, etc. – that have questionable utility.

None is more obvious than the views and estimates report. Under the Budget Act, committees are required to submit their views and estimates of spending for programs under their jurisdiction to the Budget Committee six weeks after the President's budget submission. This requirement originated in the 1974 Act, and its purpose was well-intended – to give committees of jurisdiction the opportunity to have input in the formulation of the budget resolution. Over time, however, the utility of the report has become questionable.

Budget resolutions are traditionally formulated based on a so-called "Chairman's mark". That "mark" is primarily a result of Budget Committee Caucuses. There is little evidence to indicate that committee views and estimates are considered part of that process. Rather, there is a very real belief that views and estimates reports are ignored, having been overtaken by politics or other factors.

Moreover, the purpose of views and estimates reports is to react to the President's budget. However, there have been instances where we have not had a President's budget, or a revised complete one, by the time we were required to report. Mostly this occurs when there is a change in Administration and the budget is delayed. This year we were required to do views and estimates of the President's budget before the President's budget existed.

Lastly, committee views and estimates take varying forms. Some are detailed and thus potentially helpful. Others are deliberately vague. Some are inclusive of committee jurisdiction while others address only selected issues. No effort has ever been made to standardize views and estimates. This has not presented a problem only because views and estimates reports are not given real consideration anyway.

It's easy to criticize the congressional budget process, and its complexities create many opportunities for criticism, but what's more difficult is to come up with a viable solution.

Some have proposed, for example, a capital budget which when properly implemented has many advantages: a uniform government-wide policy regarding cost-benefit analyses, such as discount rates and actuarial assumptions; understandable estimates of current and future costs and better-informed choices among capital projects; a more open budget process that addresses future maintenance and repair costs; and a more systematic evaluation of capital projects versus current operating programs.

Another suggestion is a systematic review of all spending and tax programs rather than the present approach, which focuses a great deal of attention on discretionary spending and very little on entitlements. For example, all entitlement programs could be reviewed over a fixed period of time and budget decisions could then be made within the context of overall entitlement policy, as decisions are now made periodically with respect to direct spending.

It is not always clear which of the possible solutions would be the best solution, but we do know that the current process is not working. It should be improved in terms of priority-setting and fiscal policy decision-making. Its scorekeeping and reporting requirements also need to be addressed.

**Committee Budgets and Personnel**

Finally, in order for Congress to do the work the public wants done with as little inefficiency and distraction as possible, it is necessary for us not only to have a rational committee structure, but also for us to operate the committees in the most efficient manner possible.

In carrying out our primary mission of legislating, the public expects us to also accomplish the sound administration of the staffs we hire and the dollars we spend.

Instead, we make it as hard as we possibly can for Members to both do the legislative business they were elected to do and to administer committee budgets and staffs. Even though most committees have relatively small budgets, we make them operate under two different budgets and payrolls (statutory and investigative), under two different fiscal years (fiscal and calendar), and fund them via two different processes (one through legislative appropriations only, the other through a combination of legislative appropriations and committee funding resolutions). We then compound the problem by prohibiting any transfer of funds from one budget to the other, eliminating any incentive to reduce spending on one budget in order to solve a budgeting problem in the other.

To further complicate the process, the calendar year basis for the investigative budget is made even more difficult by the timing in which it is granted; we are routinely a quarter of the way into the calendar year before we know what our investigative budget will be for that calendar year. And in times of tight budgets, that funding may well be a significant cut from the previous year, though we don't know that until we are well into the year in question. Long-term planning under these circumstances is an impossibility.

We could not have devised a system in a more inefficient way.

We also create via this complex system of funding and staffing of the committees such a high degree of confusion that there is very little understanding of accountability for our funding decisions. As an example, we recently had considerable debate on the House Floor over the Committee Funding Resolution. Many of those at home who read of this debate, and probably a few Members as well, thought we were debating how much to spend on, or cut, the operations of Congress. In fact, what we were debating was less than 3% of the funds the legislative branch spends on itself. If we had agreed to cut by 25%, we would have in fact reduced congressional spending by less than 1%!

The portion of legislative spending to which we gave such lavish attention was the investigative budgets of most of the committees. No other form of legislative spending goes to the Floor twice a year – once in legislative appropriations, once in committee funding resolutions. All other forms of spending on the legislative branch – the statutory budgets of each committee, the Budget and Appropriations Committees, the personal offices, the Leadership staffs, the support staffs, and so on – only go to the Floor once a year.

No one based this scheme on a rational analysis which concluded that half of most committee's budgets is what, of all legislative spending, most deserves double scrutiny. This system is the product of historical accident, not clear thinking.

We would note in particular that the most basic concepts of accountability say that you shouldn't put any group in charge of how much money it should get for its own use. Yet that is precisely what this process has done with regard to the Appropriations

Committee. The Appropriations Committee is one of only two committees in the House exempted from the entire investigative budget/committee funding resolution process. The result is that the only committee with jurisdiction over the Appropriations Committee budget is the Appropriations Committee!

Guess which committee has the largest budget of all committees in the House? The Appropriations Committee, and by a wide margin. Of the 22 standing committees of the House, the average total annual budget for a committee is about \$6 million. The second highest of the 22 is the Commerce Committee at about \$9 million. The Appropriations Committee is the highest at about \$20 million. It's in a class by itself.

Is that money spent unwisely on a bloated and unproductive staff? Not at all. Most of us would agree that the Appropriations staff is well informed and highly productive. Where, then, does it all go? Nearly half of Appropriation's budget goes not to hiring actual Appropriations staff, but allowing each Member of the Appropriations Committee to hire two of their own "associate staff" whose salary is then paid by the Committee. This is a degree of largesse which is unique to the Appropriations Committee and which they have given themselves. The Appropriations Committee spends about \$9 million a year on salaries before it hires its first real Appropriations staff person. That is as much as the second highest spending committee of the House spends on all salary and non-salary expenses.

The point is that, given the increasingly limited resources for funding congressional committees, we should place more emphasis on funding comparability between committees that is more reflective of the legislative workloads and the number of Members who must be served on each committee.



There are many disparities in the resources available to committees; specifically, we have *major* authorizing committees with investigative budgets more than twice the size of other *major* committees. We even have *non-major* committees with considerably larger budgets than *major* committees. The Committee on Public Works and Transportation, for example, with 63 Members is the largest authorizing Committee in the Congress, yet we have the lowest number of staff per number of Members of any *major* committee (see Attachment D). We are, in fact, lower in that comparison than most of the *non-major* committees.

Given the budgetary realities that we face in this Congress, as well as across the nation, we have to be intent on prioritizing within legislative branch spending: direct our resources where our legislative priorities are; give *major* committees priority consideration over *non-major* committees; base funding decisions on present need, not on past largesse; and ensure that the size of a committee's membership and the scope of its legislative agenda are given primary consideration.

As it now stands, committee budgets are on a "use it or lose it" system – funds have to be used within an allotted time from each specified account. We should allow committees to carry over unused funds from one session to the next and to transfer funds between budgets, if we have failed to eliminate separate budgets. This would encourage efficiency and innovation within a committee's operations, and promote long-term planning for implementing a committee's agenda. For example, the Public Works and Transportation Committee passed major transportation legislation in 1991, the Intermodal Surface Transportation Efficiency Act (ISTEA). In the formulating stage, our work required many hours of hearings and considerable staff work *in Washington*. As we move into the oversight

stage and are more intent on the implementation of the legislation, we will need to be out in the field *away from Washington*. In terms of our travel budget, we would ideally conserve during the early stages of that process to cover a higher travel budget during the latter stages. Since this covers two separate sessions of Congress, we do not now have that planning ability.

Conclusion

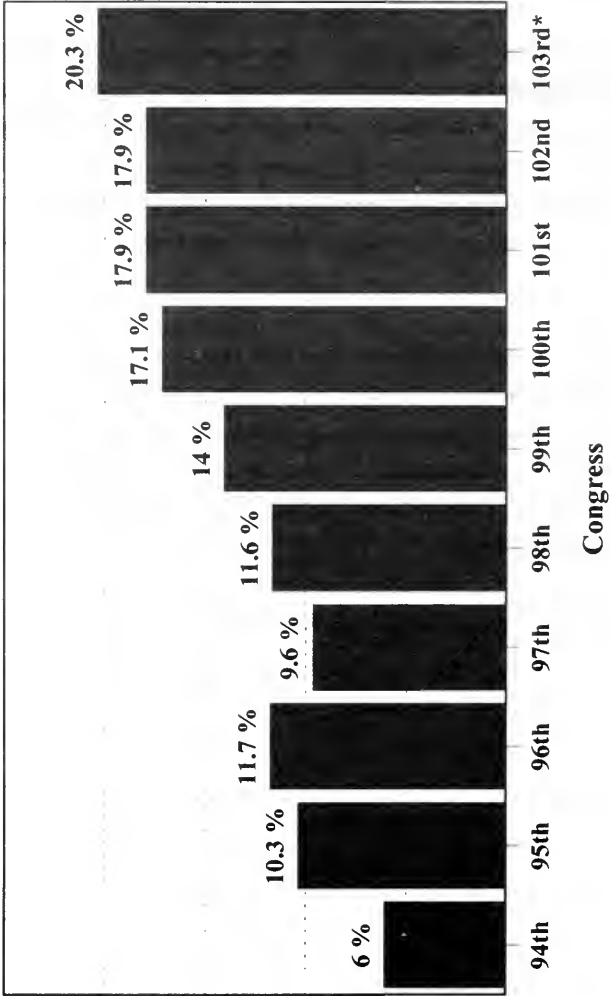
Just as most of the legislative work of the Congress is accomplished in committees, much of the modifications which now need to be made to allow Congress to do its work better are in the area of the committees. Nothing so widely affects how well Congress does – or fails to do – its legislative work than the workings of the committees. Whatever you can do to improve and strengthen the workings of the committees will repay your efforts many times over in the improved ability of this institution to resolve the legislative issues before it.

In the end, what the people care about is not process but product. Process reforms are important not for their own sake, but only to the extent they improve the product. Nothing so determines the product of Congress as the committee system, and therefore no process modifications have the ability to improve the product, as much as do well-chosen modifications, to the committee system. We hope our observations and suggestions prove useful to you in that regard.

Thank you very much for giving us the opportunity to appear before you.

# Percentage of Joint Referrals

1975 - 1993

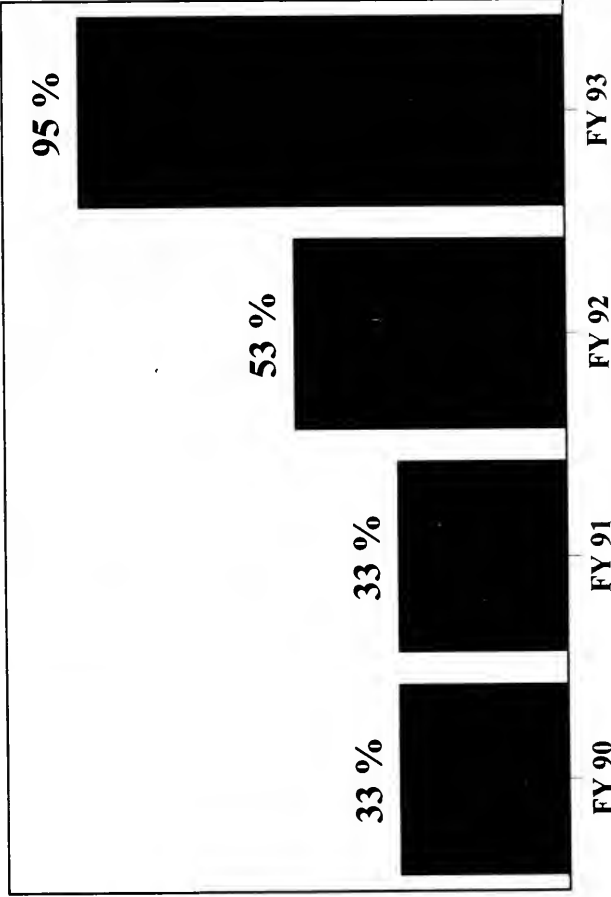


\* Based on current trend.

Source: Congressional Research Service; LEGIS computerized data base.

## Percentage of Waivers of Rule XXI, Clause 2 for Three Regular Appropriations Bills:

FY 1990 - 1993 (101st-102nd Congresses)



The 3 Bills covered for each year are (1) Energy-Water Development, (2) Transportation, and (3) Treasury-Postal Service.

Source: Congressional Research Service.



Congressional Research Service • The Library of Congress • Washington, D.C. 20540

April 30, 1993

### Memorandum

TO : House Public Works and Transportation Committee

FROM : Robert Keith  
Specialist in American National Government  
Government Division

SUBJECT : Waivers of Clause 2 of House Rule XXI Against Provisions in  
Certain Regular Appropriations Bills for Fiscal Years 1990-  
1993

This memorandum responds to your request for data on the number of waivers of Clause 2 of House Rule XXI against provisions in certain regular appropriations bills for fiscal years 1990-1993 granted in "rules" (House resolutions) reported by the House Rules Committee.

### **BACKGROUND**

As you know, Clause 2 in part provides a point of order during the consideration of general appropriations bills against an *unauthorized appropriation* (except to continue appropriations for public works and objects which already are in progress) or a *legislative provision* changing existing law (except certain germane provisions which retrench expenditures or rescissions of appropriations contained in appropriations acts). In the House, regular appropriations bills are considered to be general appropriations bills for purposes of Rule XXI. Under the usual practice, the House each year considers some of the regular appropriations bills under the terms of rules that in part waive Clause 2 against specified provisions of the bills, as identified by page and line numbers.

The House Rules Committee reported rules in each year for all three of the regular appropriations bills that you directed be covered by this study: (1) Energy and Water Development; (2) Transportation; and (3) Treasury-Postal Service. Each of these rules in part waived Clause 2 against the consideration of provisions in the bills and were adopted by the House as reported by the Rules Committee.

## CRS-2

The data in the following charts and tables distinguish between "funding provisions" and "administrative provisions." Funding provisions correspond to unnumbered paragraphs under separate headings within a bill and provide appropriations (new budget authority) or make other budgetary transactions (such as limiting obligations or liquidating contract authority). Some of the funding provisions identified in this study involved "non-add" budgetary transactions that were not scored in committee reports as providing new budget authority.

Administrative provisions generally correspond to numbered sections within a part of the bill entitled "General Provisions," but they may occur elsewhere in the bill under a variety of headings. For the most part, the distinctive characteristic of administrative provisions is that they do not provide new budget authority or involve other budgetary transactions.

The reader should be aware of the following points when evaluating the data:

- The distinction between funding and administrative provisions, while usually clear, is not easily drawn in all cases; consequently, reasonable people may disagree over the classification of what probably is a relatively small number of provisions in this study.
- The waivers counted apply to the bill as reported by the House Appropriations Committee, not to any amendments that may have been made in order under the rule.
- In some instances, waivers of Clause 2 were granted against only a portion of the funding or administrative provision (in such cases, the waiver was counted as applying to the entire provision).
- During the 102nd Congress, three of the six rules on bills waived Clause 2 and 6 against specified provisions simultaneously. (Clause 6 prohibits reappropriations, with certain exceptions.) In these cases, all of the waivers were counted as applying to Clause 2, thereby possibly overcounting the number of such waivers.
- The percentage of provisions in a bill subject to waiver does not necessarily correspond to the portion of text or amount of funding involved.
- Authorizations for appropriations considered during a session sometimes are enacted into law later in the session, after initial House consideration of the regular appropriations bills.

## FINDINGS

As **TABLE 1** indicates, the twelve regular appropriations bills included in the four-year period covered 1,333 provisions, of which 710 (53 percent) were subject to waivers of Clause 2 (see also **FIGURE 1** in the appendix).

Although the total number of provisions in the three bills remained fairly steady each year (ranging from 327 to 337), the percentage of provisions subject to waivers increased sharply from the 101st Congress to the 102nd Congress (rising from 33 percent for fiscal years 1990 and 1991 to 53 percent and 95 percent, respectively, for fiscal years 1992 and 1993).

The increase is due largely to a change in the rules in the method of waiving Clause 2. During the 101st Congress, each of the six rules waived Clause 2 by reference to specified provisions in the bill (see **TABLE 2**). During the 102nd Congress, however, only two of the six rules used this approach. Three of the remaining four rules in the 102nd Congress provided blanket waivers of Clause 2 (two with specified exceptions); the other rule provided for simultaneous waivers of Clause 6 (as did two of the blanket rules).

Although this study demonstrates an increase over time in the percentage of provisions in certain bills subject to waivers of Clause 2, it is not possible to infer from the data whether there was an increase in the number of provisions *potentially* in violation of Clause 2 (*actual* violations of Clause 2 are determined by the ruling of the Chair upon a point of order).

**TABLE 1. Summary of Waivers of Clause 2 of House Rule XXI Against Provisions in Certain Regular Appropriations Bills for FY 1990-1993 <sup>1/</sup>**

Fiscal year	Congress/ session	Total number of provisions	Number of provisions subject to waiver	Percentage of provisions subject to waiver
1990	101/1	337	110	33
1991	101/2	335	111	33
1992	102/1	327	172	53
1993	102/1	334	317	95
<b>TOTAL</b>		<b>1,333</b>	<b>710</b>	<b>53</b>

<sup>1/</sup> The data cover the same three regular appropriations bills — (1) Energy and Water Development, (2) Transportation, and (3) Treasury-Postal Service — for each of the four fiscal years involved, amounting to 12 bills in total. Each bill is identified by bill number in Tables 4 and 5.



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**TABLE 2. Summary of Methods of Waiving Clause 2  
in Certain Rules**

Fiscal year	Session	Bill <u>1/</u>	Rule (H.Res.#)	Method of waiving Clause 2 <u>2/</u>
<b><u>101st Congress</u></b>				
1990	1st	Energy and Water	187	Specified provisions.
1990	1st	Transportation	221	Specified provisions.
1990	1st	Treasury-Postal	214	Specified provisions.
1991	2nd	Energy and Water	413	Specified provisions.
1991	2nd	Transportation	429	Specified provisions.
1991	2nd	Treasury-Postal	432	Specified provisions.
<b><u>102nd Congress</u></b>				
1992	1st	Energy and Water	160	Specified provisions; Clause 6 included.
1992	1st	Transportation	200	Blanket; Clause 6 included.
1992	1st	Treasury-Postal	176	Specified provisions.
1993	2nd	Energy and Water	485	Specified provisions.
1993	2nd	Transportation	513	Blanket with excep- tions; Clause 6 included.
1993	2nd	Treasury-Postal	505	Blanket with excep- tions.

1/ Each bill is identified by bill number in Tables 4 and 5.

2/ Rules waived Clause 2 by:

- applying the waiver to particular provisions identified by page and line number ("specified provisions");
- applying the waiver to all provisions within the bill or all provisions except those specified by page and line number ("blanket" and "blanket with exceptions"); and
- including simultaneously waivers of Clause 6, which prohibits most reappropriations ("Clause 6 included").

TABLE 3 provides summary data by type of provision. The total 1,333 provisions in the 12 bills included 778 funding provisions and 555 administrative provisions. As the table shows, 57 percent (444) of the funding provisions and 48 percent (266) of the administrative provisions were subject to waivers of Clause 2. For the most part, both types of provisions followed the same pattern of a sharp increase in the 102nd Congress in the percentage of provisions subject to waiver of Clause 2.

TABLE 3. Summary of Waivers of Clause 2 of House Rule XXI  
Against Provisions in Certain Regular Appropriations Bills  
for FY 1990-1993: By Type of Provision 1/

Fiscal year	Congress/ session	No. of Funding Provisions		No. of Administrative Provisions	
		Total in bill	Subject to waiver	Total in bill	Subject to waiver
1990	101/1	194	67	143	43
1991	101/2	199	72	136	39
1992	102/1	191	123	136	49
1993	102/1	194	182	140	135
TOTAL		778	444	555	266
					48

1/ The data cover the same three regular appropriations bills — (1) Energy and Water Development, (2) Transportation, and (3) Treasury-Postal Service — for each of the four fiscal years involved, amounting to 12 bills in total. Each bill is identified by bill number in Tables 4 and 5.

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Tables 4 and 5 provide a detailed breakdown of the data for both types of provisions by fiscal year and by bill (see also **FIGURES 2-4** in the appendix). The data disclose considerable variability in percentages of provisions subject to waiver by bill and by year.

For individual bills, the percentage of funding provisions subject to waiver in a year ranged as follows:

- Energy and Water Development: from 69 to 75 percent;
- Transportation: from 34 to 100 percent; and
- Treasury-Postal Service: from 7 to 100 percent.

For individual bills, the percentage of administrative provisions subject to waiver in a year ranged as follows:

- Energy and Water Development: from 63 to 100 percent;
- Transportation: from 50 to 100 percent; and
- Treasury-Postal Service: from 0 to 96 percent.

By session and fiscal year, the percentage of funding provisions subject to waiver for the three bills ranged as follows:

- 101st Congress, 1st Session (FY 1990): from 10 to 75 percent;
- 101st Congress, 2nd Session (FY 1991): from 15 to 72 percent;
- 102nd Congress, 1st Session (FY 1992): from 7 to 100 percent; and
- 102nd Congress, 2nd Session (FY 1993): from 71 to 100 percent.

By session and fiscal year, the percentage of administrative provisions subject to waiver for the three bills ranged as follows:

- 101st Congress, 1st Session (FY 1990): from 6 to 65 percent;
- 101st Congress, 2nd Session (FY 1991): from 5 to 70 percent;
- 102nd Congress, 1st Session (FY 1992): from 0 to 100 percent; and
- 102nd Congress, 2nd Session (FY 1993): from 95 to 100 percent.

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**TABLE 4. Waivers of Clause 2 of House Rule XXI  
Against Provisions in Certain Regular Appropriations Bills for FY 1990-1993:  
Detail By Fiscal Year and Bill <sup>1/</sup>**

Appropriations bill (and "rule")	<u>No. of Funding Provisions</u>			<u>No. of Administrative Provisions</u>		
	Total in bill	Subject to waiver	% of total	Total in bill	Subject to waiver	% of total
<b>FISCAL YEAR 1990</b>						
Energy and Water H.R. 2696 (H.Res. 187)	40	30	75	31	20	65
Transportation H.R. 3015 (H.Res. 221)	92	31	34	34	18	53
Treasury-Postal H.R. 2989 (H.Res. 214)	62	6	10	78	5	6
<b>SUBTOTAL</b>	<b>194</b>	<b>67</b>	<b>35</b>	<b>143</b>	<b>43</b>	<b>30</b>
<b>FISCAL YEAR 1991</b>						
Energy and Water H.R. 5019 (H.Res. 413)	39	28	72	27	19	70
Transportation H.R. 5229 (H.Res. 429)	99	35	35	32	16	50
Treasury-Postal H.R. 5241 (H.Res. 432)	61	9	15	77	4	5
<b>SUBTOTAL</b>	<b>199</b>	<b>72</b>	<b>36</b>	<b>136</b>	<b>39</b>	<b>29</b>

(footnote on last page)

CRS-8

**TABLE 4. Waivers of Clause 2 of House Rule XXI  
Against Provisions in Certain Regular Appropriations Bills for FY 1990-1993:  
Detail By Fiscal Year and Bill 1/  
-- continued**

Appropriations bill (and "rule")	<u>No. of Funding Provisions</u>			<u>No. of Administrative Provisions</u>		
	Total in bill	Subject to waiver	% of total	Total in bill	Subject to waiver	% of total
<b>FISCAL YEAR 1992</b>						
Energy and Water H.R. 2427 (H.Res. 160)	39	27	69	27	17	63
Transportation H.R. 2942 (H.Res. 200)	92	92	100	32	32	100
Treasury-Postal H.R. 2622 (H.Res. 176)	60	4	7	77	0	0
<b>SUBTOTAL</b>	<b>191</b>	<b>123</b>	<b>64</b>	<b>136</b>	<b>49</b>	<b>36</b>
<b>FISCAL YEAR 1993</b>						
Energy and Water H.R. 5373 (H.Res. 485)	42	30	71	19	19	100
Transportation H.R. 5518 (H.Res. 513)	93	93	100	38	36	95
Treasury-Postal H.R. 5488 (H.Res. 505)	59	59	100	83	80	96
<b>SUBTOTAL</b>	<b>194</b>	<b>182</b>	<b>94</b>	<b>140</b>	<b>135</b>	<b>96</b>
<b>TOTAL, FY 1990-1993</b>	<b>778</b>	<b>444</b>	<b>57</b>	<b>555</b>	<b>266</b>	<b>48</b>

(footnote on last page)

**TABLE 4. Waivers of Clause 2 of House Rule XXI  
Against Provisions in Certain Regular Appropriations Bills for FY 1990-1993:  
Detail By Fiscal Year and Bill 1/  
--continued**

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1/ "Funding provisions" correspond to unnumbered paragraphs under separate headings within a bill and provide appropriations (new budget authority) or make other budgetary transactions (such as limiting obligations or liquidating contract authority). Some of the funding provisions identified in this study are "non-add items" that were not scored in committee reports as providing new budget authority.

"Administrative provisions" generally correspond to numbered sections within a part of the bill entitled "General Provisions," but they may occur elsewhere in the bill under a variety of headings. For the most part, the distinctive characteristic of administrative provisions is that they do not provide new budget authority or involve other budgetary transactions.

The reader should be aware of the following points when evaluating the data:

- The distinction between funding and administrative provisions, while usually clear, is not easily drawn in all cases; consequently, reasonable people may disagree over the classification of what probably is a relatively small number of provisions in this study.
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- In some instances, waivers of Clause 2 were granted against only a portion of the funding or administrative provision (in such cases, the waiver was counted as applying to the entire provision).
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- Authorizations for appropriations considered during a session sometimes are enacted into law later in the session, after initial House consideration of the regular appropriations bills.

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**TABLE 5. Waivers of Clause 2 of House Rule XXI  
Against Provisions in Certain Regular Appropriations Bills for FY 1990-1993:  
Detail By Bill and Fiscal Year 1/**

Appropriations bill (and "rule")	No. of Funding Provisions			No. of Administrative Provisions		
	Total in bill	Subject to waiver	% of total	Total in bill	Subject to waiver	% of total
<b>ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL</b>						
FY 1990	40	30	75	31	20	65
H.R. 2696 (H.Res. 187)						
FY 1991	39	28	72	27	19	70
H.R. 5019 (H.Res. 413)						
FY 1992	39	27	69	27	17	63
H.R. 2427 (H.Res. 160)						
FY 1993	42	30	71	19	19	100
H.R. 5373 (H.Res. 485)						
<b>SUBTOTAL</b>	<b>160</b>	<b>115</b>	<b>72</b>	<b>104</b>	<b>75</b>	<b>66</b>
<b>DEPARTMENT OF TRANSPORTATION APPROPRIATIONS BILL</b>						
FY 1990	92	31	34	34	18	53
H.R. 3015 (H.Res. 221)						
FY 1991	99	35	35	32	16	50
H.R. 5229 (H.Res. 429)						
FY 1992	92	92	100	32	32	100
H.R. 2942 (H.Res. 200)						
FY 1993	93	93	100	38	36	95
H.R. 5518 (H.Res. 513)						
<b>SUBTOTAL</b>	<b>376</b>	<b>251</b>	<b>67</b>	<b>136</b>	<b>102</b>	<b>75</b>

(footnote on last page)

CRS-11

**TABLE 5. Waivers of Clause 2 of House Rule XXI  
Against Provisions in Certain Regular Appropriations Bills for FY 1990-1993:  
Detail By Bill and Fiscal Year 1/  
-- continued**

Appropriations bill (and "rule")	<u>No. of Funding Provisions</u>			<u>No. of Administrative Provisions</u>		
	Total in bill	Subject to waiver	% of total	Total in bill	Subject to waiver	% of total
<b>TREASURY-POSTAL SERVICE APPROPRIATIONS BILL</b>						
FY 1990 H.R. 2989 (H.Res. 214)	62	6	10	78	5	6
FY 1991 H.R. 5241 (H.Res. 432)	61	9	15	77	4	5
FY 1992 H.R. 2622 (H.Res. 176)	60	4	7	77	0	0
FY 1993 H.R. 5488 (H.Res. 505)	59	59	100	83	80	96
<b>SUBTOTAL</b>	<b>242</b>	<b>78</b>	<b>32</b>	<b>315</b>	<b>89</b>	<b>28</b>
<b>TOTAL, FY 1990-1993</b>	<b>778</b>	<b>444</b>	<b>57</b>	<b>555</b>	<b>266</b>	<b>48</b>

(footnote on last page)



CRS-12

TABLE 5. Waivers of Clause 2 of House Rule XXI  
Against Provisions in Certain Regular Appropriations Bills for FY 1990-1993:  
Detail By Bill and Fiscal Year 1/  
--continued

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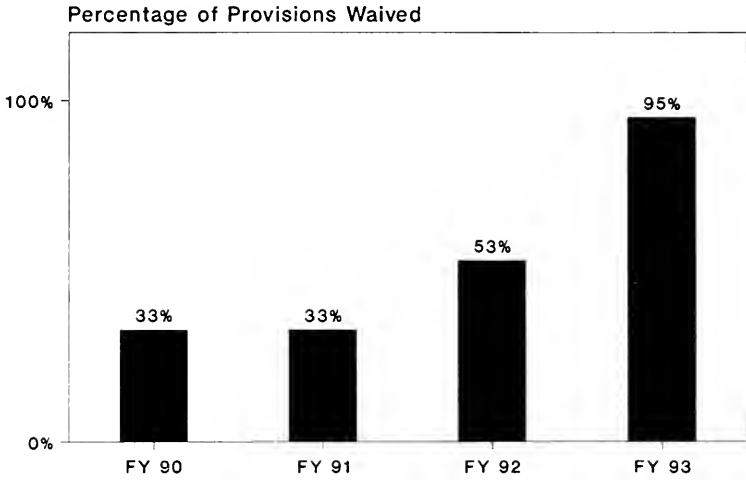
## **APPENDIX**

**Waivers of Clause 2 of House Rule XXI:**

**FIGURES 1-4**

CRS-14

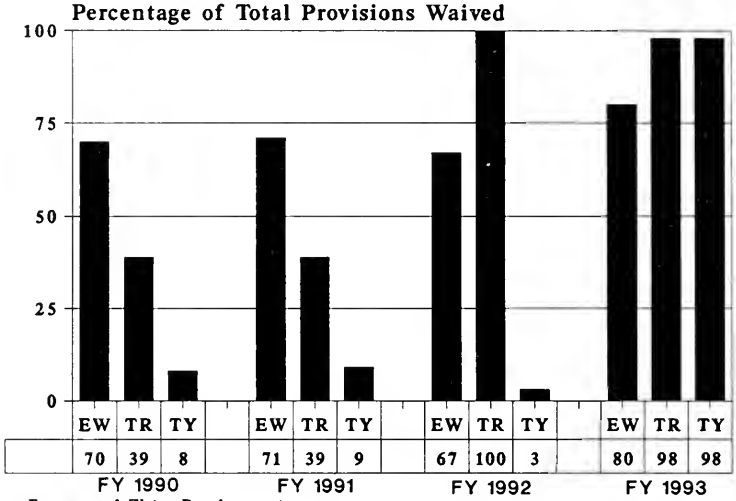
**FIGURE 1. Summary of Waivers of Clause 2 of House Rule XXI  
for Three Regular Appropriations Bills:  
FY 1990-1993**



The 3 bills covered for each year are  
(1) Energy-Water Development, (2) Transportation, (3) Treasury-Postal Service.

CRS-15

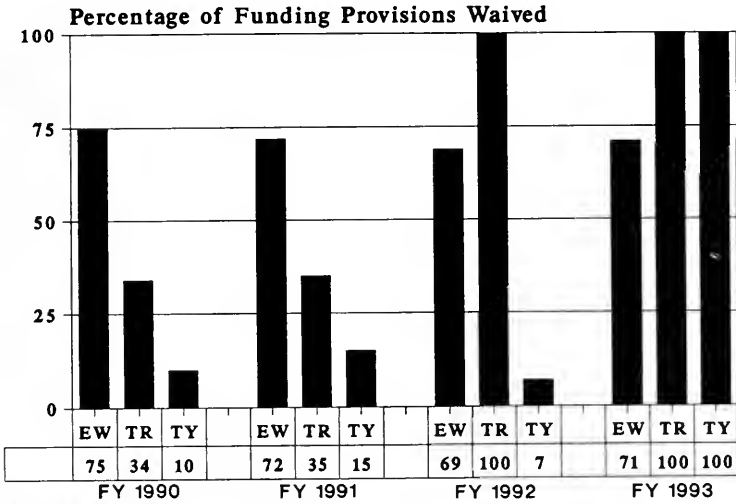
**FIGURE 2. Waivers of Clause 2 of House Rule XXI  
by Appropriations Bill, FY 1990-1993:  
Total Provisions**



EW = Energy and Water Development  
TR = Transportation  
TY = Treasury-Postal Service

CRS-16

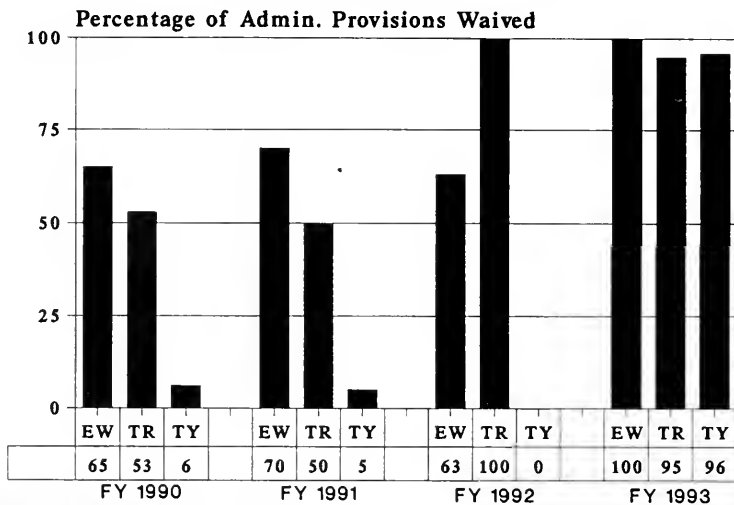
**FIGURE 3. Waivers of Clause 2 of House Rule XXI  
by Appropriations Bill, FY 1990-1993:  
Funding Provisions**



EW = Energy and Water Development  
TR = Transportation  
TY = Treasury-Postal Service

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**FIGURE 4. Waivers of Clause 2 of House Rule XXI  
by Appropriations Bill, FY 1990-1993:  
Administrative Provisions**



EW = Energy and Water Development

TR = Transportation

TY = Treasury-Postal Service

**HOUSE COMMITTEE COMPARISONS  
BUDGETS AND STAFF/MEMBER RATIOS**

**I.  
Budgets Funded Through the Legislative  
Appropriations/Committee Funding Resolution Processes**

Committee	Description	Staff/Member Ratio	1991/1992 Investigative Funding Level	1993 Investigative Funding Level
House Administration	Non-Major	3.89	1,941,450	1,941,450
Energy & Commerce	Major	3.25	6,287,459	6,413,209
Post Office	Non-Major	3.08	1,910,783	1,948,999
District of Columbia	Non-Major	2.83	342,035	342,035
Education and Labor	Major	2.74	4,110,649	4,036,251
Ways and Means	Exclusive	2.71	4,780,000	4,875,600
Rules	Exclusive	2.54	722,479	722,479
Foreign Affairs	Major	2.29	3,840,825	3,917,642
Government Operations	Non-Major	2.21	3,282,875	3,282,875
Judiciary	Major	2.17	2,430,018	2,490,768
Banking	Major	1.86	4,336,240	4,076,066
Natural Resources	Non-Major	1.67	2,192,434	2,192,434
Science & Technology	Non-Major	1.65	2,901,410	2,959,438
Agriculture	Major	1.51	2,257,937	2,257,937
Armed Services	Major	1.46	2,464,082	2,525,684
Merchant Marine	Non-Major	1.46	2,322,057	2,322,057
Public Works	Major	1.39	2,893,953	2,951,842
Intelligence	Perm. Select	1.32	130,000	110,000
Veterans	Non-Major	1.31	739,451	761,635
Small Business	Non-Major	1.29	1,055,000	1,055,000
Standards		.79	400,000	100,000

**II.  
Budgets Funded Through the Legislative  
Appropriations Process Only**

Committee	Description	Staff/Member Ratio	1993 Total Budget for Expenses, Studies, and Personnel
Appropriations	Exclusive	3.6	20,396,596
Budget	Non-Major	2.07	6,793,707

Appropriations and Budget Committees have permanent authorizations for Investigative funds - Fiscal 1993 Investigative funds appropriated: \$6,631,000 for Appropriations and \$389,000 for Budget.

Statement of the Honorable Henry J. Hyde  
Before the Joint Committee on the Organization of Congress

May 6, 1993

**Introduction**

Mr. Chairman and distinguished members of the Joint Committee, thank you for giving me this second opportunity to discuss with you the issues of congressional reform.

As a former Ranking Republican Member of the House Permanent Select Committee on Intelligence, I have long been concerned with issues relating to the problems of intelligence oversight and the handling of classified information. I know the committee has already heard from Mr. Glickman and Mr. Combest, the current Chairman and Ranking Republican Member of HPSCI, on these issues.

To better conduct the people's business, we in Congress must depoliticize oversight of intelligence activities and reduce the risk of unauthorized disclosure of classified information. The recommendations forwarded by this committee later in the year will provide an excellent opportunity to address these concerns, and I hope you will give my proposed solutions thoughtful consideration.

I would like to begin by explaining what I see as the flaws in our current system of intelligence oversight and then share with you the details of my suggested solutions.

**Problem 1: Politicization of Intelligence Oversight**

When it was created in 1977, the House Permanent Select Committee on Intelligence consisted of 13 members, nine majority and four minority. Today, HPSCI has expanded to 19 members, 12 majority and seven minority. While some might consider it a worthwhile goal to give more Members of Congress responsibility for intelligence oversight, I believe that the expansion of HPSCI has actually reduced the oversight effectiveness of the Committee.

The Intelligence Committee faces special obstacles in its day-to-day operations because of its heavy use of classified information. For the most part, Members can work on Committee business only when physically present in the Committee offices. Moreover, the issues over which the Intelligence Committee has jurisdiction are enormously complex and have a very long learning curve. These factors demand that the Members of the Committee attend all meetings and hearings.

The Intelligence Committee is, in every sense, a "working committee". Its Members must make a strong commitment to put in the many hours, entirely obscured from public view, that effective intelligence oversight demands. As was pointed out by



Mr. Combest in his testimony before this committee last month, the expanded size of HPSCI has made it very difficult for every member of the Committee to be "up to speed" on intelligence-related issues. A bloated and inefficient Intelligence Committee is an ineffective committee.

**Problem 2: Disclosures of Classified Material**

As you know, I have long been concerned with the problem of "leaks" of classified information. It is a government-wide problem. This is perhaps due, in part, to the fact that too much information may be classified. This may encourage government officials and employees to be too casual about classified information, even in the vast majority of cases when it is properly classified. In any event, the ever-growing list of leaks of classified information has led me to conclude that we must begin to take steps to reduce the incidence of leaks right here in our own back yard.

I have no wish to spark an unproductive debate on which branch of our government is responsible for the most leaks, or which has the highest percentage of leaks based on the number of its personnel with access to classified information, or which is responsible for the most serious or damaging leaks. Instead, as Members of Congress, I think our first concern ought to be to take every reasonable measure to reaffirm and strengthen our commitment to reducing the likelihood of leaks from congressional sources. Now, I certainly have no intention of engaging in recriminatory speculation about individual cases. However, none of us has to think very hard to recall instances of alleged leaks from congressional sources. Some of those alleged disclosures in recent years have been reported in the press and widely discussed.

Of course, public commentators and foreign allies very often do not make fine distinctions as to which House of Congress may have been the source of a leak of classified information, let alone which specific committee may have been involved. Therefore, leaks by any Member or committee may hurt the reputation of Congress as a whole in the eyes of those whose vital cooperation in promoting U.S. policy interests is contingent on their confidence in our discretion. This is especially the case when it comes to important intelligence relationships with sensitive foreign assets or intelligence services. Those individuals may have a great deal at risk if their confidential cooperation or sensitive intelligence information shared with our government is leaked from congressional sources whose position in the legislative branch has made them privy to that knowledge.

**Solution 1: Reduced HPSCI and a Joint Intelligence Committee**  
To address the problems listed above, we must streamline the intelligence committees: make them smaller and better able to address the issues that confront the intelligence community.

Toward that end, I believe the ideal construct would be a Joint Intelligence Committee. As a stepping-stone to that goal, however, the size of the House Intelligence Committee could be reduced to its original size.

#### Reducing the Size of HPSCI

I have introduced legislation this Congress, as I have in other Congresses, that would reduce the size of the House intelligence committee from 19 to 13 members. Of those 13, not more than seven could be appointed from the same party. This would return HPSCI to its original size in 1977. More importantly, by decreasing its size, it is axiomatic that we would reduce the mathematical probability of leaks, whether inadvertent or not, of the sensitive classified intelligence information which is the particular "stock in trade" of HPSCI. It is obvious that the more people who have access to any particular piece of classified information, the greater the chance that one of those individuals will suffer a momentary lapse of memory or self-discipline and leak it. Further, by waiting to implement this reduction in membership until 1999, we can do it painlessly without forcing any sitting member of HPSCI to leave the Committee before the expiration of the maximum term of six continuous years of membership. The required reduction of six slots, from a total of 19 to a new total of 13, can be accomplished in a phased reduction over the next six years.

Under my proposal, the reduced 13 member HPSCI also would be apportioned in a ratio of seven majority and six minority party Members. It has long been established that the intention of the House in creating HPSCI was that this special select committee, should, as much as possible, be non-partisan. That has not always proved possible, let alone easy, on all issues and all staffing matters. Nevertheless, it is a wise principle, as I noted above, to maximize the degree of non-partisanship in congressional oversight in the very important and highly sensitive realm of American intelligence interests and activities. Our former colleague, Eddie Boland, HPSCI's first chairman, told a number of us several years ago that his preference when HPSCI was established was to have parity in the membership ratio. However, at the time, other members of the Democratic leadership disagreed. I think Eddie was right. As Mr. Combest testified last month, "If parity turns out to be a concept which the majority leadership of the House finds it simply cannot live with, then I would propose, alternatively, a 13-member committee with a seven-six, one-vote majority."

#### Reasons to Have a Joint Committee on Intelligence

As I noted previously, however, I think the ideal construct for congressional oversight of the intelligence community would be Joint Intelligence Committee. Of course, the same arguments that apply to my proposal to reduce HPSCI to its original size of 13 members would apply with even greater force to the creation of a

joint committee. By significantly reducing the total number of persons in Congress with access to sensitive intelligence information, we reduce the potential pool of people who may, inadvertently or otherwise, leak such classified information. Instead of the 36 representatives and senators who have access as regular members of the two select committees, under H.J. Res. 145, my bill to establish a Joint Committee on Intelligence, the joint committee would have 18, one-half as many. As I indicated earlier, this would promote greater confidence and encourage greater candor by the Executive Branch. That translates into a better information base for the joint committee's legislative deliberations and oversight activities. Moreover, as we demonstrate our willingness to reduce the chances for leaks, foreign intelligence services and third country sources can be expected over time to be more candid and cooperative with our intelligence agencies on matters very important to our national interests. A joint committee offers other benefits, too. It would institutionalize much closer cooperation between the Senate and House in an area where such coordination is especially important. In this regard, a joint committee would remove an temptation which may exist under the current arrangement for the Executive Branch to try to play off one house against the other.

A joint committee would streamline legislative oversight and thus reduce the burden on senior intelligence officials of appearing before two separate committees. It would simplify the reporting, required by law, of significant intelligence activities. At a time when your Joint Committee is looking for ways to reduce the costs of running the legislative branch, merging the two intelligence committees would eliminate duplicative equipment, supply and salary needs. Of course, in the last case, to avoid disrupting careers, the reduction in staff might be phased in over time, relying to a large extent on attrition. These changes should amount to significant savings for the congressional budget.

My proposal is supported by most former Directors of the Central Intelligence Agency: Richard Helms, Stansfield Turner and Bill Colby. It was recommended by the distinguished Tower Commission, composed of Senators John Tower and Ed Muskie and General Brent Scowcroft. In addition, such respected figures as Bob Michel, Mike Mansfield, Bob Dole, Sam Nunn, Alan Dixon, Howell Heflin, Dante Fascell, Bill Broomfield, Eddie Boland, Richard Bolling and Howard Baker have all, at one time or another, favored the idea, as did the Co-Chairman of this Joint Committee on the Organization of Congress, Lee Hamilton, whose opinion on these matters we all respect. I do not mean to imply that all of the foregoing still support this idea, but at one time or another, they did. Former Senator Barry Goldwater was once a foe of the joint committee idea, but he grew so concerned about the leak problem that he has become an ardent proponent of it.

Rebuttal of Arguments Against a Joint Committee on Intelligence  
Some may argue a Joint Committee on Intelligence is not needed because Congress doesn't leak as much as, or at least any more than, the executive branch. That's possible, but it's not a productive argument for either side. There is no definitive way to measure or compare, either qualitatively or quantitatively, the leaks of intelligence information by the legislative and executive branches. It is difficult to determine the source of most leaks. There is no methodology for determining how many less serious leaks cumulatively equal the damage done by a single leak of a more serious nature. The two or three studies or analyses of the source of leaks were all quite limited, and none could claim to be scientific or based on a statistically valid sampling methodology.

With respect to classified information generally, it is certainly true that more individuals in the executive branch have access than do those in the legislative branch, as the former has far more personnel. However, when it comes to the more sensitive intelligence collection activities and covert actions, the numbers of individuals in each branch with enough knowledge to really be aware of any such activity are not that far apart. In testimony on the so-called "48 hour notice bill" in the 100th Congress, General Scowcroft confirmed that relatively few persons in the executive branch have real knowledge of most covert actions, and the executive branch record for protecting that information is generally good. In any event, I don't agree that we should do nothing to clean up our own house as long as anyone else's house has mud on the floor. This "lowest common denominator" approach is a poor standard for protecting sensitive national security information. Moreover, it overlooks the troubling fact that, from time to time, members of both houses have asserted an individual right to leak classified information if they disagree with an intelligence operation or policy. Indeed, the previous Speaker of the House publicly made an assertion of that nature before his resignation.

The other argument offered against a joint committee is that the smaller membership of a single committee would degrade the oversight responsibility of Congress. However, having more members doesn't automatically equate with having better oversight and legislation. If that were true, we would make all committees as large as the Appropriations Committee. We could even return to the pre-1977 arrangement of having eight House committees involved in intelligence oversight. Few of us who recall that period feel it was any model of effective oversight. Former DCI William Colby charged in his memoirs that every covert action disclosed to Congress in 1975 was leaked.

A few critics suggest that having a joint committee instead of separate ones for the House and Senate somehow undercuts the hallowed principle of bicameralism. But there is no reason to

believe that House and Senate members of a joint committee would cease to represent the institutional interests and viewpoints of their respective houses. In effect, the joint committee arrangement is analogous to an open-ended conference committee. Lastly, of course, the Constitution does not require that either house have any committees at all. That is left for Congress itself to determine.

#### Details of the Joint Committee on Intelligence

I would like to briefly summarize the main provisions of H.J. Res. 145, which would establish a Joint Committee on Intelligence. For the most part, it maintains the House procedural requirements under existing House Rule XLVIII (Rule 48) with the minimal modifications necessary to adapt those requirements to the joint committee context. As I summarize the provisions of H.J. Res. 145, I will try to point out the more significant differences with Rule 48. Consistent with appropriate, traditional comity between the two houses of congress, I have not sought to include in H.J. Res. 145 specific conforming changes in the Standing Rules in the Senate. Your committee, however, would certainly be able to address those issues.

The proposed joint intelligence committee would have exclusive legislative jurisdiction over all intelligence activities of the federal government and over authorizations for its intelligence components, the same ones currently enumerated in Rule 48. The committee would be composed of nine senators and nine representatives, for a total of 18 appointed members, one fewer than the number of appointed members on HPSCI. The Majority and Minority Leaders of each house would be ex-officio members. The majority party in each house could appoint not more than five of the nine joint committee members from that house. This would reflect the special need for bipartisanship, indeed, even non-partisanship, in the highly sensitive national security field of intelligence activities. It would nevertheless maintain the policy control of the majority in each house over its respective membership component on the joint committee. Indeed, this is currently the way party ratios are set for the Senate Select Committee on Intelligence (SSCI) where the majority party has a one-vote advantage. The majority leadership in the other body has apparently suffered no ill effects from this long-standing arrangement.

Each house must appoint at least one, but not more than two members from each of the four "crossover" committees: Appropriations, Armed Services, Foreign Affairs/Relations, and Judiciary. As Members will recognize, these are the same committees from which "crossover" Members must be appointed to the existing House and Senate intelligence committees.

Just as under the present House Rule 48, tenure on the proposed

joint committee would be limited to six years of continuous service, except that the initial appointees from each house would be divided into three classes whose original terms would be two, four, and six years, respectively. This is necessary to stagger the rotation of replacement members onto the joint committee to afford some measure of continuity.

Of course, the current Senate rules permit intelligence committee members tenure of up to eight years of continuous service. If your committee does choose to recommend a Joint Committee, you may wish to follow the Senate model. By their very nature, the information and issues with which members of any intelligence committee must deal are ones to which Members may have had little, if any, exposure prior to their appointment. In my experience and observation, it takes most Members perhaps nearly the first two years of their service to gain enough understanding of intelligence activities and information for truly effective participation in the legislative and oversight process. Therefore, if the JCOC concludes that the rotation of membership has more benefits than drawbacks for the Legislative Branch (a question in need of thoughtful review), perhaps it would be wiser to permit Members to have up to eight, rather than six, years of continuous service.

The joint committee would have a chairman selected from the committee membership from one house and a vice chairman selected from the other house's committee members, alternating annually. The House members would select the chairman in odd-numbered years, and the Senators on the committee would select the chairman in even-numbered years. This arrangement lessens the chance that the joint committee's chairman at any given time will suffer the serious distraction and political pressure of being up for re-election during his chairmanship.

The joint committee would be authorized to sit and act at such times and places as it deems appropriate and be given subpoena powers to require the attendance of witnesses and the production of documents. The joint committee may make whatever rules for its own internal organization and procedures it considers necessary. However, no recommendations may be reported unless a majority of its members agree. Ten members of the joint committee would constitute a quorum. The ex-officio leadership members would not have a vote or be counted in establishing a quorum. Joint committee expenses would be evenly divided between the contingent funds of the House and Senate.

The provisions of H.J. Res. 145 with regard to permitting other Members of Congress to attend joint committee meetings or have access to information are nearly identical to the provisions of House Rule 48 on that subject, with two principal differences. H.J. Res. 145 does not take into account the new "Speaker access" authority incorporated in Rule 48 in 1989. I would, however,

welcome having that provision included in the JCOC's final report. The other difference is that under H.J. Res. 145, classified information in the joint committee's possession would be made available, under the joint committee's rules, to Members of Congress who are not on the committee if they have an "appropriate" security clearance "as determined by the joint committee." H.J. Res. 145 predates my other resolutions before the JCOC today, which specifically deal with security clearances for all Members and staff of the House. The language of H.J. Res. 145 which I noted leaves the joint committee very broad discretion to determine what it considers to be an "appropriate" security clearance. Existing Rule 48 is similarly broad. Clause 7(c)(2) of that House Rule requires HPSCI to make classified information available to other Members "... under such regulations as the committee shall prescribe ...". While it has never done so, theoretically HPSCI could prescribe a Member access regulations which required some type of security clearance. Similarly, the joint committee could theoretically "determine" that election to Congress itself is tantamount to having a security clearance. However, this language anticipates a systematic Legislative Branch procedure for granting security clearances to Members, officers and employees of Congress.

H.J. Res. 145 contains provisions for the public disclosure of information which are nearly identical to the procedures required under current House Rule 48. The only significant difference is in the case of proposed public disclosure of classified information obtained from the Executive Branch when the President has objected to that disclosure in writing. Under Rule 48, such a HPSCI-recommended disclosure may nevertheless be approved by a vote of the House. Under H.J. Res. 145, a two-thirds vote, rather than a simple majority, would be required to approve public disclosure over the president's written objection.

Under my proposal, the joint committee would be authorized to take appropriate actions against committee members or staff for unauthorized disclosure of intelligence information in the joint committee's possession. In the case of such a violation by a committee member, the joint committee could censure the offender. It could expel him from the committee unless the house of which that individual is a Member objects by majority vote within five days. Lastly, the joint committee could recommend the offending Member's censure or expulsion by the Senate or House, as the case may be. If a staffer of the joint committee makes an unauthorized disclosure, that individual would be subject to appropriate disciplinary action by the joint committee, which may include immediate dismissal.

#### Solution 2: Oaths of Secrecy

In the past, I have advocated writing into House Rule 48 the requirement of an oath of secrecy for every HPSCI member and staff. Such a requirement is now part of the committee's rules,

and I believe this requirement should be extended to every Member or employee of the House who is given access to classified information. I have introduced legislation, H.Res. 124, to this effect. This oath will add greater weight and solemnity to the serious committee of all House Members and staff to be vigilant in safeguarding classified information received in the course of their congressional duties. Not only will taking this oath serve to underscore these profound responsibilities to protect sensitive classified information in our own minds, but this commitment will also be publicly acknowledged by its publication in the Congressional Record. That will further enhance the reputation and lend greater dignity to the public image of the House. It will serve as a clear example which I hope will be emulated by the rest of the government.

There is clear precedent from the earliest days of our nation for such a solemn oath of secrecy. In fact, the wording of the oath I propose is substantially the same as the oath of members and staff of the Committee on Secret Correspondence of the Second Continental Congress. Frankly, if this oath was good enough for leaders of the Revolution like Benjamin Franklin, it should not cause us any concern. I remind all of my colleagues that each of us takes an oath at the beginning of each Congress, and nobody balks at that. My proposal certainly is not intended, nor do I think it will be publicly viewed, as implying any ethical shortcomings among Members or employees of the House.

#### **Solution 3: Creation of a House Security Office**

The Senate currently has a security office that handles all issues relating to classified information outside these four committees: Intelligence, Foreign Relations, Armed Services and Appropriations. The Senate Security Office has a number of responsibilities, including the handling and storage of classified information; processing security clearances for officers and employees; centralizing the records of clearances; consulting on security matters; and maintaining liaison with the relevant departments and agencies of the executive branch on security matters. It is my understanding that this Senate Security Office has been very successful, and I think the House could benefit from the same arrangement. I have introduced a bill, H.Res. 166 to this effect. I would emphasize that this legislation would not change the existing procedures in the House Intelligence, Foreign Affairs, Armed Services and Appropriations Committees.

#### **Committee Staff Ratios**

This is an unrelated issue, Mr. Chairman, but I would like to take this opportunity to advocate something that is of great concern to every House Republican: equitable committee staff ratios. In a March 30, 1993 letter to Chairman Hamilton and Vice Chairman Dreier, the House Republican leadership and Ranking Committee Members urged the JCOC to recommend that the Minority



Party in the House be given one-third of committee resources. This two-thirds, one-third ratio is used in the Senate, and I believe its realization in the House would enormously reduce the often acrimonious proceedings to which the House is subjected.

#### Conclusion

Mr. Chairman, let me conclude by emphasizing that now is the time for this joint committee to take a forward-looking and eminently responsible position on these matters. I urge the joint committee to carefully consider and perfect these valuable reform proposals and send them to the two houses for consideration. They will benefit the legislative process. They will enhance the reputation of Congress with the American people. They will enhance our capability to promote our national interests in an uncertain and dangerous world.

Thank you for your kind attention and interest.

Statement By Congressman Pat Roberts  
First District, Kansas  
Joint Committee on The  
Organization of Congress  
May 6, 1993

Thank you Mr. Chairman and my colleagues for this opportunity to appear as you continue your efforts to review and reform various aspects of our congressional operations. You have embarked upon a difficult but most pertinent and important task, one that requires time, effort and patience. I thank you and the citizens of my Big First District of Kansas thank you.

I come before you today to talk about three issues, all relating to the committee system, its structure, and the growth of bureaucracy on Capitol Hill. We all agree the system should be streamlined and simplified. The question is how?

Well, having served as a staffer in the Senate for two years, and in the House for 12 years and having the privilege of being a member of the House for seven terms now, I carry with me my personal biases, prejudices and hopefully plausible solutions.

My comments on committee structure concern jurisdiction: namely, that of the House Agriculture Committee, Joint Committee operations and reform, and finally Legislative Service Organizations--the many caucuses created through the years that represent an "unofficial committee structure" of the Congress.

#### **AGRICULTURE COMMITTEE JURISDICTION**

We all know committee jurisdictions are both confusing and endlessly overlapping. They must be simplified.

I have the privilege of being the ranking Republican member of the House Agriculture Committee. And, like many who will testify before you, the plea is similar to constituent mail, "cut spending, but not my program". Nevertheless, as you endeavor to reduce and restructure

the number of committees, let us do so fully cognizant of practical results and the law of unintended effects.

Critics who complain about American agriculture today do so with their mouths full. The Agriculture Committee represents an industry that provides our nation with almost 20% of our gross national product--a trillion dollars worth if you will, representing 21 million jobs and 17 percent of the workforce.

Every American farmer and rancher produces food and fiber for himself and for 128 of his fellow citizens. This allows the U.S. consumer to purchase the best quality food in the world at bargain price of only ten to twelve cents per income dollar, freeing up 88 cents to spend on housing, health care, education, etc. Simply put, the work of the House Agriculture Committee produces a farm and consumer program that feeds this country and a troubled and hungry world.

With \$43 billion in exports, American agriculture contributes to our trade balance and despite our critics, we continue to be stewards of our environment and soil. Today, we again see agriculture utilized as a tool for peace with regard to the former Soviet Union. In the 1900s the life span of our grandparents was 47 years, today that figure is 75.

Despite this unprecedented record of success, too many in our country and too many in this Congress take agriculture for granted. Last week, you heard from the distinguished Senator from Vermont, the Chairman of the Senate Agriculture Committee, who discussed the importance, unique perspective and ever-expanding agenda of the Agriculture Committees of this Congress--production agriculture to be sure but also food safety, our environment, nutrition, exports and our trade balance, food stamps and welfare. The list is almost endless.

My colleagues, it does not make sense that under the banner of reform, we simply consolidate and weaken the expertise and work product of committees that have unique responsibilities, especially when those responsibilities touch the lives of every American. My colleague from Kansas, Mr. Glickman, has suggested we merge the Agriculture Committee with Merchant Marine and Natural Resources. Considering the responsibilities and agenda of these three committees, farmers and ranchers would lose representation at the very time we are fighting for our survival. Critics may well state that our current committee system all too often resembles a three-ring circus but in our efforts to restructure and reform we should not take committees' important functions and put them into a one-ring circus and call that reform.

In the House, the Agriculture Committee is more of a family than a partisan body. I have the highest respect for the Chairman from Texas, Mr. de la Garza. We share our responsibilities and work hard to represent the agriculture families who contribute so much to our nation's well being. If the committee system is reduced, I want to stress the importance of maintaining the Agriculture Committees of the Congress and in so doing farmers and ranchers and rural and small town America.

#### **JOINT COMMITTEE STRUCTURE**

In recent weeks, many discussions have taken place regarding the future of the Joint Committees on Printing and Library. I served on both the JCP and JCL in the 102d Congress and have a unique perspective on their responsibilities and duties.

I note that the House Republican members for the 103d Congress still are to "officially" be appointed to these committees pending a future policy determination. I hope to remain a member of the both the JCP and JCL in the 103d Congress.

Some would suggest that simple elimination of these committees is appropriate (without fully reviewing the responsibilities and duties they currently perform). I believe such a policy, while positive in appearance, would be a long-term mistake. Careful review and consideration should occur prior to any policy being implemented.

Yes, I strongly support reform of the current joint committee structure. Its present structure has failed to achieve certain objectives. It should be fixed.

I would propose your committee investigate the creation of a single Joint Committee on Legislative Agencies and Operations. This committee could have oversight over all legislative agencies, including GAO, GPO, the Library of Congress, Office of Technology Assessment and the Architect of the Capitol. This structure would improve current congressional oversight within these agencies and facilitate communications between the House-Senate.

I realize this is a complex proposal and one that needs much more review and further development. I hope the committee can take the time to investigate the current system and review all viable options. I stand ready to be of every assistance.

#### LEGISLATIVE SERVICE ORGANIZATIONS

Now let's talk about LSOs and what I believe to be an obvious need for real reform. Since 1982, the House Administration Committee has appointed two task forces (I was a member of both), a separate subcommittee investigation and report and then another subcommittee review--all to reform the special interest caucuses we have authorized in the House called Legislative Service Organizations, or LSOs.

The first three issued official reports and recommendations citing the abuses and potential problems looming within the LSO structure. They all advocated change--primarily to place

LSOs and their employees under the same rules as the House--before the train jumped off the track. The last subcommittee review that began in the 102nd Congress has apparently continued into the 103rd Congress.

During last year's debate on the Legislative Branch Appropriations bill, I offered an amendment to prohibit the use of member's allowances to continue the funding of LSOs. My amendment failed on a voice vote. I did not call for a record vote in that my majority colleagues on the House Administration Committee agreed to include language to require the Government Accounting Office to recommend to the House Administration Committee financial management practices for LSOs to follow in the future.

I have just come from a GAO briefing for me and for Mr. Boehner of Ohio who is now ranking on the subcommittee of jurisdiction. The GAO work is continuing but in keeping with what we learned several months ago, there has been no audit of past practices, only study of future financial management practices.

My colleagues, the time for reform has passed. The train is not only off the track but there are cars missing. The accident waiting to happen has happened. During debate on my amendment on the House floor, various members representing LSOs suggested our receipt and expenditure figures for two years running was too narrow a picture.

Well, in keeping with the GAO briefing and my appearance before you today, and prior to consideration of the Legislative Branch Appropriations bill, my office has completed a 10-year review of the LSO quarterly financial reports filed with the Clerk of the House. The big picture is that House LSOs, with millions of dollars in federal tax dollars missing and unaccounted for, are an embarrassment to the Congress and a national disgrace that rivals last year's bank,

restaurant and post office scandals.

(Bar Chart) My independent 10-year review involves surprising and alarming figures. It shows that members of Congress have funneled more than \$34 million in tax funds on LSO operations. Those LSOs, in turn, report spending of \$26.8 million.

(Pie Chart) Look closely, now. Of the total dollars members of Congress have given to LSOs, \$7.7 million are absent. They have simply disappeared. One out of every five dollars is missing, unreported and unaccounted for. Where have all these funds gone? That is a good question without a good answer at the moment. At the very least, we should have an outside audit and accounting of what has happened to these funds. Then we need to consider what steps can be taken to respond to this crisis.

First, let me explain that the financial statistics I am presenting the committee are solely based on receipts and disbursements and the sum totals of the same listed by LSO's from January 1, 1983 to December 31, of last year within the quarterly reports filed with the Clerk of the House. Second, I have drawn these numbers from the grand total receipts and grand total disbursement reporting sections from the reports (See Form Chart.) Because some LSOs have not filed some quarterly reports, our figures are conservative at best.

(Summary chart) This is a 10-year summary of receipts and expenditures for each LSO. Where are these funds? No matter the answer, there is a serious problem.

One possible answer might be that LSOs are capable of creating budgetary cushions or carryover funds. Such surpluses are often created by LSOs to guarantee their future, but the practice is not allowed in member or committee offices. My colleagues, during a time of severe budgetary restraint and at a time when the new House Administrator may well tell Members they

will have to cut back on their official allowances, we should at the very least put an end to this policy. It would be ironic to say the least for Members to be told that during this session they must cut back their office operations by 10 percent only to find that part of what they contributed to a particular LSO or caucus has been socked away in a bank!

A second answer might be bookkeeping errors and unreported spending--a situation that directly highlights the lack of oversight. In looking over the spreadsheets, sloppy recordkeeping is the norm and no one is watching LSO spending. Unlike congressional offices and committees, the spending of LSOs is not reviewed, monitored or regulated by either the House Finance Office or House Administration Committee. Basically, the LSOs have their own bank accounts comprised of taxpayer funds and their own checkbooks and they are free to spend it any way they like. That is a system waiting for a scandal to happen -- and it may have.

That leads us to the third possible option--misspent, or worse, funds diverted to other uses. Without a proper, full accounting of all of these organizations and the way they have spent this tax money, we will never know. We cannot afford to bury this issue a day longer.

There is a serious problem here if the money is socked away in LSO bank accounts. There is a serious problem here if it's simply sloppy bookkeeping. There is a serious problem here if the money has been spent on items the LSOs did not want to report. There is a serious problem here if the money was diverted to other, unknown, or private uses.

My colleagues, I do not intend to perjure or single out any LSO or their purpose. I want to stress that some of these caucuses obviously do well-intentioned work and provide special interest focus and research. And, I especially want to thank some of the LSOs for their interest in providing better reporting and full disclosure. My comments and suggestions are not wrapped



in a blanket of blame.

However, these organizations further diffuse an already fractured subcommittee and committee structure. They take valuable office space. They do not serve a true legislative purpose on Capitol Hill. Are the additional employees working for LSOs truly needed? Why cannot these groups survive off Capitol Hill without the use of taxpayer funds?

The truth is that many LSOs have become social organizations using taxpayer funds for receptions, dinners, entertainment and travel. What is the legislative purpose of such expenditures?

The House earlier this year eliminated four select committees citing the limited resources we have available and the lack of legislative authority of these groups. Every criticism of the "Selects" can easily be applied to every LSO.

My colleagues, the time for reform has passed. We have tried for more than 10 years to fix the current structure. Last year, during debate on the floor, I warned that current practices by LSOs represented a scandal waiting to happen. Now, a 10-year compilation of LSO receipts and expenditures show \$7.7 million missing and some very questionable spending. I will have more to say about specific spending practices later. The time has come to do the LSO's, the American taxpayer and ourselves a favor. If their work is vital and has public support, that work will doubtlessly continue but it should continue without the use of taxpayer funds and it should be done off Capitol Hill.

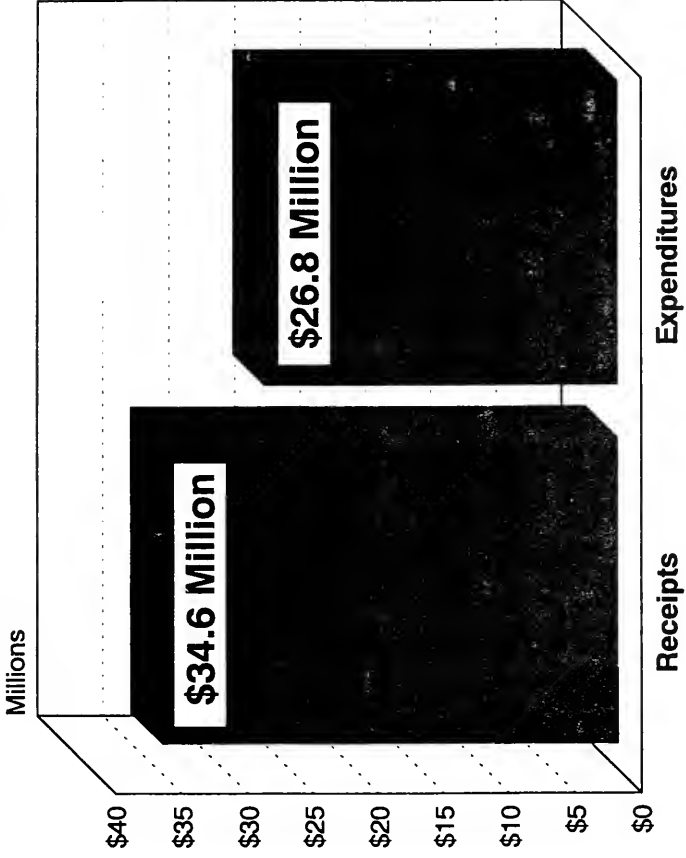
I appreciate your indulgence and will try to answer any questions you may have.

## Summary LSO Receipts & Expenses: 1983 - 1992

NAME	Receipts	Expenditures	Total Net	Percent Unaccounted
Arms Control and Foreign Policy	\$1,107,307	\$737,994	\$369,313	33.35%
Arts Caucus	1,419,102	1,053,071	366,031	25.79%
Automotive Caucus	28,700	6,343	22,357	77.90%
Black Caucus	1,541,439	1,025,728	515,711	33.46%
Border Caucus	12,500	2,184	10,316	82.53%
California Democratic Delegation	771,819	748,712	23,107	2.99%
Clearinghouse on the Future*	822,692	620,630	202,062	24.56%
Democratic Study Group	10,263,523	8,952,382	1,311,141	12.77%
Environmental Study Conference	3,567,047	3,226,927	340,120	9.54%
Export Task Force	415,139	318,090	97,049	23.38%
Federal Gov. Service Task Force	779,994	372,412	407,582	52.25%
Hispanic Caucus	1,036,264	714,326	321,938	31.07%
House Wednesday Group	1,599,910	1,476,601	123,309	7.71%
Human Rights Caucus	642,339	532,286	110,053	17.13%
Long Island Congressional Caucus	0	0	0	0.00%
Military Reform Caucus*				0.00%
New York State Delegation	95,847	51,177	44,670	46.61%
98th Democratic Caucus	46,420	36,693	9,727	20.95%
Northeast-Midwest Coalition	1,771,989	1,804,106	(32,117)	-1.81%
Penn. Delegation Steering Cmte.	246,166	61,700	184,466	74.94%
Populist Caucus	12,600	1,419	11,181	88.74%
Republican Study Committee	4,763,629	2,577,766	2,185,863	45.89%
Rural Caucus*	259,576	254,393	5,183	2.00%
Science and Technology Caucus*	95,564	62,761	32,803	34.33%
Space Caucus	0	0	0	0.00%
Steel Caucus*	538,988	111,926	427,062	79.23%
Sunbelt Caucus*	832,676	575,547	257,129	30.88%
Territorial Caucus*	109,014	71,213	37,801	34.68%
Textile Caucus	158,566	113,106	45,460	28.67%
Travel and Tourism Caucus	685,227	519,090	166,137	24.25%
Women's Issues	1,021,157	857,218	163,939	16.05%
<b>TOTAL</b>	<b>\$34,645,194</b>	<b>\$26,885,801</b>	<b>\$7,759,393</b>	<b>22.40%</b>

\* Significant Number of Reports Not Filed

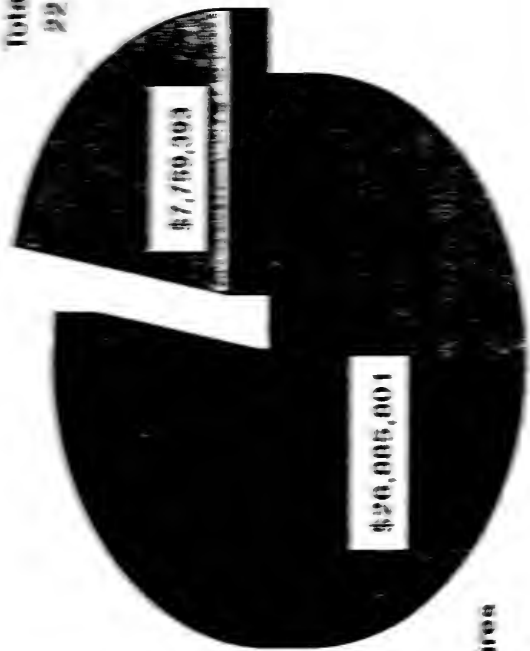
# Legislative Service Organizations 10-Year Reported Funding



# Legislative Service Organizations 10-Year Reported Funding

Total = \$34,645,194

Total Net  
22.4%



Expenditures  
77.6%



Name of Organization \_\_\_\_\_  
 Business Address \_\_\_\_\_  
 Officers of Organization \_\_\_\_\_  
 \_\_\_\_\_  
 Number of Members of the Organization \_\_\_\_\_

**Office of the Clerk**  
**Legislative Service Organizations**  
**Quarterly Report**

Due Not Later Than 30 Days After the Close of the Reporting Period

Period Covered: \_\_\_\_\_ Through \_\_\_\_\_

**RECEIPTS**

Total Receipts from Clerk Hire \_\_\_\_\_ \$ \_\_\_\_\_  
 Total Receipts from Dues \_\_\_\_\_ \$ \_\_\_\_\_  
 Total Receipts from Other Source\* \_\_\_\_\_ \$ \_\_\_\_\_  
 \*Specify source \_\_\_\_\_ \$ \_\_\_\_\_  
 Grand Total for the Quarter \_\_\_\_\_ \$ \_\_\_\_\_

(USE SCHEDULE A FOR ITEMIZATION OF RECEIPTS AGGREGATING IN EXCESS OF \$200 DURING THE QUARTER)

**DISBURSEMENTS**

Grand Total for the Quarter \_\_\_\_\_ \$ \_\_\_\_\_

(USE SCHEDULE B FOR ITEMIZATION OF DISBURSEMENTS AGGREGATING IN EXCESS OF \$200 DURING THE QUARTER)

**EMPLOYEE INFORMATION**

NAME	BUSINESS ADDRESS	JOB TITLE	TOTAL COMPENSATION DURING QUARTER	DATES OF EMPLOYMENT
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

ADDITIONAL INFORMATION REQUIRED ON REVERSE SIDE

**Legislative Service Organizations**  
**Quarterly Report**

INTERNS, FELLOWS OR VOLUNTEERS		GENERAL DESCRIPTION OF LEGISLATIVE SERVICES OR OTHER ASSISTANCE PROVIDED BY THE LEGISLATIVE SERVICE ORGANIZATION TO ITS MEMBERS DURING THE QUARTER
Name	Sponsor	
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

REPORTS, ANALYSES OR OTHER MATERIAL PROVIDED TO MEMBERS DURING QUARTER WHICH WERE PROVIDED IN WHOLE OR IN PART BY PERSONS OTHER THAN PERSONS EMPLOYED BY SAID LEGISLATIVE SERVICE ORGANIZATION

Report, Analysis or Other Material	Person and/or Entity Which Provided Such Assistance
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

1. Attach Schedules A and B, if applicable.
2. Use additional sheets, if necessary.
3. Attach a copy of your membership statement filed with the Committee on House Administration of establishment on or by May 1 of each year to member.

Signed: \_\_\_\_\_ (Chairman)

Date: \_\_\_\_\_, 19 \_\_\_\_\_

PLEASE RETURN ALL FORMS TO:  
 The Clerk, U.S. House of Representatives  
 Office of Records and Programs  
 1000 Longworth House Office Building  
 Washington, D.C. 20518

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# LEGISLATIVE SERVICE ORGANIZATIONS

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## REPORT

OF THE

AD HOC SUBCOMMITTEE ON LEGISLATIVE  
SERVICE ORGANIZATIONS

OF THE

COMMITTEE ON HOUSE ADMINISTRATION  
HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

SECOND SESSION

RELATING TO THE LEGISLATIVE SERVICE ORGANIZATIONS  
AND APPLICABLE REGULATIONS

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JUNE 24, 1982

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Printed for the use of the Committee on House Administration



## INTRODUCTION

The Committee on House Administration, at its meeting of September 22, 1981, established an Ad hoc Subcommittee on Legislative Service Organizations. The Honorable William R. Ratchford of Connecticut was designated Chairman; the Honorable Al Swift of Washington and the Honorable Gary A. Lee of New York were appointed to serve on the Ad hoc Subcommittee.

The Ad hoc Subcommittee was assigned the jurisdiction to study the regulations governing the conduct of legislative service organizations, the applicability of the Rules of the House of Representatives to their operation, and the scope of their financial activities.

The Chairman of the Committee on House Administration, the Honorable Augustus F. Hawkins, instructed the Ad hoc Subcommittee to conduct such investigations and studies as it deemed necessary, and to report back, with recommendations, to the Committee within thirty days.

### LEGISLATIVE SERVICE ORGANIZATIONS: DEFINITION AND BACKGROUND

The term 'legislative service organization' refers to a particular category of informal groups, or caucuses, of the House of Representatives. In regulations adopted by the Committee on House Administration in 1979, a legislative service organization was defined as "any organization, committee, commission, coalition caucus, or similar group consisting in whole or in part of Members of the House, designed primarily to provide legislative services and assistance to members of such organization, which has no official status under the Rules of the House or of the majority or minority caucuses, but receives, directly or indirectly, support from the House of Representatives . . ."

Prior to 1970, there existed only three caucuses, or informal groups, organized to provide legislative support: the Democratic Study Group, the House Wednesday Group, and the Members of Congress for Peace through Law. Recent years, however, have witnessed a proliferation in the number of caucuses reflecting ideological, regional, industrial, economic, or other specific issue concerns.

Some of the caucuses are quite informally structured—i.e., associations of Members with no personnel, no office space, and no funding of any kind. In contrast, other groups employ staff, prepare and distribute legislative analyses on a regular basis, and occupy permanent facilities; their activities being financed by a mix of congressional funds and outside monies. The caucuses which meet the criteria specified in the 1979 regulations of the Committee on House Administration have been classified as legislative service organizations. As of September 22, 1981, the date of



which the Ad hoc Subcommittee was established, twenty-six groups had been so classified.

Legislative service organizations offer Members a forum to address shared legislative goals. However, the operation of such organizations has not been without criticism. Questions have arisen concerning their funding practices, while the ambiguity of their status within the House has prompted demands for clarification.

#### COMMISSION ON ADMINISTRATIVE REVIEW

The first attempt to define the parameters of informal groups or caucuses was undertaken by the Commission on Administrative Review in 1977. As an outgrowth of the Commission's study of the administrative structure of the House of Representatives, a series of proposals relating to these groups was incorporated in House Resolution 766.

The primary goal of the Commission's recommendations was to institute accountability for the spending of public monies by those caucuses receiving House funds. Accordingly, as recommended, any caucus of Members using publicly financed resources of the House of Representatives or of its Members (for example, clerk hire, office space, or equipment)—and which also receives financial assistance or in-kind support from sources outside the House—would be required to file an annual report with the Committee on House Administration. Among other information, this report was to include a listing of all receipts and disbursements aggregating \$100 or more during the year and the names of all employees.

Further, the recommendation provided that a caucus which met certain criteria could request certification as a "legislative service organization". As a condition of receiving certification, such groups would be prohibited from receiving monetary or in-kind contributions from sources outside the House of Representatives. Groups designated as "legislative service organizations" would be permitted to establish clerk hire accounts under the supervision of the chief financial officer of the House of Representatives. Members would be allowed to allocate a portion of their clerk hire allowance to such accounts from which the staff employed by the "legislative service organization" would be compensated. The intent was to foster greater stability and effectiveness in the office operations of both Members and the affected caucuses.

However, as the rule providing for the consideration of House Resolution 766 was defeated on the floor on October 12, 1977, the Commission's package of recommendations was never formally considered by the full House.

#### SELECT COMMITTEE ON ETHICS

Established on March 9, 1977 to implement the new financial ethics code adopted by the House of Representatives, the Select Committee on Ethics was directed to provide guidelines and interpretations concerning House Rules XLIII through XLVIII.

In its final report (H. Rept. 95-1887), issued on January 3, 1979, the Select Committee addressed the question of the receipt of funds by caucuses from outside sources. The Committee expressed the view that caucuses were exempt from the language in Rule XLIV which prohibited the establishment of unofficial office accounts;

The prohibition of unofficial office accounts does not apply to informal groups of Members, such as the Democratic Study Group, Congressional Black Caucus, Environmental Caucus, and similar ad hoc caucuses which customarily raise private contributions to supplement a Member's official salary. However, Members could not form a "paper caucus" in order to circumvent this rule by raising funds for their own official purposes.

With regard to Rule XLIII, the report failed to clarify whether clause 4 (prohibiting gifts to Members, officers, or employees of the House of Representatives aggregating \$100 or more in value in any calendar year, directly or indirectly, from any person having a direct interest in legislation before the Congress) or clause 7 (requiring the proceeds of fund-raising events to be treated as campaign contributions) were applicable to the caucuses.

In an advisory opinion of April 4, 1979, the Committee on Standards of Official Conduct determined that the caucuses on Standards of Official Conduct clause 11, which prohibited a Member of the House from authorizing or allowing a non-House individual, group, or organization to use the words "Congress of the United States," "House of Representatives," or "Official Business," or any combination thereof on any letterhead or envelope. As stated in the advisory opinion:

Members nor would (the prohibition of clause 11) apply to the various informal organizations, or caucuses composed solely of Members of Congress. These ad hoc Member groups, which are quasi-official in nature, would not be considered "non-House organizations" for purposes of Rule XLIII, clause 11.

#### COMMITTEE ON HOUSE ADMINISTRATION: 1979 REGULATIONS

On July 18, 1979, the Committee on House Administration, acting on the recommendation of the Subcommittee on Accounts, promulgated the first regulations governing the conduct of informal groups. The committee order only applied, however, to certain groups, those designated as "legislative service organizations".

As defined, a legislative service organization was "any organization, committee, commission, coalition, caucus, or similar group consisting in whole or in part of Members of the House, designed primarily to provide legislative services and assistance to the members of such organization, which has no official status under the Rules of the House or of the majority or minority caucuses, but receives, directly or indirectly, support from the House of Representatives and such support shall include, but not be limited to, disbursements from a Member's Clerk Hire Allowance or Allowance for Official Expenses, office space controlled by the House Office Building Commission, or furniture, supplies, or equipment."

Pursuant to the committee order, a legislative service organization was required to submit a semi-annual report to the Clerk of the House (commencing with the period January 1-June 30, 1980) including, among other information, a listing of officers and employees, a summary of funds received and disbursed during the reporting period, and an itemization of all receipts and disbursements of \$1,000 or more in the aggregate. Additionally, the regulations required that the Chairman or senior House Member of each legislative service organization certify as to the amount of employee salaries, the physical location of each employee, and the regular performance of official duties.

The Chairmen or representatives of eight legislative service organizations testified at the hearing while four others submitted statements for the record.

Testimony was also presented by three individual Members of Congress. Representative Bethune expressed his concern that, with formalized caucuses, certain special interests were able to secure a favored position in the legislative process; he proposed that caucuses, with the exception of the Democratic Caucus and Republican Conference, be denied all funding from congressional, as well as from outside sources. Minority Leader Michel outlined certain negative institutional effects resulting from the proliferation of caucuses; he noted that such caucuses often compete with and, at times, supplant the formal leadership and the committee structure. Representative Bill Frenzel, ranking minority member of the Committee on House Administration, endorsed the need for immediate revision and recommended that groups wishing to retain LSO status and residency on the Hill should only be allowed to receive financial support from congressional allowances and Members' dues, and not from outside sources.

Also testifying were representatives of the Better Government Association. Their statement expressed the belief that certain fund-raising activities employed by some of the legislative service organizations contravened the spirit and intent of the rules of the House of Representatives. However, the Better Government Association concluded that there was no indication or suggestion that any of the legislative service organizations had engaged in other activities which were inappropriate. Indeed, this fact was repeatedly stressed throughout the Ad hoc Subcommittee's deliberation. Beyond the criticisms directed at the fund-raising activities of certain LSO's, there did not appear to be any indication that legislative service organizations had misused their financial resources. Yet there was general agreement that LSO fund-raising created an appearance of impropriety and the potential for improper conduct. The hearing concluded with testimony by Representative Louis Stokes, Chairman of the Committee on Standards of Official Conduct. Chairman Stokes focused on the issue of the applicability of the Rules of the House of Representatives to such groups. He stated the principle that whatever conduct Members are prohibited from engaging in as individuals, they should also be prohibited from engaging in collectively. Therefore, in his judgment, legislative service organizations should likewise be obligated to comply with the prescriptions incorporated in the Rules of the House. Subsequent to the hearing, the Ad hoc Subcommittee met to review the proposals submitted. Four issues were central to the Ad hoc Subcommittee's deliberation: the imposition of limits on outside funding, the adoption of new disclosure requirements, the nexus between legislative service organizations and related non-profit institutes, and the establishment of effective dates.

*Outside Funding.*—That legislative service organizations had actively pursued funding from non-congressional sources was a catalyst for the creation of the Ad hoc Subcommittee and the re-evaluation of the current regulations. In 1990 alone, as the Better Government Association documented, legislative service organizations raised over one million dollars from corporations, private

Following the adoption of these regulations, the Committee on Standards of Official Conduct and the Committee on House Administration continued, through an exchange of correspondence, to examine the questions associated with legislative service organizations.

In early 1981, Chairman Augustus F. Hawkins of the Committee on House Administration directed committee staff to undertake a study of legislative service organizations and to evaluate the regulations governing their conduct. In response to the Chairman's request, the committee staff prepared a draft proposal which was circulated, on September 11, 1981, to the legislative service organizations for comment. During this same period, several investigative reports by the media analyzed the legislative influence and detailed the financial activities of a number of legislative service organizations. Also, at this time, the Better Government Association initiated a study on legislative service organizations—and, on September 18, transmitted its findings in a memorandum to the Chairman of the Committee on House Administration. In this memorandum, the Better Government Association delineated the problems which it believed these organizations posed with respect to the ethics provisions in the Rules of the House.

#### AD HOC SUBCOMMITTEE ON LEGISLATIVE SERVICE ORGANIZATIONS

On September 22, 1981, the Committee on House Administration established the Ad hoc Subcommittee on Legislative Service Organizations. In proposing the creation of an Ad hoc Subcommittee, Chairman Augustus F. Hawkins outlined certain problems relating to legislative service organizations which had been brought to the attention of the Committee. Specifically, these involved whether legislative service organizations were in compliance with the Rules of the House of Representatives, and additionally, whether a limitation or prohibition should be imposed on the receipt of outside money by these organizations.

The Ad hoc Subcommittee's organizational meeting of September 23, 1981 represented the first in a series of Subcommittee sessions held to evaluate and discuss possible revisions to the regulations applicable to the legislative service organizations. Although there was a consensus that the existing guidelines were inadequate, the Ad hoc Subcommittee confronted numerous, often conflicting, suggestions for reform which had been advanced by legislative service organizations, individual Members, and outside-groups. The Ad hoc Subcommittee directed its efforts to ensure that the recommendations approved would be well-integrated and equitable, and that all possible consequences would be fully explored prior to their adoption and implementation. As noted, the Ad hoc Subcommittee had been directed by the full Committee to complete its task within a thirty day period.

On October 1, the Ad hoc Subcommittee conducted a hearing to review the present status of legislative service organizations and to solicit opinions on the various reforms proposed. Prior to the hearing, a detailed list of questions had been transmitted to each legislative service organization—covering such areas as funding sources, disclosure requirements, affiliated institutes, and services offered.

appear to constitute outside support. However, in its redraft of the regulations, the Ad hoc Subcommittee decided not to allow reimbursement for subscription postage cost, with the understanding that the postage cost issue would be reevaluated at the Subcommittee's final markup.

A few legislative service organizations, due to the success of their outside fund-raising activities, had accumulated budget surpluses. As these funds had been raised in accordance with the then existing regulations, the Ad hoc Subcommittee determined that such legislative service organizations would be permitted to draw down on these balances in the normal course of their operations.

The Ad hoc Subcommittee also considered allowing the legislative service organizations to receive certain types of in-kind assistance from sources other than Congress or its Members. It was agreed that legislative service organizations should be free to take advantage of educational intern, fellowship, or volunteer programs on the identical terms and conditions applicable to Members and Committees of the House, i.e., programs which are "primarily of educational benefit to the participating interns, fellows, or volunteers". However, in accordance with the prohibition on outside funding, the Ad hoc Subcommittee forbade legislative service organizations from raising, receiving, or disbursing any private contributions for such programs.

Further, legislative service organizations would be permitted (as are individual Members) to distribute reports or research material prepared, in whole or in part, by outside groups or individuals. The Subcommittee stipulated, however, that the source of any such material must be clearly identified thereon.

Finally, the Subcommittee specified that if any present legislative service organization or any other group organized for a legislative purpose was unable to comply with the regulations, it would not be allowed to occupy space under the control of the House of Representatives and would not be permitted to receive any support from the House, or from individual Members through their congressional allowances.

*Disclosure.*—Under the existing regulations, adopted in 1979, legislative service organizations were required to file semi-annual disclosure statements providing limited information on finances and employees.

The Ad hoc Subcommittee concluded that the six month reporting period was not sufficiently timely and adopted a quarterly filing requirement, thereby conforming legislative service organization disclosure reports to the timeframe utilized by the Clerk in publishing the *Report of the Clerk of the House* on the financial activities of Member, leadership, and committee offices.

The Ad hoc Subcommittee further revised the reporting format to provide more adequate public disclosure, requiring itemization of all disbursements; salary data on legislative service organization employees; name and sponsor of all interns, fellows, and volunteers; and information on all reports and analyses distributed by the legislative service organization to Members of Congress which had been prepared in whole, or in part, by individuals other than those employed by the legislative service organization.

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individuals, labor unions, and other outside sources. It should be noted that outside fund-raising was not a universal practice; certain legislative service organizations had elected to restrict their support solely to funds derived from congressional allowances.

The Ad hoc Subcommittee recognized the fact that several legislative service organizations were substantially dependent on outside funds. Indeed, there was a serious concern that caucuses which were limited by their very nature (such as the Congressional Black Caucus or the Congressional Hispanic Caucus) might be incapable of sustaining their activities if a blanket prohibition on outside funding were imposed. During the hearing and in communications to the Ad hoc Subcommittee, recommendations were suggested to permit some degree of outside funding—for example, by allowing outside funding up to a certain specified percentage of the annual income or expenses of a legislative service organization, or by imposing a limit on the amount of funds which could be received from any one source.

Yet a dependency on any amount of outside funding was, to many observers, a marked departure from an adherence to the spirit and strict interpretation of the Rules of the House. Pursuant to the ethics reforms adopted in 1977, Members were prohibited from intermingling public and private funds through the artifice of "unofficial office accounts" in the operation of their personal offices. The Ad hoc Subcommittee affirmed that Members should not be allowed to do collectively—through a legislative service organization—that the Rules of the House prohibited Members from doing individually. The standards set forth in the Rules of the House, the Ad hoc Subcommittee advocated, should be viewed as all-encompassing and should equally apply to the legislative service organizations. With that judgment, the Ad hoc Subcommittee endorsed a ban on outside funding with the exception that Members would be allowed to pay dues or assessments to the legislative service organizations from their personal funds.

During the discussion on outside funding, the Ad hoc Subcommittee also considered the merits of allowing an exception relating to publication income. Several of the caucuses published newsletters and legislative analyses which had attracted numerous non-congressional subscribers. There appeared to the Ad hoc Subcommittee, a recognizable and justifiable distinction between monies obtained through general fund-raising and monies received from subscription payments. However, the subscription issue founded on the question of what constituted an acceptable basis for determining subscription charges—whether legislative service organizations should be allowed to recoup the "direct cost" of their publications or whether they should merely be allowed to offset the "postage cost". Recommendations defining "direct cost", as submitted to the Ad hoc Subcommittee, ranged from covering the expenses for supplies, printing and postage, to encompassing the salaries of employees responsible for production. The Ad hoc Subcommittee rejected the "direct cost" concept due to definitional problems and the realization that its application would be inconsistent with the effort to maintain an aggregation between public and private monies. On the other hand, "postage cost" reimbursement, which would not produce any net gain or profit for the LSO, did not

*Effective Dates.*—The Ad hoc Subcommittee determined that the revisions to the regulations should be implemented as soon as practicable. Three alternative dates were discussed at length: January 1, 1982; July 1, 1982; and January 1, 1983. As previously noted, despite the criticisms stemming from the outside funding of legislative service organizations, no hint of any impropriety had surfaced during the Ad hoc Subcommittee's review. An immediate adoption of the proposed changes was therefore perceived unnecessary; a transition period whereby legislative service organizations could accommodate their operations to the new guidelines seemed appropriate.

The Ad hoc Subcommittee agreed that legislative service organizations should be allowed to function under the existing regulations basically for the remainder of the 97th Congress—and adopted an effective date of January 1, 1983.

*Institutes.*—In recent years, several legislative service organizations—including the Congressional Black Caucus, the Congressional Clearinghouse on the Future, the Congresswomen's Caucus, the Members of Congress for Peace through Law, the Northeast-Midwest Congressional Coalition, the New England Congressional Caucus, and the Congressional Arts Caucus—had established affiliated, non-profit research institutes or foundations which provided various services and/or in-kind assistance to the parent caucus.

The Ad hoc Subcommittee recognized that, potentially, the relationships between legislative service organizations and the institutes might effectively thwart any reforms approved. As the Ad hoc Subcommittee's jurisdiction did not extend to the activities of these institutes and foundations, the panel decided to recommend to the full Committee that the legislative service organization-institute nexus be the focus of vigorous and ongoing oversight.

#### AD HOC SUBCOMMITTEE MARKUP

On October 7th, the Ad hoc Subcommittee circulated the revised draft of proposed changes to the twenty-six legislative service organizations. The overall thrust was embodied in the preamble which set forth the principle that legislative service organizations were groupings of Members pooling their resources to pursue a common legislative goal. The organizations were to be considered extensions of Members' individual offices and bound, generally, by the rules and regulations which apply to congressional allowances. Specific criteria were enumerated in the regulations with which groups must comply in order to be designated as legislative service organizations.

On October 15th, the Ad hoc Subcommittee met to review the comments received, to consider amendments to the draft proposal, and to report a final recommendation to the full Committee. As stated by Subcommittee Chairman Ratchford at the meeting:

These recommendations accept the fact that over the past decade there has been an intense growth of the caucus phenomenon in Congress, accept the fact that these groups do provide services to the Members. . . but accept the fact also that they present a conflict as far as their relationship to Members of Congress, the Congress as an institution, to our rules, regulations and specifically to our standards of official conduct.

Chairman Ratchford further noted that the draft proposal sought to distinguish between public funds provided through clerk hire accounts or official expense allowances and those funds contributed or received from private sources, to stipulate a period during which the new guidelines would be implemented, and to establish detailed and appropriate reporting requirements.

During the Ad hoc Subcommittee meeting, several amendments were considered, including:

*Reporting Threshold.*—The language in the October 7th draft required that legislative service organizations fully disclose each disbursement made. However, two groups—the Republican Study Committee and the Democratic Study Group—recommended, in response to the draft, that a minimum reporting threshold be established. Such a modification, it was perceived, would avoid the imposition of unduly burdensome and unnecessary reporting requirements.

For the quarterly reporting periods, the Democratic Study Group had suggested a \$300 threshold; the Republican Study Committee had advanced a threshold of "in excess of \$100 in the aggregate during the quarter." The Ad hoc Subcommittee judged that a threshold parallel to that required in the Federal Election Campaign Act of 1971—i.e. "in excess of \$200"—would be appropriate. An amendment was approved incorporating language requiring that only those disbursements to a single source, which aggregate in excess of \$200 during the reporting period, be disclosed.

*Effective Date—Reporting Requirements.*—Although the draft designated an effective date of January 1, 1983, the Ad hoc Subcommittee debated the merits of stipulating an earlier date for the quarterly report provision. The Ad hoc Subcommittee anticipated that an earlier date would not disrupt LSO activities, but would prove beneficial in ensuring more adequate and responsive public disclosure. Consequently, an amendment was approved which established a two-tiered effective date—January 1, 1982 for the reporting requirements and January 1, 1983 for the remainder of the regulation package.

In addition, the Ad hoc Subcommittee approved an amendment that, for the period January 1, 1982 through January 1, 1983, legislative service organizations would be required to report the receipt of funds aggregating in excess of \$200 from a single source during the reporting period, except for clerk hire.

The Ad hoc Subcommittee also reaffirmed that legislative service organizations established after the adoption of new regulations by the full Committee on House Administration would be obligated to comply immediately with the new regulations, and not be accorded any grace or transition period.

*Caucus Appropriation for Administrative Costs.*—The Northeast-Midwest Congressional Coalition had proposed that, in conjunction with the new regulations, the Ad hoc Subcommittee recommend that an appropriation be provided to eligible caucuses for administrative support. The Ad hoc Subcommittee expressed the view that this approach entailed significant changes to institutional arrangements and, subsequently, tabbed the proposal.

*Interest/Income on Dues.*—The draft regulations prohibited legislative service organizations from depositing dues or other contributions

By voice vote, the Committee approved an amendment by Representative Frenzel to assure that the Committee on House Administration retained the authority to determine whether a caucus met the criteria specified for status as a legislative service organization.

By voice vote the Committee approved the regulations as amended. On recommendation of the Chairman of the full Committee, Mr. Hawkins, the charter of the Ad hoc Subcommittee was extended for the remainder of the 97th Congress. The Ad hoc Subcommittee was assigned the responsibility of overseeing the implementation of the regulations and monitoring compliance.

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ments from its Members in interest bearing accounts. As individual Members are precluded from drawing on their official allowances and depositing them in interest bearing accounts, the Ad hoc Subcommittee believed that an identical standard should be applied to the legislative service organizations.

**Subscription Fees.**—As indicated, the October 7th draft did not incorporate any exemption allowing legislative service organizations to recover the postage cost of mailing newsletters and legislative reports to non-congressional subscribers. The Ad hoc Subcommittee, during final markup, reaffirmed this position rejecting any exemption for postage costs.

Subsequent to the adoption of several technical amendments, a motion to approve the regulations, as amended, was offered by Representative Swift, seconded by Representative Lee, and approved by voice vote. Permission to file additional views was granted to both Representatives Lee and Swift.

#### FULL COMMITTEE CONSIDERATION

On October 21st, the full Committee on House Administration considered the recommendations reported by the Ad hoc Subcommittee Legislative Service Organizations and several amendments thereto.

Representative Lee offered an amendment in the nature of a substitute to deny legislative service organizations and all other caucuses funding and support from congressional as well as from outside sources. The two formal party structures—the Republican Conference and the Democratic Caucus, and their subunits—would be exempted from this prohibition. Although Representative Lee stated his belief that the Ad hoc Subcommittee's recommendation represented beneficial reforms, in his judgment, these refinements alone were insufficient to address the institutional concerns associated with the growth of legislative service organizations and their competition with the committee and leadership structures. On a voice vote, the Committee defeated the amendment.

Representative Swift offered an amendment requiring those groups which intended to seek certification as a legislative service organization pursuant to the new regulations to make an "irrevocable election" to the Committee on House Administration by January 1, 1982. Organizations making such an election would be required to relinquish all outside support as of that date, with the sole exception of subscription income from ongoing publications. Receipt of subscription income would be permitted through December 31, 1982. An amendment by Representative Frenzel to strike the exemption for subscription income was defeated by a division of 6-7. Subsequently, the Swift amendment was approved by voice vote.<sup>1</sup>

<sup>1</sup>In response to a letter from Chairman Hawkins, twenty-five of the twenty-six organizations classified as legislative service organizations under the regulations in House Report No. 100-1022, 21, 1981, indicated their intention to make an irrevocable election to the Committee on House Administration. The remaining organization was notified that it was required to terminate any outside support as of January 1, 1982, except for subscription income from ongoing publications. Only the Congressional Hispanic Caucus, located in House space, and consequently, the only legislative service organization not located in House space, did not voluntarily support received from congressional allowances by January 1, 1983. Since the adoption of the new regulations, five new legislative service organizations have been established—Congressional Caucus, St. Stanislaus, National Hispanic Caucus, National Hispanic Educational Council, and National Hispanic Caucus for Community Development. The National Hispanic Educational Council was established November 1981, and the National Hispanic Caucus for Community Development was established November 1981.

REGULATIONS ADOPTED BY THE COMMITTEE ON HOUSE ADMINISTRATION ON OCTOBER 21, 1981

LEGISLATIVE SERVICE ORGANIZATIONS

A Legislative Service Organization is a grouping of Members who pool resources to pursue a common legislative goal. The organization thus formed operates as an extension of their individual offices, and coordinates their efforts for reasons of efficiency and effectiveness. Since such organizations are extensions of Members' offices, the staff may be paid from the Clerk Hire Allowance and administrative costs may be paid in the form of dues or assessments from the Allowance for Official Expenses. Members are allowed to pay dues or assessments from personal funds or their Allowances for Official Expenses to insure a dependable resource to pay fluctuating administrative costs, the management of which would otherwise be burdensome to the membership.

1. For purposes of this regulation a Legislative Service Organization is defined as any congressional caucus, committee, coalition or similar group which—

- (a) Consists solely of Members of the House or Members of the House and Senate;
  - (b) Is operated solely to provide legislative services or other assistance to the Members thereof in the performance of their official duties;
  - (c) Receives support from Members of Congress via their allowances, or from the House itself in the form of office space, furniture, furnishings, telephone service, etc.;
  - (d) Receives no income or contributions, either in cash or in kind, from any source other than the Congress or its Members, except as noted in paragraphs 3 and 8;
  - (e) Is neither incorporated nor holds a separate tax-exempt status under the Internal Revenue code;
  - (f) Is sponsored by 30 Members of the House or two-thirds of the organization's total membership, whichever is less, who shall attest, in a statement filed with the Committee on House Administration at establishment and by May 1 of each even-numbered year thereafter, that the organization is to provide bona fide legislative services or assistance which supports them in the performance of their official duties.
2. Any organization which the Committee on House Administration determines meets the criteria set forth in paragraph 1 shall be granted status as a Legislative Service Organization by the Committee on House Administration and shall comply with all applicable regulations and House Rules.
3. Legislative Service Organizations may take advantage of educational intern, fellowship or volunteer programs when the programs are primarily of educational benefit to the participating interns, fellows or volunteers. However, the Legislative Service

(c) Total disbursements for the quarter plus a listing of the recipient, purpose and amount of all disbursements in excess of \$200 in the aggregate during the quarter;

(d) A listing of the name, business address, and job title of all persons employed by the organization, their total compensation during the quarter and the dates of their employment;

(e) Name and sponsor of all interns, fellows or volunteers associated with the Legislative Service Organization under the provision of paragraph 3 of these regulations;

(f) A general description of the legislative services or other assistance which the Legislative Service Organization provided to its members during the quarter;

(g) A listing of all reports, analyses or other material provided to members during the quarter which were prepared in whole or in part by persons other than persons employed by said Legislative Service Organization, and the identity of the person and/or entity which provided such assistance; and

(h) A copy of the sponsorship statement required by subparagraph 1(f).

10. This regulation shall not apply to informal pool arrangements whereby Members share staff in accordance with other regulations promulgated by the Committee on House Administration governing the use of Member's Clerk Hire.

11. The effective date of these regulations shall be January 1, 1983, except that the provisions of paragraph 9 a through g shall be effective January 1, 1982 and the reporting requirements of paragraph 9b shall include the reporting of receipts from all sources by category and by specific source when in excess of \$200 in the aggregate during the quarter.

12. Organizations intending to seek certification under these regulations shall make an irrevocable election to the Committee on House Administration by January 1, 1982, and the provisions of Section 1(d) of these regulations will be applicable immediately, except for subscription income from ongoing publications.

13. Adopted by the Committee on House Administration on October 21, 1981.

Organization may not raise, receive or disburse any private contributions for programs associated with it.

4. Any caucus, committee, coalition or similar group organized to provide legislative service which receives contributions or any form of income, either direct or in-kind, from any source other than the Congress or its Members (except as noted in paragraphs 3 and 8) shall not be located in space under control of the House and shall receive no other support from the House or from Members of the House via their allowances.

5. Any Legislative Service Organization which pays its employees directly in addition to or instead of paying them through clerk-hire provided by Members, shall withhold Federal income and F.I.C.A. taxes and shall forward such amounts to the U.S. Treasury as required by law, and shall pay such employer F.I.C.A. taxes and D.C. unemployment compensation taxes as are required by Federal and D.C. statutes. However, the total sum paid to any employee from all sources shall not exceed the highest rate of basic pay, as in effect from time to time, of level IV of the Executive Schedule in section 5315 of title 5, United States Code.

6. When a Member authorizes a person working for a legislative service organization to be compensated in part or in full from said Member's Clerk Hire Allowance, the Clerk of the House shall disburse salary payments to such employee only upon a monthly certification by said Member of the identification of the legislative service organization for which the employee has performed duties. This certification shall be included as part of the Member's monthly Clerk Hire Allowance certification. And, in addition, the Clerk of the House shall disburse salary payments from the Clerk Hire Allowance of said Member to such person only upon a monthly certification by the Chairman or Ranking House Member of the organization as to the amount of said salary, the performance of assigned official duties in Washington, D.C., the identification of said Member, and the relationship, if any, of each employee to any current Member of Congress.

7. A Legislative Service Organization which collects dues or assessments from its Members may not use such dues or assessments to generate additional income from other sources (e.g. interest bearing accounts, certificates of deposit, etc.).

8. Legislative Service Organizations may distribute to Members of Congress any report, analysis or other research material prepared in whole or in part by persons other than persons employed by said Legislative Service Organization. However, the identity of the person and/or organization which prepared or assisted in the preparation of said research material shall be fully disclosed thereon.

9. Each Legislative Service Organization shall submit a quarterly report to the Clerk of the House not later than 30 days after the end of the reporting period which shall be available to the public through the Office of Records and Registration. Each report shall contain:

(a) The name, business address, officers and number of Members of the organization;

(b) Total receipts for the quarter including clerk-hire, and a summary of said receipts by category (e.g. clerk-hire, or dues);

Statement of Rep. E (Kika) de la Garza of Texas  
Chairman, House Committee on Agriculture  
Before the Joint Committee on the Organization of Congress  
May 11, 1993

Messrs. Co-Chairmen and Members of the Joint Committee, I am grateful for the opportunity to appear today and offer my views regarding ways to improve the way Congress works. The mandate you have been given by Congress is a broad and complex one, and your time frame to produce a work product is abbreviated to say the least. Nonetheless, I am hopeful and confident that these hearings and your deliberations can bring about meaningful reforms that truly improve the effectiveness of the Congress.

This Joint Committee was created because we, as elected representatives, recognize the public's frustration -- and our frustration -- in the way Congress operates. Your hearings and your recommendations are crucial to achieving the goal of improving the Congress as a functioning institution of government and better meet the American people's expectations.

It seems to me that the Joint Committee's most difficult task is to distinguish between structure and procedure that unnecessarily undermine and hinder the legislative process versus structure and procedure necessary to preserve our nation's cherished democratic principles. This is a conflict that goes back to the earliest days of our Republic -- preserving the people's right to be heard versus enhancing government's ability to adopt decisive national policies.

I would suggest that the Joint Committee recognize that in a governmental system such as ours the most that can be expected of the legislative process is that it will facilitate the opportunity for the people's views to be considered by the people's representatives.

We are deluding ourselves and the American people if we think that broad scale changes in the legislative structure and process will erase stalemates that more often than not reflect the lack of consensus among the American people over how to deal with any given issue.

Neither should we fool ourselves into thinking that radical changes in legislative structure and process to force action by the Congress will necessarily achieve its objective. I would simply argue that whenever there is a lack of significant consensus among the American people on an issue, it will manifest itself at some point in the legislative process.



With those caveats, I would like to focus more specifically on areas within the Joint Committee's mandate. I have some comments to make regarding legislative riders on appropriations bills and some more general comments on the appropriations process itself. I also want to touch on the matter of jurisdictional assignments among House Committees, Members' multiple committee assignments and the size of conference committees.

#### Appropriations process

As the Agriculture Committee Chairman, I have had to deal with numerous situations over the years in which the results of the appropriations process have compromised Congress' ability to enact meaningful legislation. I think my frustration with this situation is shared by many of my colleagues who serve on authorizing committees.

The problem occurs when the appropriators -- as well as other Members -- exploit the "must-pass" aspect of the annual appropriations bills to make an end-run around the prerogatives and jurisdiction of the authorizing committees. This "legislating" or "authorizing" on an appropriations bill frequently results in the adoption of piece-meal proposals removed from the context of over-arching policy considerations.

Clause 2 of Rule 21 of the Rules of the House of Representatives is generally effective in preserving the role of the authorizing committees during initial House consideration of appropriations bills. However, the Senate's propensity to legislate on appropriations bills and the manner in which conference reports and Senate amendments to appropriations bills are considered in the House undermines the effectiveness of the policy development process of the authorizing committees.

I believe that modest changes in House rules and practices are needed to address this issue and to restore the traditional boundaries between the roles of the appropriations and authorizing committees.

For example, I would suggest that the authorizing committee of jurisdiction -- rather than the floor manager representing the Appropriations Committee -- be given the privilege to offer a motion in the House to dispose of any Senate amendment to an appropriations bill that is legislative in nature. Another option the Joint Committee may wish to consider is recommending that the Speaker use his authority to appoint authorizing committee members to appropriations bill conferences on provisions which are legislative in nature.

Let me make clear that while I believe improvements are needed in the appropriations process, I do not believe the Appropriations Committees should be abolished nor do I believe their function could be better carried out by the authorizing committees.

The work of the Appropriations Committee is a full-time job. I believe abolishing the Appropriations Committee would drastically and detrimentally alter the approach that our authorizing committee, or any other authorizing committee, could take towards policy development.

As it is now, we are fully occupied with the tasks of conducting oversight of policy implementation, with acting upon immediate policy demands, and with investigating and evaluating new policy approaches with regard to areas within our jurisdiction. If my Committee or any other authorizing committee were given the additional and essential task of allocating annual appropriations resources, something would have to give. Personally, I fear that our efforts to debate and pass improvements in Federal policy would suffer.

I would suggest that the reason some of our colleagues have become enamored with the idea of abolishing the Appropriations Committees is because we have allowed the line between the legitimate roles of authorizing and appropriations committees to blur. I believe strengthening the rules and practices with respect to the appropriations process is necessary to distinguishing between the policy-making role of the authorizing committee and the essential fiscal priority-setting function of the Appropriations Committees.

The working relationships I have and have had with the House Committee and its leadership have been overwhelmingly and mutually constructive. Naturally, we have differences over which programs should be funded and to what degree. But in my view, the success of our nation's food production and distribution system and the Federal commitment to feeding the hungry is at least to some degree evidence of the quality of our cooperation. Adoption of the refinements I have suggested will improve the effectiveness of both the authorizing and appropriations processes.

#### Committee jurisdiction

Among the more difficult and sensitive issues being considered by the Joint Committee is the question of changes in committee jurisdiction.

Ask Congress's critics what is to blame for legislative "gridlock," and many of them will point to the committee system and its seemingly arbitrary, archaic

and sometimes overlapping allocation of jurisdiction. It's time to rewrite and reallocate jurisdiction, they say.

If you were starting from scratch, the Joint Committee would probably strive to assign policy matters into jurisdiction groups based on two simple criteria: (1) according to policy areas that are logically related and complete; and (2) that provide a fairly even division of the labor involved in the entire Congressional workload.

I would acknowledge that the current committee structure in the House probably does not satisfy these goals completely. However, I am skeptical that a wholesale reorganization of committees and their jurisdiction would be sufficiently beneficial to justify the expenditure of time and energy needed to develop such a new structure or secure its adoption.

I don't want to suggest that such proposals are wrong, but I cannot say that I have great expectations that redrawing jurisdictional lines will have the effect of doing away with problems associated with overlap. I would hope the Joint Committee could approach the problems related to overlapping jurisdictions without a major rewrite of Committee jurisdiction. Frankly, I think marginal consolidations of issues would be more readily accepted by the respective chambers.

Rather than spend time trying to eliminate overlapping committee jurisdictions, I believe the Joint Committee should acknowledge that such overlap cannot be eliminated but its "gridlock quotient" can be lessened. For example, inevitably, we find there are policy issues which cut across the arbitrary jurisdictional boundaries we have drawn. I would recommend that you focus on ways to facilitate policy consensus in spite of the inevitable overlap.

One option which might be worth exploring is greater use of ad hoc legislative committees to address cross-cutting issues. Ad hoc committees would give the House flexibility to reduce the gridlock quotient and overcome jurisdictional obstructions when necessary to bring a committee product to the House floor.

However, I do think the House rules need to more clearly spell out the criteria for membership on such a committee. For instance, I believe the rules should require balance in representation of committees of jurisdiction, and I would also suggest that the total membership on an ad hoc committee be limited.

If the Joint Committee decides to recommend major realignment of committee jurisdiction, there are some issue areas around the margins of the

Committee on Agriculture's current jurisdiction which I believe could and should be included with the Committee's other responsibilities.

In general, the House Committee on Agriculture has jurisdiction over the following matters: those matters related to the production, inspection, and marketing of food and fiber; commodity exchanges; forestry and forest management; rural development; and human nutrition.

If jurisdictional realignment is recommended, I would suggest that the following issues be included in a post-reform Agriculture Committee: all forestry issues; all food-related inspection and consumer nutrition issues -- including the inspection of meat, seafood, produce and processed foods; rural housing programs administered by the Department of Agriculture (since the Committee on Agriculture already has jurisdiction over rural development); and all human nutrition programs operated by USDA (including school lunch and WIC).

#### Congressional schedule and committee assignments

Finally, I would like to lend my words of support to three ideas that have been raised by other Members -- and I would take at least one of those ideas one step further in the name of real congressional reform.

I think the Joint Committee should consider recommending that the Congress conduct more full, five-day weeks of legislative business and replace the weekend opportunities for members to be in their districts with more frequent week-long recesses. I believe that such a schedule would allow for succinct and concentrated debate on major issues, would give committees greater opportunities to meet and debate, and would enhance the Congress's public reputation.

I also support and strongly encourage the Joint Committee to recommend limitations on Committee assignments. We simply have too many Members serving on too many committees and subcommittees.

Here is my proposal for the House: limit House Members to only two committee assignments and a total of only two subcommittee assignments (one subcommittee assignment on each committee). No committees should be excepted from the application of this requirement.

I believe such a draconian limitation is needed for at least a couple of reasons. First, members' low attendance at committee and subcommittee meetings are related to their multiple committee assignments. Second, I think part of our problem today is that we have become overly reliant on our staff because we -- and I include some committee and subcommittee chairs in this category -- do not

have time to really understand the issues and programs we are making decisions about. Limitations on assignments will help us all to focus our efforts in a productive fashion.

I also believe that the efficient and timely completion of legislation is often hindered because the House contingents on conference committees are too large. I believe that the Joint Committee should consider recommendations designed to discourage conference committees of the large size we have seen in recent congressional sessions.

### Conclusion

In conclusion, I urge the Joint Committee to consider recommendations that will help preserve the complementary roles of the authorizing and appropriations committees. I believe that issues related to overlapping committee jurisdictions can be solved at least in part through the expanded use of ad hoc committees and with some degree of marginal consolidation of committee jurisdictions.

Above all, I want to indicate my respect for the profound task the Joint Committee has undertaken. I know that if you focus your efforts on reforms that accent the benefits of our uniquely American processes of democratic consensus, you will arrive at recommendations that will be embraced by your colleagues and that will help restore the public's support and respect for Congress.

Thank you for the opportunity to testify before you today.

OPENING STATEMENT OF REP. JENNIFER DUNN  
May 11, 1993

Thank you, Mr. Chairman....

As we move toward conclusion of our hearings on committee structure, I want to say just a word about what kind of change this Joint Committee should be seeking.

My hope is that we will do something bold. Many of our witnesses have implored us to do that. Conversely, many witnesses – notably many Chairmen and Ranking Republicans from existing committees – have argued persuasively for only moderate adjustments.

As a newcomer to this institution, however, it seems abundantly clear to me that the problems are substantial and the need for bold action – effective, bold action – is evident everywhere. Schedules are almost unbearable. Jurisdictions are hopelessly fractured. Referrals are too numerous. The inflation of committee and subcommittee assignments is well-documented.

Of course we must balance the need for boldness with the reality of what is achievable in the respective chambers. We should set our sights high, and hope and fight for the best. The goal is effective change, not merely change for change sake.

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Along these lines, I would also like to commend a notion voiced by my Washington state colleague, Mr. Swift. He has pointed out that a reform need not necessarily be big to be bold and effective. Sometimes a small change can have big, bold repercussions. I have called these items "pressure points," and I hope we can find a number of them that will help us to bring real change that will be seen as a bold departure from the status quo.

I thank the chair.

**Statement of the Honorable Carlos J. Moorhead  
Before the Joint Committee on the Organization of Congress  
Hearing on Committee Jurisdiction Reform**

May 11, 1993

Mr. Chairman and Members of the Committee, I appreciate the opportunity to come before this distinguished panel of my colleagues today to testify on committee reform. As Members of this panel, you have a challenging job ahead and so I commend you for your willingness to take on these difficult issues.

I appear before you today in my capacity as the Ranking Republican Member of the Committee on Energy and Commerce, although I also serve as the Ranking Republican Member of the Judiciary Committee's Subcommittee on Intellectual Property and Judicial Administration. I understand that the Chairman of the Energy and Commerce Committee, John Dingell, appeared before this Committee several weeks ago and testified as to the important role of the Energy and Commerce Committee in the policy making process in the House.

When the Joint Committee was formed, its mission was to examine every aspect of the congressional process. One of the main areas that the Committee was charged with examining is the current system of standing committee jurisdiction. You have had a steady stream of witnesses appearing before you describing both the successes and the shortcomings of the current jurisdictional scheme in both the House and the Senate. Since it would be inappropriate for me to comment on the internal organization of the other body, I will confine my comments today to the Rule Ten jurisdiction of the Committee on Energy and Commerce.

In any discussion of the realignment of committee jurisdictions, the Energy and Commerce Committee is a big, easy target because of its long history and broad jurisdiction. The Energy and Commerce Committee was originally formed as the Committee on Commerce and Manufactures in 1795 and split into a separate Committee on Manufactures and a Committee on Commerce in 1819. This arrangement survived until 1892 when the Committee on Commerce was formed into the Energy and Commerce Committee's immediate predecessor, the Committee on Interstate and Foreign Commerce.

That committee was given very clear jurisdiction over a number of different topics after the legislative reorganization of 1946, including interstate and foreign commerce generally, regulation of interstate transportation, regulation of communications, petroleum and natural gas, securities and exchanges, regulation



of the interstate transmission of power, railroad labor and railroad retirement, public health, inland waterways, and other miscellaneous provisions. In 1975, the health jurisdiction of the Committee was expanded and in 1977, when the Joint Committee on Atomic Energy was dissolved, the Committee received jurisdiction over matters relating to nuclear energy. In 1980, the name of the Committee was changed to the Committee on Energy and Commerce, and our present Rule Ten jurisdiction was established through an inter-committee memoranda of understanding.

The Committee on Energy and Commerce's almost 200 year long history has resulted in today's broad jurisdiction, although not nearly as broad as it once was. The fact that the Committee has lost jurisdiction over most of its interstate transportation jurisdiction, as well as jurisdiction over science and space, has not kept my colleagues on other committees from asserting that the Energy and Commerce Committee has too much jurisdiction, and that certain issues under our jurisdiction would be better placed under the control of their committees.

The Joint Committee should not seek to trim a committee's jurisdiction simply because it is perceived to be too broad. Instead, the Joint Committee should look at the current committee structure and evaluate the track record of existing standing committees.

When you look at the Energy and Commerce Committee's record, you discover a fact that the Committee's critics all too often overlook -- the Energy and Commerce Committee meets its legislative responsibilities by consistently producing quality legislation in a timely manner. For instance, thus far in the 103d Congress, the Energy and Commerce Committee has reported 9 separate pieces of legislation to the floor through the end of April. This constitutes 21% of all legislation reported by House committees during this time period. (See Attachment 1) This includes 3 health bills, 2 of which were major pieces of legislation, a commerce bill, a telemarketing bill and several securities bills. This is more than any other single standing committee with the exception of the Public Works Committee, which reported a flurry of bills naming courthouses during the last weeks of April. This strong record is not limited just to the 103d Congress. During the 102d Congress, 53 of the 71 bills reported from the Committee were enacted, including the Energy Policy Act, the most comprehensive energy legislation in 14 years. During the 101st Congress, some 73 bills in which the Committee had a part were enacted, including two Omnibus Reconciliation measures and the Clean Air Act Amendments of 1990 which was last amended in 1977. As you can see, the notion that the Energy and Commerce Committee is responsible for institutional "gridlock" is just plain false.

Because of the diverse jurisdiction of the Committee, we are able to attract Members with diverse backgrounds. As a result, our Members usually have

recognized expertise in particular subjects under our jurisdiction. This experience and expertise contributes significantly to the policy making process over time and, in my opinion, the Committee crafts legislation that is comprehensive in nature and consistent in its high quality. By way of example, through my years on the Committee, I certainly found that to be the case myself as I worked on the Clean Air and Energy Policy Acts, to name a few. I think that demonstrates how the policy making process can and should work.

Furthermore, I believe that it would be a mistake to make committee jurisdictions too narrow since the natural result would be committees which are beholden to special interests and captive to their narrow issue areas. This in turn could lead to an inability to develop comprehensive solutions to the problems facing us in the next century.

While I agree with the distinguished Chairman of the Energy and Commerce Committee's opinion that you should not change a committee's jurisdiction if it is successfully meeting its responsibilities, there are other areas where I would disagree and urge reform.

First and foremost, I want to express my deep concern for the lack of open rules from the Rules Committee. Of the 11 rules granted to date, only 1 was an "open" rule. This is intolerable because, from the Minority's perspective and that of all Members of the House, this represents a highly objectionable obstacle to the full and fair consideration of a bill on the floor. It is imperative that we have more open rules.

In testimony before the Joint Committee, the congressional scholars Thomas Mann and Norman Ornstein said that restrictive rules:

constitute a disregard for minority rights, the rights of individual Members, and the dismissal of the constructive role which the minority or other dissenters can sometimes play in offering alternatives and pointing out flaws in a pending measure.

I also strongly concur in the statement of Rep. Jerry Solomon on this subject when he testified that:

one of the greatest services this Joint Committee can render is to reemphasize in its final report the wisdom of adhering to those rules and reforms enacted by your predecessor reform committees that were designed to ensure a more rational, informed and deliberative process.

Secondly, I have long been opposed to proxy voting in committee markups. Voting is the most sacred responsibility of every Member elected to this House.

We are not permitted to give our voting cards to anyone else, and so we should not be allowed to cast our votes in absentia in committee.

A key reform which I recommend for the Majority's consideration would be a strict limitation of the committee assignments of Members. This would enable Members to participate in person which is why their constituents sent them here in the first place. As I think all of us would acknowledge, multiple committee assignments make it very difficult for Members to meet all of their committee obligations, including markups, hearings, and briefings. Furthermore, multiple committee assignments place burdens on the committees themselves, since it often becomes difficult to meet quorum requirements due to Members' scheduling conflicts. Because of the Minority's stricter enforcement of the limitation on committee assignments, I can say that the Minority Members of the Committee generally have a very good record of attendance at committee meetings.

When Chairman John Dingell testified here on April 29, he testified, among other things, to the good relationship between the Majority and the Minority. I would like to verify that for the record. I appreciate his statements because I think they accurately reflect the fact that we have worked over the years on very tough issues in an atmosphere of mutual respect and professionalism. That respect is founded on the notion that we are all here to serve the citizens who elected us. This has encouraged, both at the Member and the staff levels, extensive debate and discussions on legislation so as to adequately air differences on the policy issues at stake. This process in turn usually produces legislation that has been negotiated to meet the concerns around the table to the greatest extent possible. There are of course instances when the differences are too great, and the matter is put to a vote and the vote becomes the final determination of where the issue stands. I would also like to say for the record that Chairman Dingell has consistently conducted Committee proceedings according to the rules of the House and the Committee, and has seen to it that such votes take place fairly. Finally, I want to take this opportunity to commend the Chairman for his leadership in this area generally because his strong support for this policy making process is fundamentally a recognition that each Member of the Committee has an important contribution to make to the Committee's work.

I also want to testify regarding the allocation of committee funding to the Minority. First, it is essential for the Minority to reach our goal of one-third of the total of investigative funding. We are currently allocated 18.55% of the Committee's 1993 investigative funds. We must raise that to 33% so that we will have a reasonable ratio of majority to minority investigative staff. At the time of our testimony before the House Administration Committee on the investigative funding request, the Majority/Minority staff ratio was 95 to 18, excluding vacancies. That is simply not acceptable. I would like to note for the record that this Committee, on both sides of the aisle, has developed one of the most

professional and widely respected staffs on Capitol Hill. I would particularly like to commend the Minority staff who have maintained very high standards of performance despite this formidable ratio.

Finally, I believe that one way we could improve the current committee system would be to end the distinction between statutory and investigative employees in the House. Because the House funds statutory and investigative employees separately, I spent a number of hours negotiating with the Majority, and meeting with my leadership so as to ensure funding for approximately the two-thirds of the Minority Staff covered by the Investigative budget. I will have to revisit the entire issue again in the fall when the funding for those employees who are paid from the statutory budget is taken up.

This is a needlessly duplicative and confusing system which is counterproductive to good planning and management. I would strongly recommend that my colleagues on the Joint Committee adopt a system of committee funding similar to that found in the other body, namely that committees be funded from a single budget and on a biennial basis. Further, the Senate has also mandated that committee resources be split between the Majority and Minority on a two-thirds/one-third basis. While this division applies in the House to the statutory budget in terms of the number of staff positions, it does not apply to the investigative budget, and results in very serious inequities in majority/minority investigative staffing.

In closing, I would ask that the Joint Committee judge the merit of committees not by the cohesiveness of their jurisdiction under Rule Ten, but rather by their record. Look at their track record of producing meaningful legislation and addressing the important issues of the day. Look at the respect that the Minority and Majority have for one another's viewpoints and their willingness to try to work together whenever possible. Look at conflicts over jurisdiction and ask yourselves whether these conflicts are just petty attempts to protect turf, as some would have you believe, or whether they are rooted in important public policy questions which would not be properly dealt with in another forum?

If the Joint Committee examines all of these criteria, I believe that you will find that the Energy and Commerce Committee has high scores in all of the categories, due in no small part to our expert Members and professional staff. That is not to say that the committee system does not need some improvement. I have recommended several procedural and administrative improvements that would make committee and House deliberations far more effective.

Thank you Mr. Chairman and I would be happy to answer any questions the Committee might have.

## Bills Reported to the House in the 103d Congress

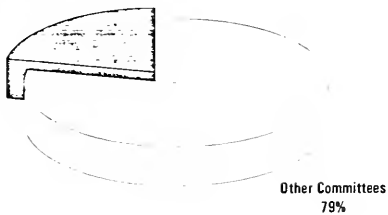
Bills reported by Legislative Committees as of May 3, 1993

<i>All Committees</i>	
<i>Committee</i>	<i># of Bills Reported</i>
Agriculture	2
Appropriations	0
Armed Services	1
Banking	0
Budget	0
District of Columbia	1
Education & Labor	2
Energy and Commerce	9
Foreign Affairs	0
Government Operations	1
House Administration	4
Judiciary	4
Post Office & Civil Service	3
Public Works & Transportation	10
Science Space and Technology	0
Small Business	0
Veterans Affairs	3
Ways & Means	2

<i>Energy &amp; Commerce vs. Other Committees</i>	
<i>Committee</i>	<i># of Bills Reported</i>
Other Committees	33
Energy and Commerce	9

## Bills Reported to the House in the 103d Congress

Energy and Commerce  
21%



Other Committees  
79%

Includes all legislation reported to the House as of May 3, 1993

Source: ISIS Legislative Process Database, House Information Systems

## Bills Reported to the House in the 103d Congress

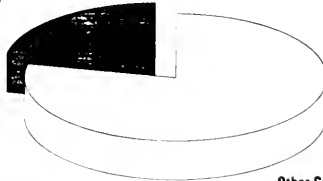
Bills reported by Legislative Committees as of May 3, 1993

<i>All Committees</i>	
<i>Committee</i>	<i># of Bills Reported</i>
Agriculture	2
Appropriations	0
Armed Services	1
Banking	0
Budget	0
District of Columbia	1
Education & Labor	2
Energy and Commerce	9
Foreign Affairs	0
Government Operations	1
House Administration	4
Judiciary	4
Post Office & Civil Service	3
Public Works & Transportation	10
Science Space and Technology	0
Small Business	0
Veterans Affairs	3
Ways & Means	2

<i>Energy &amp; Commerce vs. Other Committees</i>	
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Statement of Senator David Pryor  
 Chairman, Special Committee on Aging  
 before the Joint Committee on the Organization of Congress  
 May 11, 1993

Mr. Chairman, and fellow members of the Joint Committee, I appreciate having the opportunity to appear before you today.

Some of you may recall the recent debate in the U.S. Senate in which the Aging Committee received strong support to continue its work for the elderly of this country. I would like to restate some of the main points, which still hold true. The Senate Aging Committee makes Congress more responsive to the needs of over 31 million older Americans. It conducts investigations and oversight that assist the work of other committees, and it directly serves senior citizens. It also produces a great return on investment for the taxpayers.

Some say that the Aging Committee is unnecessary because it has no legislative authority. But if the Aging Committee no longer existed, other panels would not physically have the amount of time necessary, nor the right structure, to accomplish what the Aging Committee does.

Mr. Chairman, I would love to invite the members of this panel who do not serve on the Finance Committee to work with those of us who do for a month to see how busy we are. This year, the Finance Committee takes up new Administration proposals on the economic and tax plans, on welfare reform, on health care reform, and on trade issues, to name a few. Despite the fact that the Finance Committee has a great new chairman in Senator Moynihan, we simply cannot provide the kind of oversight that is needed for the many Federal programs serving older Americans. Traditionally, the Aging Committee has complemented the work of committees like Finance by providing them with information, additional oversight, and policy development.

In 1961, the creators of the Aging Committee argued that a single panel was needed to do a comprehensive review of the concerns of the elderly, rather than having them fragmented among several committees. The need remains today for the Aging Committee to review such issues that cut across committee lines.

Consider, for example, the huge task facing Congress on health care reform. The Aging Committee will be needed to review the profound impact it will have on older Americans. Mrs. Hillary Rodham Clinton recently met with members of the major legislative committees, including the Finance and Labor Committees. Yet when she sought to review broad matters concerning the elderly, she consulted with the Senate Aging Committee. Our meeting last week addressed how health care reform will affect older Americans, and included a discussion of

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issues that cut across committee lines, such as long-term care and prescription drugs.

Rather than duplicating other Senate panels, the Aging Committee starts investigations and develops proposals that are taken up by committees with jurisdiction and are often enacted into law. In instances too numerous to mention, the work of the Aging Committee has led to policy changes that have improved the lives of older Americans. Mr. Chairman, I would like to submit for the record a summary of some of those recent achievements.

The legacy of the Aging Committee is service to the elderly and to all Members of the Senate. Older Americans from across the country write to the Committee seeking assistance with disability benefits, information on Medicare, or guidelines on choosing insurance or a nursing home. We answer each and every letter, and there have been over 47,000 since 1989. The Aging Committee is also now developing a proposal for a "National Mentor Corps," using the talents of older Americans to help today's troubled youth.

The Aging Committee also provides valuable reports to the public and to Congress. The Committee's "Developments in Aging" is an annual report detailing legislative activity that impacts on the elderly. Last fall, the Committee staff compiled a print outlining programs offering free prescription drugs to people with low incomes. When the word got out, the Committee was besieged with calls and letters from people nationwide who were desperately seeking relief from skyrocketing prescription drug bills. To date, the Aging Committee has filled over 70,000 requests for that paper.

The Aging Committee produces a great return on investment for the taxpayers that can compare to any committee in the Senate. The Aging Committee runs on an investment of around \$1 million a year. Yet, just one piece of legislation that it created will save the taxpayers of this country \$6.3 billion over the next five years by holding down the price Medicaid pays for prescription drugs. Taxpayers would save another \$200 million through a measure developed by the Aging Committee that stops fraudulent billing practices by medical equipment suppliers.

In the last month alone, the Aging Committee has held three major forums to find Federal cost savings. In April, a hearing emphasized that home-based long term care can save money by keeping people out of nursing homes. Two weeks ago, we held a workshop to determine if unnecessary cataract surgery is being billed to Medicare. Last week, a hearing examined preventive health measures that can save money in treating the elderly.

The Aging Committee also protects the savings of older consumers. It helped strengthen the law that prohibits physicians from overcharging Medicare patients. We developed programs to protect the elderly against Medigap and long-term care insurance sales abuses. The committee battled fraud against the elderly, and developed legislation to stop misleading mailings that ask seniors for money.

Mr. Chairman, in 1977, the Senate reaffirmed the need for a Special Committee on Aging, and voted 90 to 4 to make it a



permanent panel. The situation has not really changed since that decision in 1977, nor since the vote on the Senate floor this past February.

The Joint Committee should never lose sight of its fundamental purpose: to make Congress more responsive to the needs of the American people. Does the Aging Committee make Congress more responsive to the 31 million older Americans? Absolutely, like no other committee. Does the Aging Committee make Congress more responsive to the needs of the average American family? Again, Mr. Chairman, it does.

To be fair, Mr. Chairman, there are a few groups that might like to see the abolition of the Aging Committee. The Pharmaceutical Manufacturers Association would be happy because the Aging Committee would no longer challenge their industry to give American consumers a fair deal. Peddlers of fraudulent nursing home insurance policies and mailers of misleading solicitations to the elderly would also like to get the committee out of their way.

I hope that the Joint Committee does not single out the Aging Committee for a symbolic cut so we can pat ourselves on the back and say that we are doing something. With the rapidly growing aging population, and growing concerns about how to control government programs affecting the elderly, now is exactly the wrong time to reduce our oversight capacity.

Mr. Chairman, the Aging Committee has earned the respect and support of the U.S. Senate. The Aging Committee deserves the support of this Joint Committee to continue serving as America's advocate for the elderly.

Mr. Chairman, I ask unanimous consent that a list of letters of support, a summary of our hearings, workshops and publications, and a summary of our legislative accomplishments be placed in the record.



**STATEMENT OF  
SENATOR WILLIAM S. COHEN  
BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF  
CONGRESS  
MAY 11, 1993**

**Mr. Chairman and Members of the Committee, I am pleased to join my friend and Chairman, Senator David Pryor, in appearing before you today to testify on the need to preserve the Senate Special Committee on Aging in any reorganization plan proposed by the Joint Committee.**

**This past February, the Senate rejected two amendments offered on the Senate Floor to eliminate the Senate Aging Committee. In defeating the proposals, the Senate recognized the critical work**

performed by the Aging Committee in meeting the needs of our rapidly aging population. While many of the Members here today witnessed that debate, I would like to take this opportunity today to reiterate the importance of the Aging Committee to the Congress, the American taxpayers, and senior citizens across the country.

Retaining the Senate Aging Committee is, in my view, very consistent with the goal of this Joint Committee on the Organization of Congress. As a member of the joint committee, I have listened to many voices saying that a major problem plaguing Congress today is our fragmented approach to issues. Many experts, from both within and outside congress, have noted that our work is often duplicative and segmented, resulting in slow responses and partisan gridlock.

Mr. Chairman, the Senate Special Committee on Aging is a prime example of a committee that takes a broader, thematic view of issues confronting the elderly. While other committees have specific jurisdiction over individual programs affecting older Americans, the Special Committee on Aging offers the only forum in which the overall view of how our national policies affect the elderly — and how the number of elderly in turn affect our national policies — can be considered.

In 1961, the creators of the Aging Committee observed that the other committees of Congress with limited jurisdiction were not equipped to handle the growing array of issues of concern to older Americans. They found it necessary to form a single panel to undertake a comprehensive view of the problems facing an aging America. The need for a single aging committee was reaffirmed in 1977 when the Senate upgraded the status of the Aging Committee from a

temporary panel requiring annual reauthorization to one that is permanent.

Ironically, proposals are being offered to eliminate the Aging Committee now, at a time when more than ever we need it to help us face the challenges of an aging population.

As we prepare to enter the 21st century, we are at the dawn of a major demographic phenomenon in our nation's history, namely, the dramatic aging of our population.

The statistics are daunting indeed. Right now, there are over 31 million Americans who are age 65 or older. In the next 40 years, this number will double and almost a quarter of our entire population will be at least 65 years old.

Even further, the elderly population itself is growing older and living longer. In 1986, just over

40 per cent of the elderly population was age 75 or above. By the year 2000, however, half of the elderly population is projected to be at least 75 years of age.

The ratio of elderly persons to persons of working age is also growing. Current projections are that by the year 2010, there will be 22 elderly persons for every 100 persons of working age, and by the year 2050, this number will climb to 38 elderly for every 100 persons of working age.

The policy implications of these figures are enormous. Virtually every segment of our society will be affected by the needs, resources, and expertise of our older citizens. Our health care system must be ready to respond to a doubling of the need for hospital beds. Our long term care and disability programs must be ready for a tripling of the number of persons with physical limitations and needing

assistance with daily living. Our pension system must be prepared for an unprecedented number of persons who are retired and living on fixed incomes. Our housing and welfare programs must be prepared for record numbers of elderly persons who live alone or who live below the poverty line.

The most effective and efficient way to meet these challenges is to have a single panel whose sole purpose is to study and make recommendations on the special problems of aging. Eliminating the Aging Committee now would be a major step backward and a return to earlier days when the Senate addressed aging issues in a fragmented, fractious manner.

In its 30 year history, the Aging Committee has played an essential role in overseeing issues of concern to the elderly. As Senator Pryor has pointed out, the legacy of the Senate Aging Committee is

service -- to the Senate, to older Americans themselves, and to the entire public.

The Aging Committee serves the Congress by providing valuable information on, and oversight of, programs and trends affecting the elderly. Rather than duplicating the work of other committees, the Aging Committee develops strong records and investigations that are then translated into legislation referred to other committees and enacted into law.

Examples of proposals that have emerged from the Aging Committee cover a wide range of issues, from correcting problems in the marketing of Medigap policies and improving the quality of care for patients in nursing homes to addressing the need for better health care in rural areas and shutting down scams that prey on senior citizens. These are issues



that go beyond the jurisdiction and resources of any one other Senate committee.

Some have targeted the Aging Committee for elimination because it lacks legislative jurisdiction. To me, however, such proposals overlook the important oversight role carried out by the Committee. Over the years, the Committee has conducted a wide variety of investigations and oversight of the vast array of programs serving older Americans. These oversight functions, in such areas as health care, pensions, disability, age discrimination, housing and income security have not, and cannot be performed by other committees which are already overstretched in time and resources.

In addition to serving Congress, the Aging Committee has, in a strong bipartisan fashion, served millions of Americans by saving money for the

taxpayer, protecting the older American as consumer, and providing important information to the public.

First, the committee has saved taxpayers billions of dollars just through its recommendations to reform Medicaid and its investigations of Medicare fraud. In the last few months alone, for example, the Committee examined how long term care needs can be met less expensively through home and community based care, how preventive health measures can dramatically reduce monies spent on health care, and how some unnecessary surgeries are being billed to Medicare.

Since the Aging Committee's budget is just over \$1 million a year, it is safe to say that the committee yields a very good return on the taxpayers' investment.

Second, the Committee has protected older Americans as consumers by rooting out creative scams

that target the elderly, and often robbing them of their life's savings. The Aging Committee has, for example, investigated con artists who peddle 'prize giveaways', faulty living trusts, or poor home repairs to seniors; doctors and suppliers who overcharge Medicare beneficiaries; and financial advisors who market bad investments to older Americans.

Undoubtedly, these efforts, which have been followed up with legislation cracking down on the abuses and publications educating consumers how to avoid these scams, have saved consumers millions of dollars.

Finally, the Aging Committee provides an important educational function by exploring new developments in health care and other fields of aging, and providing valuable information to senior citizens themselves.

The Committee has, for example, explored new therapies and breakthroughs in the research of Alzheimer's Disease and has highlighted ways that families of these victims can better cope with the disease. Through its publications, hearing and workshops, the Committee has educated older Americans on such issues as how to pursue their rights under Medicare, how to choose a nursing home, and how low-income senior citizens may qualify for free prescription drug programs offered by pharmaceutical companies.

Mr. Chairman, I could go on about the value of the Aging Committee to both the American public and the congress. In closing, however, I want to make a few final points.

In this nation today we are on the verge of an intergenerational warfare, as various groups compete

for scarce government funds brought on by our massive federal deficit.

There may be, therefore, a temptation to eliminate the Aging Committee because it is viewed by some as simply an advocate for wealthy senior citizens who want more of the government pie.

Nothing could be further from the truth. Instead, the record strongly shows that this committee has focused on the disadvantaged elderly, those often slipping below the poverty level in record numbers, and has presented information about the aging of America in an objective, bipartisan manner.

We should not view the Aging Committee as catering to a special interest. Rather, the problems of the elderly are universal — we are all growing older. Many of us are still fortunate enough to have

our parents in our lives. Their concerns are our concerns.

As President John F. Kennedy said, 'It is not enough for a great nation merely to add new years to life — our objective must be to also add new life to those years.' All the breakthroughs in medicine and health care that result in longer life are meaningless if those additional years are spent in poverty, isolation, or despair.

The Senate Special Committee on Aging is dedicated to breathing new life into our years, not just for today's senior population, but also for their children and grandchildren.

I thank the Chairman and committee members for an opportunity to testify today and urge the committee to reject proposals to abolish the Senate Special Committee on Aging.

ACHIEVEMENTS OF THE  
U.S. SENATE SPECIAL COMMITTEE ON AGING  
101st - 103rd CONGRESS

May, 1993

**H E A L T H   C A R E   A C H I E V E M E N T S**



## HEALTH CARE

1. Prescription Drugs

1990-1991

- A. **Issue: Medicaid Paying Highest Prices for Drugs.** Medicaid, the poverty program for the poor, was paying the highest prices in the market for prescription drugs. These high prices were breaking the financial backs of Medicaid drug programs, and forcing them to cut back on the number of drugs and prescriptions they could cover for Medicaid patients.

**How Addressed:** The Aging Committee has held two hearings, released two reports, and introduced two bills (S. 2605 and S. 3020) in 1990 to address excessively high Medicaid prescription drug prices, which were eventually modified and incorporated into OBRA 90.

**Status/Outcome:** The Medicaid drug rebate law was projected to save federal and state taxpayers more than \$3.4 billion over 5 years, and significantly improve access to prescription drugs for the Medicaid population. Recent estimates are that the program will save more than double that amount through 1997, at least \$6.4 billion.

- B. **Issue: Continuing Skyrocketing Prescription Drug Inflation** Since the enactment of the Medicaid rebate law, prescription drug prices for all other purchasers have continued to increase 3 times the rate of general inflation, making them the highest out-of-pocket medical cost for 3 of 4 elderly. The compromise Medicaid rebate law had been used as an excuse to raise prices and cost shift to other public and private purchasers, including the VA, hospitals and HMOs. Much to the drug manufacturers' dismay, however, their price increases have not resulted in a movement to repeal the Medicaid law; rather, it has produced greater interest in a comprehensive approach to containing costs to ALL purchasers of prescription drugs.

**How Addressed:** The Aging Committee staff released a report, which contained updated information about prescription drug price inflation, marketing expenditures, industry profit margins, Section 936 tax credit write-offs, international price comparisons, and the drug industry's response to the Medicaid law. As a result of the staff report, legislation was developed and introduced to address prescription drug prices, S. 2000, the Prescription Drug Inflation Containment Act of 1991. This bill linked access to 936 tax credit to drug manufacturer performance in containing price increases.

- C. **Issue: Improving Drug Use By Vulnerable Populations.** There is substantial evidence that the appropriate use of drugs among consumers of prescription drugs could be vastly improved. This is because many patients, particularly the elderly, often see more than one physician and more than one pharmacist. The occurrence of adverse drug reactions due to inappropriate prescribing and use of drugs is responsible for untold hundreds of millions -- if not billions -- of dollars in unnecessary hospitalizations.

**How Addressed:** The Medicaid prescription drug rebate bill enacted in 1990 established a comprehensive program of Drug Use Review (DUR) for Medicaid recipients. The program requires pharmacists to talk to each Medicaid patient on how to use their medications, so that there is better chance that the drugs will be better prescribed and used.

HCFA is currently drafting regulations to implement the DUR provisions. The Aging Committee continues to monitor the implementation of DUR both at the federal and state level. If these DUR efforts are successful, they have great potential to be expanded to the benefit of all prescription drug consumers. Such an outcome is desirable to community pharmacists because it would recognize the value of their professional counseling skills.

- D. **Issue: Medicaid Reimbursement to Pharmacists.** State Medicaid programs were primarily controlling the costs of the Medicaid prescription drug programs by cutting back on the reimbursement that they would pay pharmacists for dispensing prescriptions to Medicaid recipients. This was because states had control over pharmacist reimbursement, but did not have control over drug manufacturer prices because drug manufacturers would not bargain with the state Medicaid programs over the cost of drugs. These reductions in pharmacy reimbursement were impairing the ability of pharmacists to participate in the Medicaid program.

**How Addressed:** The OBRA 1990 Medicaid rebate law includes a 4-year moratorium on reductions in pharmacy reimbursement. This moratorium prevents the states from reducing pharmacy reimbursement levels that were in effect in the state on November 5, 1991, the date of enactment of OBRA 90.

**Status/Outcome:** This moratorium has been very welcome news for the pharmacy profession, and has been used by several pharmacy associations in successful law suits against state Medicaid programs that wanted to reduce pharmacy reimbursement. The OBRA 90 statute also requires the Secretary of HHS to do a study on the adequacy of current pharmacy reimbursement levels.

1992

- A. **Issue: Prescription Drugs for Medically Needy:** Many older Americans call the Aging Committee to seek help in paying for their drugs. These individuals are ineligible for Medicaid, do not have private drug insurance, but have high out-of-pocket costs for prescription drugs.

**How Addressed:** The Aging Committee staff helped these elderly obtain their medications free of charge by putting them in contact with those drug companies that have special programs for those who cannot afford their drugs (medically indigent programs). The Committee released a report in August which describes the programs that drug manufacturers have to make drug available to poor people. Since that time we have been swamped with about 70,000 requests for the directory. The distribution of the report continued into 1993.

- B. **Issue: Containing Prescription Drug Costs for All Americans**

**How Addressed:** The Senate voted to table S. 2000, the Prescription Drug Cost Containment Act, which was offered as an amendment to the Tax Equity and Fiscal Stimulus Act, on March 2, 1992. The Amendment was offered by the Chairman and Ranking Member of the Aging Committee as a mechanism of containing prescription drug costs for all Americans. The legislation would have reduced drug manufacturer tax credits for increasing prices faster than inflation.

1993

**A. Issue: Providing Information to Congressional Staff about Prescription Drug Issues**

**How Addressed:** The Aging Committee is sponsoring a series of monthly staff seminars (for House and Senate staff) on prescription drug issues. Four seminars have been conducted so far on the issues of: older Americans out-of-pocket cost for medications, how pharmacists determine a prescription price, the operation of the new federal employees health benefits program, and how drug formularies work. They will continue through the remainder of 1993.

**B. Issue: Status of Prescription Drug Price Inflation**

**How Addressed:** The Committee issued a staff report that documented the level of inflation on prescription drug products in 1992. In lieu of the fact that several drug companies "pledged" to maintain their weighted average price increases to inflation, the Committee analyzed the inflation rate among these companies, as well as other companies that did not take any pledge. As a result, several companies have now indicated that they will maintain price increases at the inflation rate on a product by product basis.

**C. Issue: Government Funding of New Drug Research and Development**

**How Addressed:** The Committee held a hearing on February 24th to investigate the government's role in the research and development of new pharmaceuticals, especially AIDS and cancer drugs. It appears that a significant amount of federal funding is allocated to intramural and extramural research and development of new drugs and biologicals. However, there does not appear to be a rigid process in place to assure that these new drugs are priced fairly, and reflect the government's investment in their development.

## 2. Rural Health

- A. **Issue:** Small rural hospitals with a high proportion of Medicare patients have been granted a special payment status under Medicare. This payment status has begun to expire, leaving many of these "Medicare Dependent Hospitals" in a precarious financial position because their Medicare payments are not sufficient to keep the hospital solvent.

**How Addressed:** The Aging Committee worked on legislation (S. 243) this year that would extend this special payment status until September, 1995, when the urban-rural Medicare hospital payment differential expires.

**Status/Outcome:** Referred to the Senate Finance Committee, where it will likely be included in reconciliation.

- B. **Issue:** Rural hospitals receive a lower reimbursement rate under Medicare's Prospective Payment System than do urban hospitals. This has caused rural hospitals enormous financial hardship, and they have long fought for parity with urban hospitals.

**How Addressed:** For years, the Aging Committee have been involved with developing, introducing (with Senator Bentsen) and advocating for legislation that ensures that rural hospitals are paid more equitably.

**Status/Outcome:** This legislation was incorporated into OBRA 1990, and the urban-rural differential will be eliminated by the beginning of FY 1995.

- C. **Issue Raised:** Although a goal of the Medicare Physician Payment Reform Act included in OBRA 89 was to even out some of the geographic differences in reimbursement, large discrepancies remain. Generally, the localities which have received the highest practice expense values are in the urban areas. The lowest practice expense values are largely in rural areas.

**How Addressed:** Introduced legislation that would reverse the Department of Health and Human Service's (HHS's) current practice of using old data in calculating differences in the costs of medical practice across the country for use in the Medicare Part B fee schedule. This would be a small step toward addressing the geographic inequities in Medicare reimbursement for physicians.

**Status/Outcome:** Legislation was included in H.R. 11, which was later vetoed by President Bush. The bill has been reintroduced in the 103rd Congress (S. 242).

- D. **Issue Raised:** The shortage of primary care health personnel is a critical factor threatening the survival and effectiveness of rural health care services. Despite increased numbers of physicians, it continues to be difficult to impossible to attract needed health care professionals to medically underserved and remote rural areas.

**How Addressed:** Held two Aging Committee Workshops for staff and interested organizations. Introduced legislation to address the maldistribution and shortage of rural health care personnel. Issued a Committee print "Common Beliefs about the Rural Elderly."

**Status/Outcome:** This legislation (S. 241) has been reintroduced in the 103rd Congress.

### 3. Long-Term Care

- A. **Issue:** There is an enormous need for affordable home and community-based long-term care for the elderly and disabled. The First Lady's Health Care Task Force has examined this issue as a part of health care reform, but it is unclear as to whether it will be part of the President's proposal.

**How Addressed:** The Aging Committee held a hearing on April 20 to highlight the need for these kinds of services. Six witnesses delivered testimony as to their own personal experiences in trying to find affordable long-term care for their loved ones.

**Status/Outcome:** The hearing received a great deal of attention from the national media, and was very successful in bringing attention to this issue. The Aging Committee has also developed legislation (S. 515) that would help states avail themselves of Medicaid funds for home and community based care that were authorized by OBRA 1990.

- B. **Issue:** OBRA 1987 included sweeping reforms to move toward better assuring high quality care for nursing home residents. There have been a myriad of problems with implementation -- primarily stemming from the Administration's inability to issue implementing regulations in a timely manner. However, there were also some technical problems with the legislation, as well as some states' reluctance to implement portion of the law.

**How Addressed:** The Aging Committee held a hearing on the Administration's activities with regard to OBRA 1987 in May, 1989. A number of your technical correction provisions to OBRA 1987 were included in both OBRA 1989 and OBRA 1990. The OBRA 1990 provisions were taken from S. 3175, legislation the Aging Committee developed in late 1990.

**Status/Outcome:** Although Congress will likely take no further legislative action on OBRA 1987 nursing home reform, the Aging Committee has maintained its oversight role in the implementation of OBRA 1987.

- C. **Issue:** The use of both physical and chemical restraints in nursing homes has been an issue of grave concern to many advocates. Many residents with behavioral problems are either tied up or drugged simply for the convenience of staff. OBRA 1987 included provisions that would prohibit the use of restraints for any reason other than medical necessity; however, there is a great need for education of providers and residents and their families on this issue.

**How Addressed:** In December, 1989, the Aging Committee hosted a forum on the use of physical restraints in nursing homes; a similar forum was held in July, 1991 on chemical restraints. Both forums, which were designed to be educational in nature, garnered a great deal of attention in the media, and the prints from the forums have been in great demand.

**Status/Outcome:** Nursing homes across the country are beginning to change their practice with regard to the use of both physical and chemical restraints, with notable improvements in the quality of care resulting. The Senate Aging Committee is often credited with initiating this movement.

- D. **Issue Raised:** In recent years, the growth in the sales of private long-term care policies has been rapid. The number of policies sold, and the number of companies selling these policies, has doubled in less than three years. Both the HHS Inspector General and the GAO found that despite recent improvements in long-term care insurance products, many policies still contain overly restrictive limitations on benefits and do not meet basic standards recommended by the National Association of Insurance Commissioners (NAIC).

**How Addressed:** Held an Aging Committee staff briefing to discuss the problems in the long-term care insurance market. This led to legislation (S. 846) that requires Medigap-like consumer protections for long-term care insurance.

**Status/Outcome:** This legislation was reintroduced in the 103rd Congress (S. 538).



4. Home Health Care

- A. **Issue:** In 1989, HCFA was in the process of implementing a new methodology (an area wage index) for reimbursing Medicare home health agencies that would have meant a severe reduction in payments to most home health agencies in Arkansas (and elsewhere).

**How Addressed:** Requested a delay of the proposed wage index through the Senate Finance Committee, noting that it was based on faulty and incomplete information.

**Status/Outcome:** A one-year delay was included in OBRA 1989.

- B. **Issue:** Medicare home health agencies, skilled nursing facilities and hospices, with unquestionably good track records in accurately billing for their services, are able to take advantage of a "waiver of liability" provision. This provision states that health care providers will not be penalized for some unintended mistakes if they can demonstrate a good faith effort to comply with the complex reimbursement regulations governing them. This waiver of liability was scheduled to expire in 1990; according to home health agencies in Arkansas and elsewhere, the elimination of this waiver would have created so many bureaucratic problems that some agencies might be forced to close -- thus reducing access to needed home care services.

**How Addressed:** The Aging Committee introduced legislation (S. 3076) in July 1990 to make the waiver of liability permanent.

**Status/Outcome:** A five-year extension of the waiver was included in OBRA 1990.

- C. **Issue:** Some insurers who administer the Medicare program for HCFA are now using flawed sampling techniques in their audits of Medicare home health agencies. The problem is that audits based on overly small samples are being extrapolated and applied to the agency as a whole, often with dire results for the home health care agency.

**How Addressed:** In October, 1991, introduced legislation (S. 1838) with Senator Mitchell that would prohibit the use of sampling of Medicare providers, except in cases of fraud or abuse. The legislation is based on the premise that coverage determinations should be done on an individual, case-by-case basis -- not on the results of a sample.

**Status/Outcome:** The legislation was referred to the Finance Committee, where it is awaiting action. It has the support of a variety of Medicare provider groups, including hospitals and nursing homes.

5. Medicaid

- A. **Issue:** Under current law, each state Medicaid program pays for the Medicare premiums, copayments and deductibles for low-income Medicare beneficiaries. This program, called the Qualified Medicare Beneficiary (QMB) program, was felt by many aging advocates to provide adequate protection for many low income elderly. Their concern was that it was underfinanced, helped too few people, and did an extremely poor job of informing poor older Americans about the mere existence of the program. As a result, less than 50 percent of the eligible population in Arkansas did not benefit from the law's protections.

**How Addressed:** Urged the conferees on OBRA 1990 to use some of the funds saved by the drug bill to expand the QMB program. In July, 1991, the Aging Committee held a hearing on the federal government's role in promoting the availability of the QMB program.

**Status/Outcome:** OBRA 1990 expanded the QMB program to provide coverage to persons within 120% of poverty by 1995. The hearing encouraged DHHS to investigate the viability of permitting persons to apply for the QMB program at their local Social Security Office. The Aging Committee has also requested, with several other members, a GAO report on ways to bolster enrollment in the QMB program.

- B. **Issue:** In recent months, there has been a great deal of attention focused on elderly persons "hiding" their assets or planning their estates in order to become eligible for Medicaid in the nursing home and avoid spend-down. There is a great deal of disagreement as to the extent of this problem; some people think it is occurring in epidemic proportions; others believe the instances are totally anecdotal.

**How Addressed:** The Aging Committee, along with the Finance Committee, have requested a report from GAO on the extent of this problem, and the nature of the estate planning that is taking place.

**Status/Outcome:** The GAO report will be released in late summer. Preliminary reports from GAO have demonstrated that this is not a widespread problem.

**6. Medicare Fraud and Abuse**

- A. Issue Raised:** Medicare procedures governing the administration of durable medical equipment payment are far too lax. Fraudulent medical equipment suppliers have been able to use and abuse the Medicare system to the tune of an estimated \$200 million a year.

**How Addressed:** Aging Committee held a hearing (October 2, 1991) which was followed up by legislation (S. 1736, S. 1988, S. 3270) establishing new administrative procedures which will help ensure appropriate purchasing of durable medical equipment in the Medicare program.

**Status/Outcome:** In response to the recent Aging Committee hearing, the Health Care Financing Administration (HCFA) issued new regulations to curb abuses by unscrupulous medical equipment suppliers. S. 3270, which produced savings of over \$200 million, was included in H.R. 11, which was vetoed by President Bush.

- B. Issue Raised:** According to a GAO investigation, 50 percent of the Medicare beneficiaries calling in on Medicare's toll-free line to report fraud are being ignored. HCFA is planning on closing these lines and, in so doing, is eliminating the best source of information that can be used to reduce the billions of dollars linked to Medicare fraud and abuse.

**How Addressed:** Aging Committee held a hearing (October 2, 1991) to release GAO findings. Also, Aging Committee members sent letters to HCFA, the President and Senator Harkin urging that emergency funds be released to keep the toll-free lines open and to require more effective follow-up to fraud and abuse leads.

**Status/Outcome:** The Older Americans Act contained a requirement for HCFA to continue the operation of the toll-free lines.

7. Medicare Beneficiary Issues

- A. **Issue Raised:** Older Americans face difficult decisions about private Medigap and long-term care insurance, and in spite of regulatory efforts, serious marketing abuses persist. Further, in the wake of the repeal of Medicare catastrophic, older Americans faced Medigap premium increases of up to 45 percent.

**How Addressed:** Held a hearing (March 7, 1990) to illustrate the problems in the Medigap market. In addition, held a roundtable discussion for staff and interested organizations, released an information paper, "Guide to Purchasing Medigap and Long-term Care Insurance." These activities led to legislation (S. 2189) that gives states money to provide one-on-one health insurance counseling to older Americans.

**Status/Outcome:** This legislation was incorporated into a major Medigap reform bill, which in turn was incorporated into OBRA 1990. This legislation provides \$10 million (included in 1991 Labor/HHS appropriations) to states to set up volunteer programs that provide health insurance counseling to Medicare beneficiaries. Currently, 49 states and the District of Columbia have taken advantage of this grant program.

- C. **Issue Raised:** As part of physician payment reform, OBRA 89 set limits on the amount of excess charge that physicians who do not accept Medicare payment as payment in full can bill their patients. These limits were set to provide financial protection for beneficiaries. HCFA has failed to adequately implement the law. They neglected to change their forms to reflect the new limits and beneficiaries continue to report doctor overcharges.

**How Addressed:** Held a hearing (April 7, 1992) to illustrate the problems beneficiaries faced. These activities led to legislation (S. 2698) to make clear that the Medicare beneficiary is not liable for overcharges and require HCFA to increase monitoring and enforcement of the charge limits.

**Status/Outcome:** In response to Aging Committee hearing (April 7, 1992), HCFA increased its efforts by directing the carriers how to respond to beneficiary inquiries. Also, S. 2698 was included in H.R. 11 which was vetoed by President Bush. The bill has been reintroduced in the 103rd Congress (S. 514).

I N C O M E   S E C U R I T Y   A C H I E V E M E N T S

**INCOME SECURITY****1. Social Security**

- A. Issue Raised:** Older Americans could not call their local Social Security field office and were being automatically forwarded to a toll free number answered by operators who lived hundreds of miles away, and who were frequently unaware of caller's state laws.

**How Addressed:** The Aging Committee held a hearing (April 10, 1989) to illustrate why Social Security beneficiaries need to have access to their local field office and a bill was introduced (S. 2158) to require the Social Security Administration to allow people to call their local Social Security office.

**Status/Outcome:** This legislation was signed into Public Law 101-508 in October, 1990 -- (the Omnibus Budget Reconciliation Act of 1990).

- B. Issue:** Americans who are mentally or physically unable to handle their own finances were being financially abused by people who had been designated as their "Representative Payee."

**How Addressed:** The Aging Committee held a hearing to highlight this problem (June 6, 1989). A bill was introduced (S. 1130) to strengthen the investigation and monitoring of rep payees, and to safeguard beneficiary rights.

**Status/Outcome:** This legislation was signed into Public Law 101-508 in October, 1990.

- C. Issue:** Bureaucratic red tape was increasing the cost of administering the awarding of legal fees to lawyers representing Social Security beneficiaries challenging denials of claims. This problem not only increased cost, but threatened to reduce the number of lawyers willing to assist Social Security beneficiaries who were in desperate need of legal assistance.

**How Addressed:** A bill was developed (S. 1570) that streamlines the process for awarding attorney fees, thereby saving the government millions of taxpayer dollars.

**Status/Outcome:** This legislation was signed into Public Law 101-508 in October, 1990.

- D. **Issue:** An increasing number of groups were being established to send mailings asking seniors to send money to protect their benefits. These mailings are often misleadingly designed to look like official government documents.

**How addressed:** A bill was developed in the Senate Aging Committee to strengthen prohibitions against these mailings, and to stiffen penalties for violations.

**Status/Outcome:** The bill was approved by Congress as part of H.R. 11 in 1992, but was vetoed by President Bush.

## 2. Social Security Disability

- A. **Issue:** Determining if a citizen is "disabled" and thus eligible to receive disability benefits under the Social Security or Supplemental Security Income (SSI) Programs is a difficult and sensitive task. The Aging Committee has found that many citizens have been wrongfully denied disability benefits, while others have been forced to wait for months while their unfavorable decisions find their way through a cumbersome, often expensive appeals process.

**How Addressed:** The Aging Committee held a hearing on July 17, 1990, entitled "Disabled Yet Denied: Bureaucratic Injustice in the Disability Determination System." The Committee also prepared a report on this subject which reviewed major policy studies and provided specific recommendations aimed at streamlining and reducing the number of mistakes made during the disability determination process.

**Status/Outcome:** Shortly following the hearing, a number of members of the Aging Committee initiated a letter which requested that OMB release \$5 million to be used by the State Disability Determination Services to quickly adjudicate claims. Later, committee members sent another letter that resulted in a release of \$100 million in contingency funds to process disability case backlogs.



### 3. Age Discrimination

- A. **Issue:** Preventing Discrimination in Employee Benefits. In the Betts case, the U.S. Supreme Court ruled that the Age Discrimination in Employment Act (ADEA) does not protect older workers from discrimination in the area of employee benefits. Thus, employers could legally discriminate against older workers by denying them the same valuable benefits they routinely provided to their younger employees.

**How Addressed:** A number of members of the Aging Committee joined to introduce S. 1511, the Older Worker Benefit Protection Act (OWBPA), on August 3, 1989. OWBPA effectively overruled the Betts decision. The OWBPA was the subject of a joint hearing of the Aging Committee with the Labor and Human Resources Subcommittee on Labor on September 27, 1989.

**Status/Outcome:** The OWBPA was signed into law on October 16, 1990, a major victory for older worker rights. The OWBPA is the perhaps the most important package of amendments to the ADEA since the age cap of 70 was removed in 1986. Potentially thousands of older workers will benefit from the OWBPA.

- B. **Issue:** Improving and Streamlining EEOC Procedures. In recent years, the Equal Employment Opportunity Commission (EEOC), the independent agency responsible for enforcing the Age Discrimination in Employment Act (ADEA), has been plagued with a number of problems-- most notably, a tremendous number of age discrimination cases. In fact, several years ago, the Aging Committee discovered that the EEOC had allowed thousands of age discrimination cases to lapse beyond the statute of limitations for filing a private lawsuit. Had it not been for Congressional passage of two emergency bills that extended the statute of limitations, thousands of older workers would have been left without legal remedy.

**How Addressed:** In seeking ways to improve the EEOC age discrimination dispute resolution process, the Aging Committee suggested and initiated an independent advisory group. This group of people, consisting of representatives of businesses and aging advocates, is called the "ADEA Working Group." The group's purpose is to examine ways in which the EEOC can -- through the use of alternative dispute resolution approaches -- streamline and improve its management of age discrimination claims.

**Status/Outcome:** The ADEA Working Group issued its report recommending that EEOC utilize arbitration because it is a less expensive and cumbersome, but highly effective way of resolving age discrimination disputes.

These efforts could prevent needless frustration among thousands of older workers who must rely on the EEOC to enforce their age discrimination rights. For older workers, the option to use alternative dispute resolution procedures means more money in their pockets (instead of their lawyers'), quicker resolution of their cases, and greater satisfaction with the system of justice.

S O C I A L   S E R V I C E S   A C H I E V E M E N T S

## SOCIAL SERVICES

1. Older Americans Act

## A. Issue Raised: Preparation for 1991 Reauthorization

**How Addressed:** The Committee convened a workshop series in 1990 designed to identify policy changes that might be necessary or desirable as part of the Older Americans Act reauthorization process, and released a GAO Report focusing on promising practices in information and assistance programs.

**Status/Outcome:** The workshops provided an opportunity for older persons and aging advocates from around the country to contribute to the reauthorization process. Released a Special Committee on Aging compilation of the workshop series and a report which presents findings and policy recommendations for the 1991 reauthorization to further educate the elderly population, policymakers and aging advocates.

## B. Issue Raised: Older Americans Act Reauthorization Bills

**How Addressed:** Based on the findings of the workshops, Chairman Pryor introduced three bills to improve services and programs under the Act, including:

- o S. 974, Heinz Elder Life Program Act: to improve information and assistance, legal assistance, the long-term care ombudsman program, protection and advocacy systems, data collection, and transportation services for the elderly;
- o S. 1477, Senior Nutrition Act of 1991: to improve the quality, safety, and wholesomeness of meals served by OAA-supported nutrition programs; and
- o S. 1740, Interstate Funding formula Equity Act of 1991: redistributes federal funds to alleviate the burden placed on states with a disproportionate number of low-income elderly persons.

**Status/Outcome:** Most of the major provisions of these bills were incorporated into the reauthorization legislation which was signed into law by the President on September 30, 1992, P.L. 102-375. Additional provisions recommended by the Special Committee on Aging and included in P.L. 102-375 include:

- o Special projects in comprehensive long-term care and for several long-term care resource centers including one devoted exclusively to long-term care issues affecting the rural elderly; and
- o Grants to states for developing comprehensive and coordinated senior transportation systems and grants to area agencies on aging for leveraging additional resources to deliver transportation services.

## 2. Consumer Fraud

### A. Issue Raised: Consumer Fraud That Targets the Elderly

**How Addressed:** Sponsored a hearing entitled "Consumer Fraud that Targets the Elderly: Easy Prey?" which provided a forum for discussion of what various states are doing to combat consumer fraud that targets the elderly, and to examine what the federal government can do to support the states' efforts.

**Status/Outcome:** The hearing highlighted what are the most prevalent consumer frauds that victimize the elderly. It provided an opportunity for state Attorneys General to address what type of help they need from the federal government to combat this type of fraud. The Committee is in the process of preparing a consumer print that addresses consumer fraud and provides information on how older Americans can protect themselves from such abuse.

## 3. Guardianship and Advance Directives

### A. Issue: Educating consumers about planning ahead for disabling accident or illness.

**How Addressed:** The Committee began a series of workshops on guardianship issues and has published consumer flyer and print on planning for incapacity.

**Status/Outcome:**

- o June 2, 1992 -- roundtable discussion of guardianship experts to examine how the Federal Government might become involved in this area of the law which has traditionally been left to the states.
- o April 16, 1993 -- workshop on innovative approaches to guardianship around the country.
- o Published a consumer flyer and expanded version with state by state analysis of laws pertaining to health care planning tools: **Consumer Guide To Planning Ahead: The Durable Power of Attorney For Health Care and Living Will.**

4. Elder Abuse

- A. **Issue:** How to address an increasing incidence of elder abuse.

**How Addressed:** The Committee convened a roundtable discussion of elder abuse and published an advocate's guide to addressing elder abuse.

**Status/Outcome:**

- o March 1993 roundtable discussion highlighting model programs for addressing the needs of domestic violence/elder abuse victims.
- o Published Committee print, **An Advocate's Guide to Laws and Programs Addressing Elder Abuse.**

5. Special Populations

- A. **Issue:** The disparity in health status between ethnic elderly groups and older whites.

**How Addressed:** The Committee convened a series of hearings/forums to examine the health status of various ethnic groups.

**Status/Outcome:**

- o Joint hearing convened in 1991 in conjunction with the Congressional Black Caucus Health Braintrust on African American Elderly.
- o Field hearing in Helena, Arkansas on preventive health care for African American Elderly.
- o Workshop that focused on the special needs of the American Indian elderly. The Committee was commended by the Administration on Aging and the National Council on Indian Elderly for looking into the plight of the American Indian elderly.

## 6. Intergenerational Issues

- A. **Issue:** Grandparents who are raising their grandchildren is a growing phenomenon. As the problems of drug abuse and violence and other societal ills become more prevalent, more and more parents are unwilling or unable to raise their children, often leaving the responsibility to the grandparents. Grandparents can find themselves financially, physically and emotionally overcome by these new responsibilities, and there is little support for them in the community.

**How Addressed:** In July, 1992, the Aging Committee held a hearing to examine this issue. Witnesses at the hearing included grandparents and grandchildren who are in this situation, as well as health care and social service workers. As a result of the hearing, the Aging Committee developed legislation (S. 615) that would establish a national grandparents resource center.

**Status/Outcome:** The hearing helped to bring this issue to the attention of both the Senate and the public, in many cases for the first time. S. 615 has the support of many aging advocacy and grandparent support groups, and is pending before the Labor Committee.

## 7. Fraud and Abuse

- A. **Issue:** The elderly are considered to be easy targets for fraudulent sales practices. The evidence suggests that some seniors are seen as easy prey by unscrupulous people who will do anything to make a dollar.

**How Addressed:** The Aging Committee held a hearing in September, 1992, to examine this issue. The hearing provided a forum for a discussion of what various states are doing in combating consumer fraud that targets the elderly, and to examine what the federal government can do to support the states' efforts.

**Status/Outcome:** The Committee is working on follow-up hearings and legislation to address the issues raised at the hearing.

EXHIBIT 1  
LETTERS RECEIVED SUPPORTING RETENTION OF THE  
SPECIAL COMMITTEE ON AGING

Mrs. Theresa Heinz  
American Association of Retired Persons (AARP)  
National Council of Senior Citizens  
Grandparents United for Children's Rights, Inc.  
Medicare Beneficiaries Defense Fund  
National Association of Area Agencies on Aging  
National Black Aging Network  
Consumers Union  
National Senior Citizens Law Center  
National Pacific/Asian Resource Center for Aging  
United Seniors Health Cooperative  
American Public Welfare Association  
Arkansas Seniors Organized for Progress  
SOS - Save Our Security  
The National Home Care Association  
Children's Defense Fund  
National Association for Music Therapy, Inc.  
Families USA  
National Indian Council on Aging, Inc.  
Alzheimer's Association  
American Medical Peer Review Association  
National Citizen's Coalition for Nursing Home Reform  
National Association of State Units on Aging  
American College of Emergency Physicians  
National Association of Social Workers  
Older Women's League  
National Association of Geriatric Education Centers  
National Association of Retail Druggists  
National Caucus and Center on Black Aged  
National Alliance for Aging Research  
American Pharmaceutical Association  
Pharmacists' Association of Western New York, Inc.  
National Committee to Preserve and Protect Social Security  
National Association of Meals Programs  
National Organization of Social Security Claimants'  
Representatives  
American Society for Medical Technology



SPECIAL COMMITTEE ON AGING  
ACCOMPLISHMENTS OF THE 102ND CONGRESS

The Aging Committee convened 13 hearings during the 102nd Congress in Washington, D.C.:

HEARINGS

- March 13, 1991---"Medicare HMO's and Quality Assurance: Unfulfilled Promises."
- April 23, 1991---"Respite Care: Rest for the Weary."
- June 19, 1991---"Who Lives, Who Dies, Who Decides: The Ethics of Health Care Rationing."
- July 24, 1991---"Low-Income Medicare Beneficiaries: Have they Been Forgotten?"
- August 1, 1991---"Forever Young: Music and Aging."
- August 2, 1991---"Older Women and Employment: Facts and Myths."
- October 2, 1991---"Medicare Fraud and Abuse: A Neglected Emergency?"
- November 19, 1991---"Cutting Health Care Costs: Experiences in France, Germany, and Japan." Joint Session: Senate Special Committee on Aging; Senate Committee on Governmental Affairs.
- March 3, 1992---"Elderly Left Out in the Cold? Effects of Fuel Assistance and Housing Cuts on Senior Citizens".
- April 7, 1992---"Medicare Balance Billing Limits: Has the Promise Been Fulfilled?"
- June 18, 1992---"Aging Artfully: Health Benefits of Art and Dance."
- July 29, 1992---"Grandparents as Parents: Raising a Second Generation."
- September 24, 1992---"Consumer Fraud and the Elderly: Easy Prey?"

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The Aging Committee held 8 field hearings during the 102nd Congress:

FIELD HEARINGS

June 29, 1991---"Elder Abuse and Neglect: Prevention and Intervention", Birmingham, Alabama.

August 6, 1991---"Crimes Committed Against the Elderly", Lafayette, Louisiana.

February 10, 1992---"Continuing Long-Term Care Services", Fort Lauderdale, Florida.

February 10, 1992---"Long-Term Care and Prescription Drug Costs", Fort Smith, Arkansas.

February 11, 1992---"Skyrocketing Health Care Costs and the Impact on Individuals and Businesses", Jonesboro, Arkansas.

February 12, 1992---"Answers to the Health Care Dilemma", El Dorado, Arkansas.

April 15, 1992---"Skyrocketing Prescription Drug Costs: Effects on Senior Citizens", Lewiston, Maine.

April 22, 1992---"The Effects of Escalating Drug Costs on the Elderly", Macon, Georgia.

The Committee held 6 other forums during the 102nd Congress:

WORKSHOPS/SEMINARS

February 15, 1991---"Elderly Nutrition: Policy Issues for the 102nd Congress." Joint Session: Senate Special Committee on Aging; Senate Committee on Agriculture, Nutrition and Forestry.

March 13, 1991---Workshop on the Reauthorization of the Older Americans Act, in association with the Southern Gerontological Society, Atlanta, Georgia.

July 22, 1991---"Reducing the Use of Chemical Restraints in Nursing Homes."

July 29, 1991---"Linking Medical Education and Training to Rural America: Obstacles and Opportunities."

August 28, 1991---"A Health Care Challenge: Reaching and Serving the Rural Black Elderly", Helena, Arkansas.

November 13, 1991---"Preventive Health Care of the Native American Elderly."

June 2, 1992---"Roundtable Discussion on Guardianship."

November 12, 1992---"Intergenerational Mentoring."

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 JAMES M. JEFFORDS VERMONT  
 JOHN MCCAIN ARIZONA  
 DAVE DURENBERGER MINNESOTA  
 LARRY CRAIG IDAHO  
 CONRAD BURNS MONTANA  
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## United States Senate

SPECIAL COMMITTEE ON AGING  
 WASHINGTON, DC 20510-6400

### SPECIAL COMMITTEE ON AGING UNITED STATES SENATE

#### HEARING/SEMINAR/WORKSHOP LIST - 1993

##### Seminar:

January 25, 1993

"Update on Medication Costs for Older Americans", sponsored by the U.S. Senate Special Committee on Aging, Washington, D.C.

##### Seminar:

February 19, 1993

"How Do Pharmacists Determine a Prescription Price?", sponsored by the U.S. Senate Special Committee on Aging, Washington, D. C.

##### Hearing:

February 24, 1993

"The Federal Government's Investment in New Drug Research and Development: Are We Getting Our Money's Worth?", sponsored by the U.S. Senate Special Committee on Aging, Washington, D.C. (Serial No. 103-1)

##### Seminar:

March 26, 1993

"The New Federal Employee's Prescription Program", sponsored by the U.S. Senate Special Committee on Aging, Washington, D.C.

##### Hearing:

April 14, 1993

"Prescription Drug Prices: Out-Pricing Older Americans", sponsored by the U.S. Senate Special Committee on Aging, Bangor, Maine. (Serial No. 103-2)

##### Workshop:

April 16, 1993

"Innovative Approaches to Guardianship", sponsored by the U.S. Senate Special Committee on Aging, Washington, D.C. (Serial No. 103-3)

##### Hearing:

April 20, 1993

"Controlling Health Care Costs: The Long-Term Care Factor", sponsored by the U.S. Senate Special Committee on Aging, Washington, D.C. (Serial No. 103-4)

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Workshop:  
April 21, 1993

"Cataract Surgery -- GAO Report to be released entitled, "Cataract Surgery, Patient Reported Data on Appropriateness and Outcomes", sponsored by the U.S. Senate Special Committee on Aging, Washington, D.C. (Serial No. 103-5)

Seminar:  
April 23, 1993

"How Do Drug Formularies Work?", sponsored by the U.S. Senate Special Committee on Aging, Washington, D.C.

Workshop:  
May 3, 1993

"Rural Health & Health Reform", co-sponsored by the U.S. Senate Special Committee on Aging and the Senate Rural Health Caucus, Washington, D.C.

Hearing:  
May 6, 1993

"Preventive Health: An Ounce of Prevention Saves a Pound of Cure", sponsored by the U.S. Senate Special Committee on Aging, Washington, D.C.

Statement of Senator Dale Bumpers  
Chairman, Committee on Small Business  
United States Senate  
May 11, 1993

Mr. Chairman, thank you for the opportunity to testify about the role of the Senate Small Business Committee. I want to applaud Senator Boren, Representative Hamilton and others who have focused attention on the need to streamline both the Senate and the House. Like all of you, I have been frustrated beyond words, not only in my work on the Small Business Committee, but also the Energy and Natural Resources and Appropriations Committees when I see good legislation entrapped in overlapping jurisdictions and parliamentary wrangling.

Having never served in the other body, I don't understand its rules and procedures and its complex Committee and subcommittee jurisdictions. I certainly agree with those who argue that House and Senate Committee structures should be more parallel. It can be maddening for a half a dozen Senators to go to conference with perhaps forty or fifty House members from different committees.

Every Congressional Committee should be able to articulate its reason for existence, and the Small Business Committee is no exception. I am glad to do so, and I will state my conclusion up front: Given our economic situation today, I cannot imagine a

worse message we could send the American people, especially the very segment of the economy that is indeed the locomotive in job creation, that we were going to eliminate the Small Business Committees.

Let me state another bias up front. One of the most devastating political ploys our country has witnessed in my lifetime was Ronald Reagan's shamefully instilling in the mind of the American people the belief that the government was their enemy. This cynical mentality that everything government does is automatically wrong has been largely rejected. So, while this place could use a major overhaul, not everything we do is bad.

The Senate Small Business Committee traces its lineage to 1940 and S. Res. 298 introduced by Senator Murray of Montana. Attached to my testimony is a brief history of the Committee which was researched and written by David Johnson of the Committee staff.

There was concern during World War II about our dependence on large defense contractors and the need to have multiple sources of critical supplies so that we would not be devastated by an attack on one or two large defense plants. More broadly, concern for small business in the economy can be traced to the populist and progressive movements of the late nineteenth and early twentieth centuries which produced such landmark legislation as

the Sherman and Clayton Acts. Our Committee has been reauthorized several times, and we have sometimes faced opposition from Senators who feared we would encroach on their jurisdiction. The Small Business Committee was granted legislative authority in 1976.

Our Committee's work can be seen like the two halves of a walnut--our legislative jurisdiction and our duty to investigate and advocate on behalf of our small business constituents. Senate Rule 25.1(o) sets forth the legislative jurisdiction of our Committee which is limited to "matters relating to the Small Business Administration." This jurisdiction sounds narrow, but it includes an extraordinary array of programs as I will discuss below. Subparagraph (3) of the same rule states: "Such committee shall also study and survey by means of research and investigation all problems of American small business enterprises, and report thereon from time to time." Without a doubt, this latter responsibility is what makes our Committee so important and, in my view, irreplaceable.

Let me comment first on our legislative jurisdiction. When I became Ranking Member of this Committee in 1984 and really began to study these programs, I was frankly astounded at the number and complexity of small business laws and programs. I have with me the legislative handbook which our Committee uses which is prepared by the Congressional office at SBA. The first 191 pages



contain the Small Business Act of 1953, as amended, and the next hundred or so pages contain the Small Business Investment Act of 1958. Then there are two or three hundred pages of executive orders and related provisions of law. The implementing regulations for these laws cover several hundred pages in the Code of Federal Regulations.

Over the years, Congress has established essentially three missions for SBA--(1) financial assistance, (2) federal procurement assistance, and (3) management assistance and training, now called business development.

In the financial arena, SBA operates, by my count, thirteen widely different loan programs for small businesses, and a disaster loan program for both large and small business and for homeowners. These programs range from guaranteed bank loans to economic development loans to a venture capital program known as Small Business Investment Companies. In FY 1992, through these programs, loans and other financing totalling over \$8.1 billion were provided to over 52,000 small business borrowers and homeowners affected by natural disasters. Attached to my testimony is a chart showing the authorizations and number of loans for each program.

It is worth noting that of the five major federal credit agencies--SBA, HUD, Education, Veterans Affairs and Farmers Home-

-SBA has the best portfolio performance and the lowest loss rates, according to a recent report in the Washington Post. Naturally, I believe this good performance is encouraged by the relentless oversight of the Senate Small Business Committee.

Additionally, SBA operates or oversees the so-called small business set-aside contracting program and the Sec. 8(a) minority business development programs. Small business set-asides in 1992 totaled \$727 million out of total federal procurements of \$177 billion. SBA directly awarded 44,000 8(a) contracts totaling ~~\$33~~ <sup>\$3.84</sup> billion. Also attached to my testimony is a chart showing the management assistance or business development programs operated through SBA which come under our oversight jurisdiction.

All of this is not to say that the Small Business Committee's legislative work could not be done by others. But I can tell you that these programs could not receive the same degree of oversight by Senators and staff if they were placed under the jurisdiction of, say, the Banking Committee or the Commerce Committee which, one would think, already have more than enough problems. It is also worth noting that small business programs have had at least their share of problems and scandals over the years.

With so many billions of taxpayer dollars potentially at risk, both in loans and contracts, do we really want these programs to

be relegated to a subcommittee of one of the larger committees which already has a full plate of legislative work?

Now let me address the aspect of our Committee's work which goes beyond the SBA. Please consider these figures: Small businesses produce 38% of the GNP. Of all American workers, 53.7% are employed by small business, and 48% of the total payroll in the U.S. is from small businesses. Ninety-nine point seven per cent of all American businesses are small, and they do not have an easy life. These businesses were on the minds of Senator Murray in 1940 and the drafters of Senate Rule 25, who charged the Senate Small Business Committee to "study and survey by means of research and investigation all problems of American small business enterprise."

Small business problems are as broad as life itself. One of their biggest headaches is that well-meaning members of Congress, their staffs and bureaucrats in the Executive branch often have no understanding of what it means to meet a payroll every week. Congress is a virtual artesian spring of good ideas for social policy-making. But it is often a dry hole when it comes to paying for these proposals.

One of the more distressing trends I have seen in the last decade is the tendency of government to push social problems off onto the business sector. This is an inevitable response to

quadrupling of the national debt under Presidents Reagan and Bush which has crippled our ability to respond to problems. Since government is without the means to address a variety of social ills, we put that responsibility on the nearest bystander, employers.

My point is this: There are lots of folks in Washington whose jobs would be immensely easier if the Senate Small Business Committee ceased to exist. We are basically a bunch of gadflies, busybodies and officious intermeddlers who obstruct and interfere with the legislative agenda of big business, big labor and big government. We hold hearings on subjects that offend many people, like capital gains tax proposals, enterprise zones, OSHA regulations, minimum wage bills, occupational disease notification bills, paperwork reduction, federal prison industries and a host of other issues over which we have not one whit of legislative jurisdiction. You might say we are the bane of the Finance and Labor Committees' existence.

But there is good reason for all this intermeddling. Small businesses, to use an Arkansas phrase, "can't get no hearing" many times because small business owners cannot hang out in "Gucci Gulch" with the hordes of lobbyists who see after the interests of big corporations and big labor unions. Small business owners are an independent-minded lot. They do not have

PAC's and they do not have Washington lawyers. Only about half are even members of any trade association.

However, small business is doing one thing that big business is not doing: it is creating jobs. Over the last decade the preponderance of new jobs have come from small companies while the Fortune 500 have laid off workers by the thousands.

Since December of 1991, just thirteen large American companies have announced layoffs totaling 228,350 people. Sears, for example, closed 113 of its stores and thereby laid off 50,000 people. From 1988 to 1990, companies with over 500 employees have lost more than half a million jobs, while those with fewer than 20 employees have created over 4 million new jobs. These figures are detailed in Tables 1 and 2, appended to my testimony.

Moreover, demand for small business programs has increased astronomically in the last two years. The SBA Sec. 7(a) program experienced a 35% increase in demand in FY '92 over FY '91, and then another 27.5% increase in the first four months of FY '93 over the same period in FY '92. Even though the cost of the program is modest by Washington standards, the Appropriations Committee has not been able to keep pace with this demand for small business financing. The reasons for the increase lie in the so-called "credit crunch". Banks, for a variety of reasons,

are not lending to even their best traditional customers, so you can imagine what kind of treatment start-up businesses get.

Finally, if you have followed the words of our new President, you may notice that "small business" appears in almost every paragraph. It is not just because of Bill Clinton's small-town and small-state background that he sympathizes with the shopkeeper, the merchant and the entrepreneur. It is because he understands, as no recent President has, that small business is the backbone of our economy and the best hope for our economic future. Our ability to compete internationally depends most of all on innovation and productivity. Those two traits are associated overwhelmingly with smaller firms. The people who do the innovating and job creating deserve a voice in the Congress. Small Business is where the action is in our economy, and we would be blind to that fact if we eliminated the Small Business Committees.

Yes, you could save about a million dollars a year by entirely wiping out the Senate Small Business Committee, But much if not all of this savings would be lost if a new subcommittee were created somewhere else. And, without a doubt, a lot of bills would sail through this place like corn through a goose without the Small Business Committee's meddling and asking questions. Senators would have fewer hearings and markups to attend and

could thereby be more rested and ready for the many demands facing them. That is not the purpose of congressional reform.

As a footnote, I would add that the Small Business Committee was one of the most sought after assignments at the beginning of this Congress. Senators, especially Democratic Senators, were literally clamoring to get on the Small Business Committee. I was approached by four members on our side who wanted to join the Committee. Although I personally believe that one of our biggest problems is that Committees are too large, I reluctantly agreed to expand the size of the Committee from 19 to 21 to accommodate some of these Senators. It seems to have been a good move, since we have had better attendance at hearings before the Committee than any year since I have been chairman.

Table 1

## Big Business Layoffs Announced Since 12/91

Company	Jobs Lost
IBM	65,000
General Motors	54,000
Sears	50,000
Digital Equipment Co.	25,000
United Technologies	6,000
Eastman Kodak	2,000
Armco Inc.	1,400
Airlines:	
Northwest Airlines	3,100
United Airlines	2,800
American Airlines	1,000
TWA	700
Defense and Aeronautics:	
Boeing	15,000
General Dynamics	1,700
McDonnell Douglas	<u>650</u>
	228,350 (13 companies)



Table 2

Net Employment Change by Business Size, 1988-1990  
(from President's Report: The State of Small Business, 1992)

Employment Size of Firm	Net Gain or Loss
1 - 19	4,016,000
20 - 99	- 112,900
100 - 499	- 737,400
500 +	- 501,382

**PROGRAMS UNDER  
SMALL BUSINESS COMMITTEE JURISDICTION:**

**BUSINESS DEVELOPMENT & EDUCATION PROGRAMS**

**Authorizations**

**FY 1993**

**Small Business Development Centers (SBDCs)**

**\$67,000,000**

*Similar in scope to the USDA's extension service, SBDCs provide business training, counseling and specialized technical assistance to over 540,000 small businesses annually at 946 sites nationwide. At least 50 percent of SBDCs' annual funding is from non-Federal sources. In FY 1992, SBDCs received \$71.2 million from non-Federal sources, and \$58.9 million from the SBA.*

**Service Corps of Retired Executives (SCORE)**

**\$ 3,300,000**

*Through 13,000 volunteers who are retired senior executives, SCORE provides training and counseling to small businesses at over 700 sites nationwide.*

**Small Business Institute Program**

**\$ 3,300,000**

*Annually, over 7000 small business owners receive intensive management counseling from qualified college/graduate level business students at over 500 locations nationwide.*

**PROGRAMS UNDER  
SMALL BUSINESS COMMITTEE JURISDICTION:**

**SBA FINANCE AND INVESTMENT PROGRAMS**

PROGRAM	FY1993	AUTHORIZATION
<b><u>GUARANTEED LOANS, BONDS AND DEBENTURES</u></b>		<b>\$9,331,000,000</b>
<b>Sec. 7(A) Guaranteed Loans</b>		<b>\$6,200,000,000</b>
<i>Largest SBA finance program providing small businesses access to credit through long-term loans by banks or other lenders which are guaranteed up to 90 percent by SBA.</i>		
<b>Small Business Investment Companies</b>		<b>281,000,000</b>
<i>Small businesses receive equity financing and long-term loans from SBICs which have issued SBA-guaranteed debentures and participating securities.</i>		
<b>Specialized Small Business Investment Companies</b>		<b>40,000,000</b>
<i>Equity financing and long-term loans through SBA-guaranteed debentures and participating securities to small businesses owned and controlled by socially or economically disadvantaged persons.</i>		
<b>Sec. 502 &amp; 504 Development Company Guaranteed Debentures</b>		<b>775,000,000</b>
<i>Small businesses receive long-term financing provided by a public/private partnership: 10 percent from a Community Development Center, 40 percent from a debenture guaranteed by SBA and 50 percent from a private lender.</i>		
<b>Surety Bond Guarantees</b>		<b>1,980,000,000</b>
<i>Small contractors who are otherwise unable to secure bonding receive surety bonds which are guaranteed by SBA.</i>		
<b>Pollution Control Bonds</b>		<b>55,000,000</b>
<i>SBA guarantees bonds to finance pollution control facilities for small businesses.</i>		

<b><u>Direct Loans</u></b>	<b>\$180,000,000</b>
<p><b>Microloans</b> <span style="float: right;">\$80,000,000</span></p> <p><i>SBA provides loans and training grants to non-profit intermediaries which re-lend in amounts under \$25,000 to start-up and expanding small businesses.</i></p>	
<p><b>Handicapped Assistance Loans</b> <span style="float: right;">21,000,000</span></p> <p><i>Also called HAL loans, these are made directly by SBA to small businesses owned and controlled by handicapped individuals.</i></p>	
<p><b>Economic Opportunity Loans</b> <span style="float: right;">26,000,000</span></p> <p><i>Loans made directly by SBA to small businesses owned by low-income individuals or located in areas with high proportions of unemployed or low-income individuals.</i></p>	
<p><b>Disabled &amp; Vietnam-Era Veterans Loans</b> <span style="float: right;">21,000,000</span></p> <p><i>Loans made directly to small businesses own and controlled by disabled or Vietnam-era veterans.</i></p>	
<p><b>8(a) (Minority Procurement) Loans</b> <span style="float: right;">11,000,000</span></p> <p><i>Loans for plant or equipment acquisition or conversion made directly by SBA to small businesses which are participating in the sec. 8(a) minority procurement program.</i></p>	
<p><b>Specialized Small Business Investment Company Purchases of Preferred Stock</b> <span style="float: right;">21,000,000</span></p> <p><i>SSBICs are authorized to redeem preferred stock that they previously issued to SBA at less than the par value of the stock.</i></p>	

**SMALL BUSINESS ADMINISTRATION DISASTER LOANS  
TO BUSINESSES AND HOMEOWNERS**

**FY1992 AND FY1993 TO 5/10/93**

	FY1992 (\$in millions)	NUMBER OF LOANS	FY1993 (\$in millions)	NUMBER OF LOANS
BUSINESS LOANS	\$443.7	8,154	\$568.5	11,904
HOMEOWNERS' LOANS	\$350.9	15,263	\$627.5	30,127
TOTAL	\$794.6	23,417	\$1,196.0	42,031

IN FISCAL YEAR 1993, SBA MADE DISASTER LOANS FROM PUERTO RICO IN THE EAST TO GUAM AND THE PACIFIC ISLANDS IN THE WEST, AND VIRTUALLY EVERY AREA IN BETWEEN.

**MAJOR DISASTERS SINCE 1990 FOR WHICH SBA HAS PROVIDED ASSISTANCE:**

- HURRICANE HUGO
- CALIFORNIA (LOMA PRIETA) EARTHQUAKE
- CHICAGO FLOOD
- LOS ANGELES RIOTS
- HURRICANE ANDREW (LOUISIANA AND FLORIDA)
- HURRICANE INIKI (HAWAII)
- TYPHOON OMAR (GUAM & PACIFIC ISLANDS)

## BENEFITS PRODUCED BY SBIC LOANS

COMPANY	Year SBIC Invested	Number of Employees		Sales (000s)		After Tax Profits (000s) When SBIC Invested	Cum. Federal Taxes Paid (000's)	
		When SBIC Invested	1,990	When SBIC Invested	1990			
ACTION AUTO RENTAL, INC.	1984	4	1,199	\$ 456	\$ 98,466	(\$8)	\$ 6,672	\$ 9,796
APPLE COMPUTER, INC.	1977	63	14,500	\$ 773	\$52,284,013	\$42	\$ 454,033	\$ 1,232,010
COMPAQ COMPUTER, INC.	1983	155	9,700	\$ 257	\$ 3,600,000	(\$4,549)	\$ 430,000	\$ 588,600
COSTCO WHOLESALE, INC.	1983	5	9,500	\$ 0	\$ 4,132,600	\$ 0	\$ 49,200	\$ 45,000
CRAY RESEARCH INC.	1972	12	4,708	\$ 58	\$ 784,700	(\$3)	\$ 89,045	\$ 445,410
FEDERAL EXPRESS CORP.	1973	518	64,700	\$ 6,769	\$ 7,015,089	(\$4,480)	\$ 115,784	\$ 748,360
INTEL CORP.	1969	218	21,700	\$ 565	\$ 3,126,833	(\$1,887)	\$ 391,021	\$ 787,260
NETWORK SYSTEMS CORP.	1976	35	1,090	\$ 3	\$ 144,789	(\$638)	\$ 17,327	\$ 59,990
RAMSAY HEALTH CARE	1983	1	2,071	\$ 0	\$ 116,000	\$ 0	\$ 5,800	\$ 10,000
UNIVERSAL HEALTH SERVICE	1979	140	10,200	\$ 20	\$ 587,000	(\$40)	\$ 9,000	\$ 7,500
<b>TOTALS:</b>		1151	139,368	\$ 8,901	\$ 71,889,490	(\$11,563)	\$ 1,567,882	\$ 3,933,926

Source: National Association of Small Business Investment Companies

## Evolution of the Committee on Small Business

The Senate Committee on Small Business has travelled a long and sometimes difficult course from a small, seven member panel first appointed in 1940 to the seventeen member standing committee finally approved in 1981. Through six decades, the Senate's small business advocates have steadfastly pushed for an expanded role for the Committee, using many of the same arguments and statistics from year to year.

1940

In August 1940, Senator Murray of Montana introduced S. Res. 298, a resolution to appoint a special committee to conduct research and study problems of small business. Concerned that the Federal government had assisted agriculture, the mining industry, big business, and most other types of American enterprise while ignoring small business, Murray sought to focus Congress' attention on the institution which employed more workers than any other business institutions but which suffered a ninety percent rate of failure.

Two months later, the Senate turned to consideration of S. Res. 298. As might be expected, opposing senators voiced concern that other committees, primarily the Temporary National Economic Committee, had jurisdiction and had already investigated small business issues. Murray defended small business, citing its vital importance to the economy and to 69 percent of the American workforce who were employed by small businesses. Other supporters voiced concern about the ongoing effects of the Great Depression on small business.

After minor amendments, S. Res. 298 passed by voice vote. The

following day, seven senators were appointed to the Special Committee to Study and Survey Problems of American Small Business Enterprises, commonly called the Senate Small Business Committee. Senator Murray was named chairman.

#### 1950

In January 1949, the Senate Small Business Committee was permitted to expire by default, despite failed attempts to continue the Committee. In February, Senators Holland and Wherry introduced S. Res. 58 to create a Standing Committee on Small Business with full legislative and investigative authority. A year later, it was placed on the calendar for consideration.

Senators in support of S. Res. 58 claimed small business was in desperate straits, primarily from the business demands of the nation's transition from World War II to the Cold War. (Since 1940, the Senate Small Business Committee had contributed to the welfare of small business, primarily by directing defense procurement contracts to thousands of them.) Concern was also expressed about the ever-increasing presence and power of big business in the United States' economy.

As expected, members of the Banking and Commerce Committee sought to retain as much control over small business issues as possible. Despite their attempts to sideline the measure, however, S. Res. 58 survived to pass the Senate. After considering a number of amendments, the Senate settled on a version of the Resolution creating a select committee of thirteen members known as the Committee on Small Business to study and survey problems with small business.

The final version of S. Res. 58 gave no legislative authority to the Committee, accommodating Senators who were concerned the



Committee might ultimately manage to take control of all legislative aspects relating to small business (including taxes, credit, etc.). Some senators, including leading Senate advocates of small business, suggested that such a situation might cause small business more harm than good.

1976

In March 1975, Senator Heathy introduced S. Res. 104, a resolution granting the Senate Small Business Committee jurisdiction over legislative matters relating to the Small Business Administration and small business issues in general. The resolution also provided for the committee's size to increase from thirteen members to seventeen. Seventy-two cosponsors joined Heathy, guaranteeing it a trouble-free ride.

S. Res. 104 was similar to a measure the Senate considered in 1964 which, although supported by 36 cosponsors, was tabled by a vote of 68 to 25. Another had been considered in 1967 and, although by a smaller margin, was also defeated.

Despite its sure passage, dissenters worked to convince colleagues of inevitable trouble. Senators Proxmire and Tower voiced concern over the question of the Committee's legislative scope. Proxmire warned that jurisdiction over certain small business issues might slowly be stripped from other committees, including tax issues from the Finance Committee and credit and capital problems from the Banking Committee (which he chaired). Tower concurred with Proxmire's remarks and suggested the Committee's actual presence in the Senate would remain inconsequential, noting that of 3,424 bills introduced in the first session of the 94th Congress, only fourteen had been referred to the Banking Small Business Subcommittee (.4%). The other eighteen committees with legislative responsibilities played, Tower implied, a much greater legislative role.

Heathy and other supporters cited the by-now familiar facts and statistics. They maintained that the Committee's only significant legislative role would concern oversight of SBA. While it would continue to hold hearings and conduct studies of interest to small business, the Committee's legislative role would remain limited and would not threaten the jurisdiction of other committees (which to this day is still the case).

On April 29, 1976, S. Res. 104 passed the Senate after weathering expected opposition from Proxmire and Tower. Only twelve senators opposed the Resolution.

#### 1981

The last major event in the Committee's history occurred in 1981. Senator Baker introduced S. Res. 34 to change its status from a select committee to a standing committee. Supporting senators were quick to mention that the resolution would simply change the Committee's status. It would not, they pointed out, grant the Committee any greater legislative authority or require additional expenditures.

Senator Weicker, chairman of the Small Business Committee, hailed the measure as a clear signal of the Senate's priorities and good intentions concerning American small business. He and Senator Nunn reminded their colleagues of small business' importance to the U. S. economy and of the Committee's critical support of small business over the previous decades.

Seventeen cosponsors joined the resolution (including Bumpers). No opposition was expressed on the floor, and the resolution passed by unanimous consent.

**PROGRAMS UNDER  
SMALL BUSINESS COMMITTEE JURISDICTION:**

**SBA PROCUREMENT PROGRAMS FOR  
SMALL AND DISADVANTAGED BUSINESSES**

<u>FY 1991</u>	<u>Actions</u>	<u>Amounts</u>
<b>Government-wide Goals for Participation</b>		
<b>In Federal Procurement</b>	221,733	\$31,340,516
<i>Section 15(g) of the Small Business Act requires the President to annually establish Government-wide goals for participation in Federal contracting opportunities by small business concerns (of at least 20 percent) and by small business concerns owned and controlled by socially and economically disadvantaged individuals, more commonly referred to as small disadvantaged businesses, (of at least 5 percent). SBA working with OMB's Office of Federal Procurement Policy annually negotiates individual goals with each of the various Executive Departments and agencies pursuant to this statutory requirement. The actual performance of the individually departments and agencies is reported by the President as part of the Annual Report on the State of Small Business, which is referred to the Committee.</i>		
<b>Small Business Set-Asides</b>	41,368	\$ 5,990,000,000
<i>Pursuant to Section 15 of the Small Business Act, Executive Department and agencies are required to restrict the competition for a contracting opportunity exclusively among small business concerns (commonly referred to as a small business set-aside) whenever there is a reasonable expectation that two or more small firms are available to compete and can offer products or services meeting the agencies needs and award can be made at a fair market price.</i>		
<b>Minority Small Business &amp; Capital</b>		
<b>Ownership Development [8(a)]</b>	20,796	\$ 3,840,000,000
<i>Pursuant to Section 8(a) of the Small Business Act contracts can be awarded on a non-competitive or restricted competition basis to participants in the SBA's MSB/COD Program to foster their business development. Contract opportunities are set-aside for competitions among Program participants if the contract opportunity exceeds a \$ 3 million threshold (5 million in the case of manufacturing). Contract opportunities below the thresholds are awarded on a sole source basis, most frequently on the basis of self-marketing to the procuring agency.</i>		
<b>Small Business Subcontracting</b>		
<b>by Large Business</b>		\$23,300,000,000
<i>Pursuant to Section 8(d) of the Small Business Act, any contract (or subcontract) with an anticipated award value of \$500,000 (or \$1 million in the case of construction) requires the submission of a plan (including specific goals) for subcontracting with small business concerns and small disadvantaged businesses, if the contract or subcontract is awarded to other than a small business concern. Performance under this statutory subcontracting program is reported annually by the SBA to the Committee.</i>		
<b>Small Disadvantaged Business Subcontracting</b>		
<b>by Large Business</b>		\$ 200,000,000

*(included in total Small Business Subcontracting).*

<b>Certificate of Competency Program</b>	1,385	\$	634,000,000
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**FY 1991 government savings from using the small business low bidder certified by the program was \$41.2 million.**

*Section 7 of the Small Business Act provides authority for the SBA to review the capability of a small business concern to perform a Government Contract when that firm was the apparent awardee, but award was denied by the agency contracting officer on the basis that the small business concern lacked the capability to perform the contract. By providing a statutorily based review process, the SBA COC Program acts as a deterrent to arbitrary actions by Federal contracting officers. During FY 1991, Federal agencies saved \$41.2 million by using the small business offeror certified as capable after a review by SBA.*

<b>Small Business Innovation Research (SBIR) Program</b>	3,341	\$	483,100,000
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*Section 9 of the Small Business Act directs each Federal agency with an extramural research and development (R&D) budget in excess of \$100 million to direct a percent of their R&D budget to support innovation projects by small business entrepreneurs. The percentage reserved for small firms was 1.25% for FY 1991 and increases incrementally to 2.5% by FY 97.*

A copy of this report was submitted by Senator Dale Bumpers and is being held in the Committee's files.

**Evaluation of the 7(a)  
Guaranteed Business Loan Program**

Final Report

March 18, 1992

Prepared For:

U.S. Small Business Administration  
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Contract Number SBA-5033-FAD-90

**STATEMENT OF WILLIAM F. CLINGER, JR.  
REPUBLICAN CHAIRMAN  
COMMITTEE ON GOVERNMENT OPERATIONS  
BEFORE THE  
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS  
"COMMITTEE STRUCTURE AND PROCESS"**

**Mr. Co-Chairmen, Vice-Chairmen and Members of the Joint Committee on the Organization of Congress:** I appreciate this opportunity, in fact my second opportunity, to testify before the Joint Committee. During my first visit, the topic of discussion was reform of the budget process. Today, I appear before you to share with you my thoughts regarding committee structure and process. In particular, I want to discuss the importance of considering the oversight function when considering any reform of committee structure or process.

However, I would first like to take exception with some recent press accounts of the committee's proceedings that might leave the impression that the members appearing before the Joint Committee have had only one goal in mind, the protection of committee jurisdiction and authority. Having listened to the testimony of many of the witnesses and watching the committee's proceedings on C-Span, I know that this is simply not the case. The range of insights and thoughtful opinions that have been offered over the course of the past weeks have been impressive. The time, effort and work that has gone into the recommendations made by your witnesses has been self evident. There has been much more than the protection of jurisdiction and the saving of committees discussed in this room.

**CRS Committee System Option Paper**

Last month, I received the lengthy option paper that was prepared for the Joint Committee by the Congressional Research Service. It is clear that the staff at the CRS put a great deal of thought and work into the development of the fourteen committee system models. I'd like to be able to definitively tell you which of the fourteen alternatives is best. Regretfully, I can't do that at this point. However, I am confident that the long hours spent by the staff and Members of the Joint Committee will eventually lead to the kind of analysis and insight needed to select an appropriate model. The challenge for the Joint Committee, and ultimately the Congress, is to select a model that best balances democratic ideals with organizational function.

**Reform of Committee Structure and Process Must Incorporate the Need for Effective Congressional Oversight**

My primary message today, the one that comes from my service on the Committee on Government Operations, is that special attention should be given to ensure that reforms reflect the importance of aggressive, effective, and most importantly responsible congressional oversight of cabinet departments, executive agencies, regulatory commissions and the presidency.

Volume after volume has been written with regard to Congressional oversight. In fact, attached to my statement is an extensive CRS bibliography on oversight, evidence that there is hardly a shortage of information on the subject. Within that body of work, congressional authority for the conduct of oversight has been well-documented. For that reason, I will not repeat the constitutional and statutory basis for oversight.

However, as the National Academy of Public Administration pointed out in its 1988 report on congressional oversight of regulatory agencies, oversight permeates the activities of Congress. It is central to developing the budget, enacting legislation, confirming presidential appointees and serving constituents.

Yet, while scholars are in general agreement regarding congressional authority for oversight, as well as the all-encompassing nature of oversight, Congress has chosen to experiment with a variety of structural models in implementing oversight. Also attached to my statement is a chapter from a document prepared by the Clerk of the House, the "Guide to the Records of the United States House of Representatives at the National Archives". The attached chapter covers the "Records of the Government Operations Committee and its Predecessors".

I won't quote from the chapter, but would urge Members and staff to take a moment to review the document. A study of the history of the Government Operations Committee and its fourteen predecessor committees, demonstrates the changing views of how oversight can best be advanced through committee structure.

At times, the House believed that a single oversight committee was most effective. That was the case in 1814, when the House established the Committee on Public Expenditures to examine and report whether moneys had been disbursed "conformably" with the law. The committee was also to report measures to increase the economy of the Departments and the accountability of officers.

Later, the House believed that a number of individual oversight committees assigned to a particular department would be most effective. In 1816, an organizational change was implemented, eventually leading to the establishment of eleven (11) standing oversight committees charged with overseeing specific departments. Committees on Expenditures

in the Navy, Post Office, Treasury, State, War, Public Buildings, Interior, Justice, Agriculture, Commerce and Labor existed until 1927. As an aside, during his only term in the House, Abraham Lincoln was assigned, like many first-term members, to the Committee on Expenditures in the War Department.

In 1927, the House went back to the idea of a single oversight committee with the establishment of the Committee on Expenditures in the Executive Department. It was not until 1952, that the Committee was renamed the Committee on Government Operations. You will recognize many of the names listed in the final attachment to my statement, a roster of all of the Members who have served on the Committee on Government Operations.

The Clerk's report traces the ups and downs of Government Operations' influence and activities, while at the same time noting that the Committee's broad oversight jurisdiction overlaps with most other standing committees. The Committee has other jurisdiction and responsibilities, such as: jurisdiction for budget and accounting measures other than appropriations; reorganizations in the executive branch; intergovernmental relationships; the national archives; oversight jurisdiction overlaps with most other standing committees.

#### Importance of Committee With Broad Oversight Jurisdiction

I don't mean to leave the impression that the Government Operations Committee is the only committee in the House with oversight jurisdiction. House rules require other oversight efforts by standing committees. Eight committees have special oversight authority to conduct comprehensive reviews of specific subject areas that are within the legislative jurisdiction of other committees. In addition, committees are authorized to create oversight subcommittees or to require their subcommittees to conduct oversight in their jurisdictional areas.

But no committee has the broad oversight jurisdiction of Government Operations. In particular, no committee has such broad oversight jurisdiction for programs it neither authorizes nor funds. That is one of the most critical factors setting Government Operations apart from other committees.

A committee that is neither the authorizer or appropriator of a program, agency or department, can often bring a level of objectivity to oversight that is otherwise impossible. Establishing, perpetuating, or funding a program creates a special relationship between a committee and that program. Meaning no disrespect to the Members or staff of the authorizing and appropriating committees, and I know there are countless examples of authorizing and appropriating committees performing excellent oversight, I am convinced that the oversight process is advanced by the existence of a committee whose primary responsibility is the oversight function.



In any change in the number, jurisdiction, and structure of committees, I would urge that the Joint Committee ensure that broad oversight jurisdiction continues to be assigned to a committee that is neither an authorizer or appropriator.

#### **Prohibition on Oversight/Investigative Staff Reports**

During the past few years, there has been a disturbing increase in a practice that has no place in the oversight process, the use of "staff reports". At times without a single hearing, without a vote of the Committee, without the review of the elected-Members of the committee, and without an opportunity for dissenting views, staff reports have been printed, released and distributed at taxpayer expense.

These are not simple non-controversial reports. These are reports that have contained allegations of criminal misconduct on the part of government officials, charges of widespread fraud and massive government waste. The reports have often fallen short in virtually every measure of fairness, objectivity, professionalism and integrity. They have lacked the factual basis and threshold analysis from which informed, objective conclusions should be drawn.

The simple act of releasing these reports bestows some sort of "official" status. Even with a disclaimer on the cover, the press and the public fails to differentiate between legitimate committee reports and these unapproved and unauthorized staff reports.

If there are allegations of fraud, then by all means they should be investigated and the committee should take appropriate action. If criminal acts have been committed, the committee should investigate, with Members working on a bipartisan basis to fulfill their legislative and oversight responsibilities. If these oversight investigations are important enough to require countless staff hours and the expenditure of hundreds of thousands, sometimes millions of dollars, then they are important enough for the Members of the Committee to have a role.

The issuance of staff reports by an oversight committee, is the equivalent of staff of the Appropriations Committee issuing their own appropriations bills, or staff of authorizing committees authorizing new programs. It is just plain wrong. Members of the Appropriations Committee report funding levels, Members of the authorizing committees report legislative authorizations, and Members of the oversight committee should report investigative oversight reports.

The oversight function is too important to have it tainted by this practice. The integrity and professionalism required for effective oversight is diminished by the release of these reports. There is only one reason for the issuance of a staff report, the desire to circumvent normal committee procedures. For these reasons and others, I strongly urge that the Joint Committee recommend a prohibition on oversight or investigative staff

reports.

**Control of the Government Operations Committee by the Minority When the House and President Are of the Same Party**

In 1978, Congress passed the Inspectors General Act in an attempt to address problems inherent in agencies investigating themselves. Later, the Independent Counsel statute was passed to avoid any conflict-on-interest created by having the Attorney General investigate high-level officials of his or her party. Despite the recognition of the conflicts leading to these laws, there is a failure to recognize the conflict resulting from the chief oversight committee of the House being controlled by the same party controlling the White House. Again, with no disrespect to the Chairman or Democratic Members of the Government Operations Committee, the logic that applies to the Inspector General Act and the Independent Counsel statute should apply to the staffing and membership of the chief oversight committee of the House. For that reason, I strongly support the proposal that the majority membership, including the chairman, of the Committee on Government Operations, should be composed of Members of a major political party other than the political party of which the President of the United States is a member.

Short of the adoption of this proposal, the Joint Committee should consider the importance of ensuring that the oversight committee's minority has adequate resources to serve as an effective watchdog. Shortly after I was selected to serve as the Ranking Republican on the Government Operations Committee, I asked the minority staff to conduct a comprehensive review of the Committee's expenditures. What was found was more than a little troubling.

When fully staffed, there are only a total of 18 minority employees on the committee. In comparison, there are approximately 75 majority employees. When you break out the statutory staff, you are left with 7 minority investigative staffers as compared to 55 majority investigative staff. Eighty-four percent (84%) of the committee's expenditures are allocated to the majority, over \$4.608 million. The minority receives approximately \$900,000. Chairman Conyers is making a good faith effort to rectify the large disparity in minority-majority resources. Since January, we have seen improvements. However, we have a long ways to go. If circumstances lead to the same party controlling both the Congress and the White House, Congress has a special responsibility to ensure that the minority party has adequate resources to serve as an effective watchdog.

**Reform of the Subpoena Process**

The Joint Committee may wish to consider reforms in House rules governing subpoenas which would strengthen the ability of the minority to obtain documents and information. Again, this is of particular importance when the Congress and White House are

controlled by the same party. I propose that if three Members of a committee desire that a meeting be called to consider a motion to authorize and issue a subpoena, those members be allowed to file a written request to the Chairman for that meeting. If, within three days the chairman does not call the requested meeting, one-third of the members of the committee could file their written notice that a meeting be held, with such meeting required to take place. This reform does nothing more than require a committee to consider a subpoena if one-third of its members go on record in support of its consideration. Again, if we are to have effective, aggressive and responsible oversight, the minority must have adequate resources and authority to fulfill its role as watchdog.

### Inherent Committee Functions

Over the course of the past few years, a great many concerns have been voiced about the use of private contractors by executive branch agencies and departments. There have been efforts to redefine which activities are "inherently governmental functions", functions that should be performed by executive branch employees, not private contractors.

I would argue that there should be a recognition of "inherently committee functions". These are functions which should be performed by committee employees or Members, not detailees or private contractors. Organizing hearings, interviewing witnesses, preparing committee briefing materials, drafting statements and questions, writing investigative reports and legislative report language. These are activities and functions that should be the responsibility of committee staff, accountable to the Members of the Committee and subject to the laws and rules governing congressional employees.

There have been far too many examples when employees from the General Accounting Office, Congressional Research Service, executive branch agencies or departments, or private consultants, have virtually served as committee staff. Their role has not been limited to providing special expertise, but rather, they have performed the daily tasks associated with the job of a committee staffer.

Improvements have been made in limiting the use of GAO detailees and in ensuring that there is minority involvement in the decision to assign a detail to the Committee. In addition, the Comptroller General has finally taken action to put an end to open-ended details that have resulted in at least one GAO employee being detailed to Congress for six out of the last eight years.

However, even as we speak there are 29 GAO detailees assigned to Congress. Costs associated with the assignment of these employees will probably exceed \$1 million, with every dollar paid for by the General Accounting Office. In 1990, GAO picked up the tab to the order of \$5.28 million. In 1991, the cost associated with detailees was \$4.27 million. In 1992, the cost was \$4.16 million.

While there are instances when it is appropriate and necessary to utilize detailed personnel, I would urge the Joint Committee to consider the concept of "inherent committee functions" and how it could best be incorporated in the Committee's recommendations for reform.

### Conclusion

In reviewing the history of congressional oversight, it is apparent that some things have not changed much in the last 170 or so years.

Last January, President Clinton announced his National Performance Review, intended to enhance accountability and improve effectiveness. In 1822 and 1828, the Government Operations' predecessor committee conducted surveys to determine whether governmental departments were structured in a manner that facilitated reviews for accountability.

Also in January, an 1,800 page review of DoD procurement policy was released by the Section 800 panel. The report includes a discussion of "best value contracts", contracts which have been the subject of Government Operations' oversight hearings. In 1841, the Committee's predecessor reviewed contract procedures to determine what benefits, if any, were derived from a requirement to accept the lowest bids for products. This is the exact same question central to today's debate over "best value".

I could cite example after example where issues of current concern are identical to oversight concerns since the founding of the Republic. However, the point is not that the issues are the same, but that the need for vigilant oversight is just as important today as it was 200 years ago.

You face a huge challenge in sorting through the mass of information provided to the Joint Committee as part of its review of the organization of Congress. You have the respect and admiration of your colleagues as you devote time, energy and thought to this task. I would welcome the chance to further discuss these issues with you or your staff at your convenience. Thank you for your time, attention and consideration.

###

(Appendix A)

## CONGRESSIONAL OVERSIGHT: A SELECTED BIBLIOGRAPHY

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Changes in congressional oversight. American behavioral scientist, v. 22, May-June 1979: 493-515. LRS79-20757

The author discusses how to promote oversight in Congress by discussing the factors which promote oversight, those which are likely to increase the quality of oversight, and the role of the committees in the oversight process.

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"Data from a study of top staffers on congressional committees indicate that . . . committee staffers are not mere 'dilettantes' who stand opposite administrative 'experts.' They have a significant level of experience in the areas covered by the agencies they oversee, and well developed communication networks which give them significant opportunity to push aside any veil covering bureaucratic decisions and activities. Moreover, they indicate a surprisingly active approach to keeping track of agency activities."

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Banks, William C.

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Bibby, John F.

Committee characteristics and legislative oversight of administration. Midwest journal of political science, v. 10, Feb. 1966: 78-98. JAL.M5, v. 10

This article, which is based on an "intensive examination of the internal operation of . . . the Senate Committee on Banking and Currency, and its relations with agencies under its jurisdiction," analyzes "the impact of intracommittee politics on the nature and extent of committee oversight activity." The study concentrates on the influence of factors internal to a committee, but recognizes that "forces external to a committee--e.g., agency personnel, nature of agency programs, agency clientele--also affect the agency-committee relationship."

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Congress' neglected function. In Republican papers. Edited by Melvin R. Laird. New York, Praeger, 1968. p. 477-488.

HN65.L3 1968b

"First, Congress must be given the tools and the necessary institutional arrangements to effectively perform the oversight job. Second, Members of Congress must see more clearly their own and their country's stake in performing the oversight function."

Bradley, John P.

Shaping administrative policy with the aid of congressional oversight: the Senate Finance Committee and Medicare. Western political quarterly, v. 33, Dec. 1980: 492-501. LRS80-20743

Shows how the Senate Finance Committee, using its oversight function in cooperation with the overseen agency, the Bureau of Health Insurance, was able to promote policies opposed at higher levels of the bureaucracy and by provider groups.

Bruff, Harold H.

Presidential power and administrative rulemaking. Yale law journal, v. 88, Jan. 1979: 451-508. LRS79-1077

"This article begins by identifying the need for presidential involvement in agency rulemaking and then examines the relative efficacy of agency oversight functions fulfilled by the three constitutional branches of government and by regulated industries and the public."

Bryner, Gary C.

Bureaucratic discretion: law and policy in federal regulatory agencies. New York, Pergamon Press, 1987. 250 p. (Pergamon government & politics series) KF5407.B79 1987

"Congresses, presidents, and federal courts have created a variety of procedural devices and approaches to limit administrative discretion and make agencies more accountable to democratic, constitutional, and legal expectations." Includes case studies of the Environmental Protection Agency, Occupational Safety and Health Administration, Consumer Product Safety Commission, and Food and Drug Administration.

Caldwell, John Hiram.

Congressional micromanagement: domestic policy. In The imperial Congress: crisis in the separation of powers. Edited by Gordon S. Jones and John A. Marini. New York, Pharos Books, published for the Heritage Foundation and the Claremont Institute, 1988. p. 130-150. LRS88-15261

"Discusses one example of the impact of congressional meddling in the administration of domestic programs, particularly agriculture . . . Congressional interference is idiosyncratic, inefficient, and sometimes just petulant. The costs are very real in terms of failing to help people in need, and in terms of taxpayers' dollars wasted. The [pseudonymous] author's expertise comes from years on Capitol Hill and in senior positions in the executive branch."

Calvert, Randall L. Weingast, Barry R.

Runaway bureaucracy and congressional oversight: why reforms fail. Policy studies review, v. 1, Feb. 1982: 557-564.

LRS82-2247

"Attempts to reign-in runaway regulatory bureaucracy fail because the bureaucracy has all the important resources and . . . because Congress has neither the time nor inclination to effect legislative control and oversight. The authors examine the travails of the Federal Trade Commission during the 1970s to show the blurred distinction between bureaucratic autonomy and legislative control."

Chadwin, Mark Lincoln.

The nature of legislative program evaluation. Evaluation, v. 2, no. 2, 1975: 45-49. LRS75-22523

"Evaluation units offer legislatures capabilities they have not had before--objective, systematic information about program operations and results; citizen feedback from evaluation-related surveys; and modern analytic techniques. Many legislators believe that they have come to need such inputs to counterbalance more subjective ones from administrators, lobbyists, and other self-interested parties."

Collier, Ellen C.

Foreign policy by reporting requirement. Washington quarterly, v. 11, winter 1988: 75-84. LRS88-111

"Reporting requirements are provisions in law requiring the executive branch to submit specified information to Congress or committees of Congress. Their basic purpose is to provide data and analysis Congress needs to oversee the implementation of legislation and foreign policy by the executive branch. When used effectively, they also can be important congressional instruments for sharing the making of foreign policy."

Congress and the agencies. In Thomas P. O'Neill, Jr., Symposium on the U.S. Congress (1981 : Boston College). The United States Congress. Edited by Dennis Hale. New Brunswick, N.J., Transaction Books, 1983 p. 273-309. LRS83-9012

Contents.--Congress: a view from the agencies, by Joan Claybrook.--Congress and the agencies: four themes on congressional oversight of policy and administration, by Joel Aberbach.--Response, by Paul Weaver.--Response, by Francis Rourke.

Congressional investigations. Capitol studies, v. 5, fall 1979: 5-118. LRS77-18277

Contents.--Congressional investigations: the proper approach, by Robert McClory.--Constitutional and statutory limitations on congressional investigations, by Robert K. Carr.--The political dimensions of congressional investigations, by Roger H. Davidson.--The investigation of General Arthur St. Clair, 1792-1793, by Patrick J. Furlong.--The legislative impact of the Pecora investigation, by Donald A. Ritchie.--Investigating the executive intelligence: the fate of the Pike Committee, by J. Leiper Freeman.



CRS-139

Congressional oversight: methods and techniques. Prepared for the Subcommittee on Oversight Procedures of the Committee on Government Operations, United States Senate, by the Congressional Research Service, Library of Congress, and the General Accounting Office. Washington, G.P.O., 1976. 254 p.  
LRS76-16571

At head of title: 94th Congress, 2nd session. Committee print.

"Covers legislative investigations, hearings and meetings, congressional veto, audits, program review and evaluation, reporting requirements, appropriations process, confirmation, impeachment, non-statutory controls, and casework and projects."

Congressional oversight investigations. New York, Practising Law Institute, 1984. 152 p. (Litigation and administrative practice series. Course handbook series, no. 134)

KF4942.Z9C66 1984

"Prepared for distribution at the Congressional Oversight Investigations Program, October 1-2, 1984, Washington, D.C."

Includes material about Securities and Exchange Commission investigations and the 1982 Victim and Witness Protection Act.

Congressional Research Service.

Legislative oversight and program evaluation; a seminar. Prepared for the Subcommittee on Oversight Procedures of the Committee on Government Operations, United States Senate. Washington, G.P.O., 1976. 648 p.  
LRS76-6849

At head of title: 94th Congress, 2nd session. Committee print.

Cox, Andrew W. Kirby, Stephen.

Congress, Parliament, and defence: the impact of legislative reform on defence accountability in Britain and America. New York, St. Martin's Press, 1986. 315 p.  
UA647.C83 1986

Compares and contrasts legislative oversight of defense expenditure, procurement, and policy by Congress and Parliament, concluding that although reforms have been attempted, "neither legislature is in a position to scrutinise or control defence spending or policy-making effectively."

Crane, Edgar G., Jr.

Legislative review of government programs: tools for accountability. New York, Praeger, 1977. 289 p. (Praeger special studies in U.S. economic, social and political issues)  
JK2488.C68 1977

This study, which is based on a 1974-1976 study of State legislatures, examines one legislative function: program control and oversight. It examines alternative approaches to legislative program review, environmental characteristics associated with legislative program review, and limitations on the use of program review by legislatures.

CRS-140

Demac, Donna A.

Oversight undermined: Congress refused vital information. In her Keeping America uninformed: government secrecy in the 1980's. New York, Pilgrim Press, c1984. p. 73-89.

LRS84-18688

"Cabinet-level agencies . . . have refused to bow to the oversight functions of Congress until threatened with subpoenas and court action. Lengthy preliminary negotiations and much paperwork have often been necessary to bring about the desired agency cooperation with routine requests by congressional committees for information."

Dodd, Lawrence. Schott, Richard L.

Congress and the administrative state. New York, Wiley, 1979. 364 p. (Viewpoints on American politics) JK585.D6

Presents an "historical evaluation of the Congress and the Federal bureaucracy." It discusses congressional oversight of Federal administration, and it considers the implications of "recent [congressional] reform efforts and the development of subcommittee government for the role of the bureaucracy in the policy process."

Edwards, George C., III.

Implementing public policy. Washington, CQ Press, c1980.

181 p. (Politics and public policy series) LRS80-17984

This study "identifies and discusses four factors that may interfere with successful implementation. They are communication, resources, implementors' dispositions, and bureaucratic structure. For each factor Edwards explains why problems exist and how they affect implementation. In the last chapter the author looks at the types of policies most likely to face problems, and prospects for improvement."

Ethridge, Marcus E.

A political-institutional interpretation of legislative oversight mechanisms & behavior. Polity, v. 17, winter 1985: 340-359. LRS85-5940

Attributes the increase in oversight activity by Members of Congress "to changes in interest group politics that make certain kinds of oversight politically profitable . . . . Legislative committees charged with oversight are able to subdue opposition to their work by adopting institutional perspectives that both limit and legitimize their decisions," he argues.

Fiorina, Morris P.

Congressional control of the bureaucracy: a mismatch of incentives and capabilities. Congress reconsidered. Edited by Lawrence C. Dodd and Bruce I. Oppenheimer. 2nd ed. Washington, Congressional Quarterly Press, 1981 p. 332-348. LRS81-10506

Maintains that the present "inefficient, 'out of control' bureaucracy" exists because Congress, although formally empowered to alter the bureaucracy in any way it chooses, has no incentive for favoring coordinated centralized control, preferring instead the status quo of decentralized, uncoordinated control.

Fisher, Louis.

Micromanagement by Congress: reality and mythology. In The fettered Presidency: legal constraints on the executive branch. L. Gordon Crovitz and Jeremy A. Rabkin, editors. Washington, American Enterprise Institute for Public Policy Research, 1989. (AEI studies 485) p. 139-157. LRS89-3692

"Micromanagement is a relatively new word to express a very old complaint: intervention by Congress in administrative details. The problem is a real one, but telling Congress to 'stay out' has never been very effective. Congress oversteps at times; on other occasions the executive branch conducts itself in a manner that invites, if not compels, Congress to intervene."

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The politics of shared power: Congress and the executive. 2nd edition. Washington, CQ Press, 1987. 241 p. JK305.F54 1987

Contents.--Constitutional underpinnings.--President as legislator.--Congress as administrator.--Bureaucracy: agent of Congress or the President?--The independent regulatory commission: Mahomet's coffin.--Budgetary control.

Foreman, Christopher H, Jr.

Signals from the Hill: congressional oversight and the challenge of social regulation. New Haven, Yale University Press, 1988. 214 p. JK585.F68 1988

"What, as a practical matter, does Congress achieve, or fail to achieve, through regulatory oversight? And what are the prospects for improving congressional performance? . . . Oversight emerges as a sometimes painful, inevitably self-interested process of consultation and second-guessing that reasonably well keeps administration sensitive to the concerns of persons and groups affected by or attentive to regulatory policy. As a system for monitoring agency decision making and adherence to improved procedure--that is, as a set of mechanisms for enforcing accountability regarding agency behavior and policy choice--oversight succeeds."

Gilmour, Robert S.

Congressional oversight and administrative leadership.  
Bureaucrat, v. 10, fall 1981: 32-38. LRS81-11612

Explores "the change in both the structure of the executive establishment itself and in the structure of its oversight by Congress during the past decade in an effort to explain why Congress' increased oversight role has failed to provide either greater administrative leadership or more effective bureaucratic control."

Halpert, Leon.

Legislative oversight and the partisan composition of government. Presidential studies quarterly, v. 11, fall 1981: 479-491. LRS81-17094

From content analysis of legislator-witness interaction at education program hearings of authorizing and appropriations subcommittees during 1965 and 1973, concludes that "oversight must be seen in a broader context than it has been traditionally viewed. Advancing favored ideas or interests by legislators has relevance to congressional surveillance efforts of bureaucratic officials. Policy aims must be recognized as an inevitable part . . . . In this regard, more, if not better, oversight should be credited to Congress than has been usually attributed to it."

Harris, Joseph P.

Congressional control of administration. Washington, Brookings Institution, 1964. 306 p. JK1061.H3

Examines "varied Congressional efforts to control administration operations in detail (rather than the clash of President and Congress on broad issues)."

Henderson, Thomas A.

Congressional oversight of executive agencies: a study of the House Committee on Government Operations. Gainesville, University of Florida Press, 1970. 74 p. (University of Florida monographs. Social sciences, no. 40) JK1430.G6H43

Studies the attempts of the House Committee on Government Operations to resolve the conflicts which come about in the investigation of the economy and efficiency of government procedures. These conflicts often take the form of battles over jurisdictional claims with other committees. The period studied is the Eightieth through Eighty-eighth Congresses (1947-1964), the period following the enactment of the Legislative Reorganization Act.

Highsmith, Newell L.

Policing executive adventurism: congressional oversight of military and paramilitary operations. Harvard journal on legislation, v. 19, summer 1982: 327-392. LRS82-10945

"Analyzes the ambiguities and loopholes of the War Powers Resolution, and compares it to Title V, the 1980 amendment to the National Security Act of 1947, which ensures congressional oversight of intelligence activities, including paramilitary operations . . . . The consultation and notification requirements of Title V could and should serve as a model for a reformulation of the War Powers Resolution," he recommends.

Hill, James P.

The third house of Congress versus the fourth branch of Government: the impact of congressional committee staff on agency regulatory decision-making. John Marshall law review, v. 19, winter 1986: 247-273. LRS86-13659

"Focuses on the critical, but overlooked, informal oversight role Congress delegates to its committee staff . . . . Formal congressional oversight techniques such as oversight hearings, congressional investigations, statutorily-mandated agency reporting requirements, statutory amendments to agency enabling acts, legislative veto provisions, congressional casework inquiries, and agency confirmation hearings have also provided committee staff members with numerous opportunities to influence regulatory decision-making."

Intelligence oversight, national security, and democracy. Harvard journal of law and public policy, v. 12, spring 1989: whole issue (285-609 p.) LRS89-6296

Symposium of twelve articles and comment by William S. Cohen, Lawrence J. Block, David B. Rivkin, Ray S. Cline, Bretton Sciaroni, Loch Johnson, David Newman, Tyll Van Geel, Richard H. Shultz, Jr., Raymond English, P. Edward Haley, Andrew C. Tuttle, Arthur S. Hulnick, Daniel W. Mattausch, James E. Meason, and Jackson R. Sharman III.

Janige, Thomas P.

The congressional committee system and the oversight process: Congress and NASA. Western political quarterly, v. 21, June 1968: 227-239. JAL.W4, v. 21

Examines the "implications which the fragmented structures of both the national government and most particularly Congress have for achieving a rationally administered space program."

CRS-144

Johannes, John R.

Casework as a technique of U.S. congressional oversight of the executive. *Legislative studies quarterly*, v. 4, Aug. 1979: 325-351.

LRS79-9286

"Based on questionnaire data from and interviews with over 250 former and current members of Congress, congressional personal office staffs in Washington and in home offices, and officials in department and agency legislative liaison offices, this paper explores the utility of 'casework' for oversight," working from a thesis that "constituency service is more valuable for congressional oversight than is generally recognized."

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Congress, the bureaucracy, and casework. *Administration & society*, v. 16, May 1984: 41-69.

LRS84-11151

Concludes in general from interviews with and questionnaire surveys of Members of Congress, congressional staff, and involved Federal officials "that casework is more useful than commonly believed for purposes of congressional and internal executive oversight of programs, personnel, and operations."

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Study and recommend: statutory reporting requirements as a technique of legislative initiation. *Western political quarterly*, v. 29, Dec. 1976: 589-596.

LRS74-30984

Concludes that "requiring the President, departments, agencies, and commissions to investigate and report with recommendations is, primarily by virtue of the information generated, a very real--albeit indirect--form of congressional initiation of legislation," with one side benefit being Congress's enhancement of its oversight capabilities.

Johnson, Loch K.

A season of inquiry: Congress and intelligence. Chicago, Dorsey Press, 1988. 317 p.

JK468.I6J64 1988

Account of the Senate Church Committee (1975-1976) investigation of intelligence agency practices, by an aide to its chairman.

First published as: A season of inquiry: the Senate intelligence investigation, Lexington, University of Kentucky Press, 1985.

CRS-145

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 The U.S. Congress and the CIA: monitoring the dark side of government. Legislative studies quarterly, v. 5, Nov. 1980: 477-499. LRS80-13126

"Examines the monitoring performed by . . . the U.S. House Permanent Select Committee on Intelligence . . . over the Central Intelligence Agency in 1978 (the first full year of the Committee's existence). The response of the CIA to this monitoring is also examined briefly . . . . The findings reveal that four of the Committee's thirteen members carried a disproportionate share of the oversight responsibilities, a personal stamina), the influence of experience (prior exposure to national security issues), and a structural influence (absence of other key assignments)."

Kaiser, Frederick M.

Congressional action to overturn agency rules: alternatives to the 'legislative veto.' Administrative law review, v. 32, fall 1980: 667-711. LRS80-17343

"This report, surveying recent congressional action through the 95th Congress, identifies different legislative instruments, with an emphasis on statutory techniques, and provides illustrations of their use."

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 Congressional control of executive actions in the aftermath of the Chadha decision. Administrative law review, v. 36, summer 1984: 239-276. LRS84-9160

"This article examines congressional attempts to nullify or neutralize [specific executive actions based upon necessarily broad, sometimes vague, statutory delegations of authority], in the immediate aftermath of the Chadha decision as well as in the recent past, and surveys the available statutory and nonstatutory powers."

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 Congressional oversight of the Presidency. Annals of the American Academy of Political and Social Science, v. 499, Sept. 1988: 75-89. LRS88-13923

"Congressional oversight of the executive, including the presidency itself, has evidently increased over the past two decades. It relies upon a wide variety of techniques and occurs in a number of settings . . . . Oversight does not exist in a political vacuum; the impetus behind it is often a conflict between the two branches over public policy or over competing institutional interests and powers."

CRS-146

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 Oversight of foreign policy: the U.S. House Committee on International Relations. Legislative studies quarterly, v. 2, Aug. 1977: 255-279. LRS77-11323

Concludes from examination of relevant committee hearings, committee field investigations, input from congressional support agencies, and comparison with other House committee activities "that the Committee is one of the most prolific overseers in the chamber and that these endeavors have escalated recently."

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 A proposed Joint Committee on Intelligence: new wine in an old bottle. Journal of law & politics, v. 5, fall 1988: 127-186.

LRS88-11370

"In the aftermath of the Iran-Contra affair, the Tower Board, President Reagan, the minority on the Iran-Contra Committees, and numerous legislators called for creation of a Joint Committee on Intelligence. Revitalizing interest in a plan that originated four decades ago and often modeled after the defunct Joint Committee on Atomic Energy, a JCI would replace the existing House and Senate Select Committees on Intelligence and would consolidate legislative, authorizing, and oversight powers for the intelligence community."

Klay, William Earle.

A legislative tool to encourage agency efficiency. Public productivity review, v. 3, spring 1978: 23-31. LRS78-9994

"Raises new insights into increasing efficiency of government agencies. Strategy is based on the frequently overlooked fact that the legislature, with its final authority over appropriations, is the key institution which encourages or discourages true cost consciousness."

Kloman, Erasmus H.

Cases in accountability: the work of the GAO. Boulder, Colo., Westview Press, 1979. 254 p. LRS79-18094

"This collection of cases provides a new perspective on GAO efforts and illustrates how GAO studies and reviews are conducted: how they originate, what investigative methods are followed, and how GAO reports are used once released. The material was selected to be representative of all GAO activity."

Knezo, Genevieve J. Oleszek, Walter J.

Legislative oversight and program evaluation. Bureaucrat, v. 5, Apr. 1976: 37-51. LRS76-5725

"Examines the sources of evaluation studies used by the Congress, summarizes the most recent reforms directed toward better use of evaluation, and, finally, examines the major issues raised in a recent seminar, sponsored by the Congressional Research Service, on legislative oversight and program evaluation."



Lambro, Donald.

Congressional oversights. In his Washington--city of scandals: investigating Congress and other big spenders. Boston, Little, Brown, c1984. p. 10-33. LRS84-18980

"Congress, as the legislative branch of our government, has largely abdicated its role and responsibilities for monitoring and controlling the bureaucracy. . . . Not only does Congress lack the time and the interest to conduct its myriad oversight functions regularly, but there is serious question of whether, with all of its resources, it has even the capacity to regularly and adequately evaluate and control everything under its vast legislative domain."

Leazes, Francis J., Jr.

The executive, Congress, and corporations. In his Accountability and the business state: the structure of Federal corporations. New York, Praeger, 1987. p. 47-72.

LRS87-14092

Examines how Federal government corporations are held accountable through internal processes, executive branch relationships, and congressional oversight.

Lees, John D.

Legislatures and oversight: a review article on a neglected area of research. Legislative studies quarterly, v. 2, May 1977: 193-208.

LRS77-6602

Review essay on legislative oversight considers recent research contributions to this area of legislative activity.

Lindsay, James M.

Congress and the defense budget. Washington quarterly, v. 11, winter 1988: 57-74.

LRS88-100

Concludes that in seeking defense budget reform, instead of working for "a major overhaul in congressional decision making, proponents of reform should seek changes that will curb the opportunity for irresponsibility and lessen the damage it causes."

Malbin, Michael.

Unelected representatives: congressional staff and the future of representative government. New York, Basic Books, c1980. 279 p.

JK1083.M34

Case studies of the influence of committee staff on legislation and policies include an examination of two House Commerce subcommittees in the 94th and 95th Congresses: the Energy and Power Subcommittee (LRS80-21656) and the Oversight and Investigations Subcommittee (LRS80-21657).

CRS-148

Management, security, and congressional oversight. Washington, U.S. Office of Technology Assessment, for sale by the Supt. of Docs., G.P.O., 1986. 190 p. LRS86-1032

At head of title: Federal Government Information Technology.

"OTA-CIT-297"

Includes a separate treatment of "opportunities for using information technology in conducting congressional oversight."

McCubbins, Mathew D. Schwartz, Thomas.

Congressional oversight overlooked: police patrols versus fire alarms. American journal of political science, v. 28, Feb. 1984: 165-179. LRS84-7220

Denies the contention of some scholars "that Congress neglects its oversight responsibility . . . . What appears to be a neglect of oversight really is the rational preference for one form of oversight--which we call fire-alarm oversight--over another form--police-patrol oversight. Our analysis supports a somewhat neglected way of looking at the strategies by which legislators seek to achieve their goals."

Mellor, Herman A.

Congressional micromanagement: national defense. In The imperial Congress: crisis in the separation of powers. Edited by Gordon S. Jones and John A. Marini. New York, Pharos Books, published for the Heritage Foundation and the Claremont Institute, 1988. p. 107-129. LRS88-15260

"The Department of Defense is not an ordinary organization, but is the largest executive branch agency, charged with defending the nation. Congressional interference prevents the Department of Defense from accomplishing its job. The result of congressional micromanagement is waste, inefficiency, and absurdity. The [pseudonymous] author speaks with the authority of one who has spent years working at the Department of Defense and with congressional leaders."

Morrison, David C.

Dancing in the dark. National journal, v. 19, Apr. 11, 1987: 867-873. LRS87-14503

"The Pentagon's record levels of secret 'black' spending requests are seen by many in Congress as a way of dodging the oversight process."

Mosher, Frederick C.

The GAO: the quest for accountability in American Government. Boulder, Colo., Westview Press, 1979 387 p. LRS79-18093

"The first part of the book is essentially a biography of the institution. The second part describes and analyzes the institution, discussing such topics as the constitutional and managerial questions that grow out of the GAO's semi-independent status, the various roles it performs, and its relationships with Congress, the executive branch, and outside institutions, both public and private."

Myers, Morton A.

Policy analysis in support of congressional oversight. In Making and managing policy: formulation, analysis, evaluation. Edited by G. Ronald Gilbert. New York, Marcel Dekker, 1984. (Public administration and public policy, 23). p. 111-122.

LRS84-18576

Outlines the work of the General Accounting Office's Program Analysis Division in carrying out policy analysis and program evaluation in response to congressional committees' oversight needs.

National Academy of Public Administration. Panel on Congressional Oversight.

Congressional oversight of regulatory agencies: the need to strike a balance and focus on performance. Washington, The Academy, 1988. 58 p.

LRS88-11567

"Addresses three questions: What constitutes effective oversight? How does Congress go about its oversight activities? What can Congress, the president, and administrative officials do to ensure that oversight is less adversarial, does not stymie administration, and accommodates the needs of both branches? . . . The key to effective oversight is balance. Congress and the Executive Branch work best when the relationship is neither excessively antagonistic nor overly cozy. Congress needs to balance ad hoc oversight with independent, systematic, and long-term analysis of laws and programs. Executive agencies need to recognize the legitimacy of Congress' oversight role and work constructively to satisfy it," the report concludes.

The New congressional bureaucracy. Bureaucrat, v. 3, Jan. 1975: 379-461.

Partial contents.--The expanded role of the General Accounting Office: in support of a strengthened Congress, by Martin J. Fitzgerald.--Use of a staff agency by the Congress: the Congressional Research Service, by Norman Beckman.--Policy analysis, technology, and the Congress, by Hugh V. O'Neill.--Toward a stronger legislative branch: Congress proposes committee and oversight reforms, by Walter J. Oleszek.

Ogul, Morris S.

Congress oversees the bureaucracy: studies in legislative supervision. Pittsburgh, University of Pittsburgh Press, 1976. 237 p.

JK585.048

This book, using case studies of the behavior of three House of Representatives committees and subcommittees in the period 1965-1966, examines what the Congress accomplishes by its oversight efforts.

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Congressional oversight: structures and incentives. Congress reconsidered. Edited by Lawrence C. Dodd and Bruce I. Oppenheimer. 2d ed. Washington, Congressional Quarterly Press, 1981 p. 317-331. LRS81-10505

Examines the civil rights oversight activities of the House Judiciary Committee from 1965 to 1973 to demonstrate why Congress has failed "to close or even significantly narrow any perceived oversight gap in either its quantitative or qualitative dimensions."

Oleszek, Walter J.

Legislative oversight. In his Congressional procedures and the policy process. 3rd ed. Washington, CQ Press, 1989. p. 263-282. LRS89-6805

Sets forth oversight methods and techniques and reviews the recent "surge of oversight activity," while noting a lack of consensus on oversight among members of Congress.

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Integration and fragmentation: key themes of congressional change. Annals of the American Academy of Political and Social Science, v. 466, Mar. 1983: p. 193-205. LRS83-5918

"This article's objective is to highlight certain complexities and anomalies in structural and procedural changes designed to constrain or impose order on Congress's diffused power. Two recent developments--committee modernization and renewed interest in oversight of administrative activities--provide the case material for the analysis."

Oversight and review of agency decisionmaking; 1976 Bicentennial Institute. Administrative law review, v. 28, fall 1976: whole issue (569-742 p.) LRS76-21047

Conference held March 18-19, 1976 at the Mayflower Hotel, Washington, D.C.

Pearson, James B.

Oversight: a vital yet neglected congressional function. Kansas law review, v. 23, winter 1975: 277-288. LRS75-19451

"Article reviews the nature of the neglected congressional function of oversight, states a case for more effective oversight, and suggests improvements in the oversight process."

Pecarich, Pamela J.

The relationship between congressional oversight and program evaluation--past and future. GAO review, v. 15, spring 1980: 22-26. LRS80-6859

Examines the role of the legislative branch in program evaluation.

CRS-151

Perritt, Henry H., Jr.

Electronic acquisition and release of Federal agency information. In Administrative Conference of the United States recommendations and reports, 1988. Washington, The Conference, 1989. p. 601-837. LRS89-5236

At head of title: Administrative Conference of the United States: report for recommendation 88-10.

Issues considered include whether "Congress [should] manage electronic filing and dissemination systems in detail."

Ransom, Harry Howe.

Strategic intelligence and intermestic politics. In Perspectives on American foreign policy: selected readings. Edited by Charles W. Kegley, Jr., Eugene R. Wittkopf. New York, St. Martin's Press, 1983. p. 299-319. LRS83-20130

Believes that the degree of public accountability and oversight that the intelligence agencies are subjected to is determined by the impact of Soviet-American relations on domestic politics. In this "intermestic" context, more hostile relations mean a stronger domestic consensus about national security threats and hence fewer intelligence restrictions and controls; periods of higher cooperation and détente mean more demanding oversight and greater restrictions.

Reagan, Michael D.

Regulating the regulators: the President and Congress as overseers. In his Regulation: the politics of policy. Boston, Little, Brown, 1987. p. 154-177. LRS87-14327

Reviews briefly the major forms of congressional oversight used in the past decade--legislation, appropriations, legislative veto, and hearings--and then focuses on presidential control of independent commissions and regulatory agencies.

Ribicoff, Abraham.

Congressional oversight and regulatory reform. Administrative law review, v. 28, summer 1976: 415-427. LRS76-23016

Chairman of the Senate Government Operations Committee lists difficulties in congressional oversight of the regulatory process and discusses recent proposals for reform.

Ripley, Randall B. Franklin, Grace A.

Congress, the bureaucracy, and public policy. 3rd edition. Homewood, Ill., Dorsey Press, 1984. 282 p. (Dorsey series in political science) LRS84-18384

Contents.--The nature of policy and policymaking in the United States.--Actors in the relationship.--Congressional-bureaucratic interaction: occasions and resources.--Distributive policy.--Protective regulatory policy.--Redistributive policy.--Foreign and defense policy.--Congress, the bureaucracy, and the nature of American public policy.

Roback, Herbert.

Program evaluation by and for the Congress. *Bureaucrat*, v. 5, Apr. 1976: 11-36. LRS76-5970

Examines the link between program evaluation and legislative oversight. Considers the role of the legislative branch agencies, especially GAO in monitoring evaluation activities and explores the way in which congressional interest in program evaluation is reflected in legislation.

Rockman, Bert A.

Legislative-executive relations and legislative oversight. *Legislative studies quarterly*, v. 9, Aug. 1984: 387-440.

LRS84-9923

"Attempts to make the breadth and diversity of [the subject of legislative-executive relations] comprehensible by examining and identifying: (1) attributes and characteristics of key legislative and executive 'players,' (2) various points of intersection between legislative and executive 'players' and their institutions, and, especially, (3) forms, conditions, and impacts of legislative supervision of the executive (oversight)."

Rosen, Bernard.

Holding government bureaucracies accountable. New York, Praeger, 1982. 180 p. JK585.R67 1982

Includes proposals for improving accountability; among the proposals are suggestions for clear legislative oversight requirements, legislative veto for all agency rules, and rigorous Senate confirmation.

Rosenberg, Morton.

Congress's prerogative over agencies and agency decision-makers: the rise and demise of the Reagan Administration's theory of the unitary executive. *George Washington law review*, v. 57, Jan. 1989: 627-703. LRS89-6377

"The thesis of this Article is that the theory of the unitary executive is and has always been a myth concocted by the Reagan administration to provide a semblance of legal respectability for an aggressive administrative strategy designed to accomplish what its failed legislative agenda could not . . . . It is Congress that was meant to be the dominant policymaking body in our constitutional scheme and its principal tool to ensure that its will would be carried out is its virtually plenary power to create the administrative bureaucracy and to shape the powers, duties, and tenure of the offices and officers of that infrastructure in a manner best suited to accomplish legislative ends."

CRS-153

Sabatier, Paul. Mazmanian, Daniel.

The conditions of effective implementation: a guide to accomplishing policy objectives. Policy analysis, v. 5, fall 1979: 481-504. LRS79-21372

"Although most studies of policy implementation have been very pessimistic about the ability of important statutes actually to achieve their objectives, there have been a few success stories. The authors first identify five conditions conducive to effective implementation and then suggest a number of strategies available to legislative and other policy formulators for overcoming deficiencies in one or more of these conditions."

Sanford, Jonathan. Goodman, Margaret.

Congressional oversight and the multilateral development banks. International organization, v. 29, autumn 1975: 1055-1064. LRS75-17434

"The ability of Congress to oversee bank affairs is limited by three sets of constraints: one intrinsic to the multilateral framework of the banks, another rooted in the structure of the US government, and a third which results from the present structure of congressional organization."

Schick, Allen.

Congress and the "details" of administration. Public administration review, v. 36, Sept.-Oct. 1976: 516-527. LRS76-21556

Discusses the tension between Congress and executive branch administrators over the means and proper degree of congressional involvement in "administration" functions.

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 Politics through law: congressional limitations on executive discretion. In Both ends of the avenue: the Presidency, the executive branch, and Congress in the 1980s. Edited by Anthony King. Washington, American Enterprise Institute for Public Policy Research, 1983 (AEI studies 361) p. 154-184.

LRS83-8961

"In the 1970s, Congress sought to impose new limitations on executive discretion, but in most instances it chose not to return to the types of detailed legislation that had been written in the nineteenth and early twentieth centuries . . . . The three principal instruments for congressional control were limitations in appropriation bills, temporary authorizations, and legislative vetoes."

CRS-154

Schmitt, Gary J.

Congressional oversight: form and substance. In *The military intelligence community*. Edited by Gerald W. Hoppole and Bruce W. Watson. Boulder, Colo., Westview Press, 1986. (Westview special studies in military affairs) p. 265-285. LRS86-15130

Analyzes the laws, institutions, and the opinions of the community-at-large regarding military intelligence and intelligence activities. "For studying congressional oversight of intelligence, these elements constitute the form and substance of oversight."

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The theory and practice of separation of powers: the case of covert action, by Gary J. Schmitt and Abram N. Shulsky. In *The fettered Presidency: legal constraints on the executive branch*. L. Gordon Crovitz and Jeremy A. Rabkin, editors. Washington, American Enterprise Institute for Public Policy Research, 1989. (AEI studies 485) p. 59-81. LRS89-4109

Examines the history and operation of congressional oversight of covert operations in light of today's situation.

Schwartzman, Robin Berman.

Fiscal oversight of the Central Intelligence Agency: can accountability and confidentiality coexist? *New York University journal of international law and politics*, v. 7, winter 1974: 493-544. LRS74-29058

Comment "examines the CIA funding process and explores means to increase congressional control over CIA funding--and hence over Agency activities--without impairing the confidentiality necessary to some legitimate CIA functions."

Scicchitano, Michael J.

Congressional oversight: the case of the Clean Air Act. *Legislative studies quarterly*, v. 11, Aug. 1986: 393-407. LRS86-9114

"Seeks to identify factors which influenced individual legislators to conduct oversight in formal hearings on the Clean Air Act from 1970 to 1981."

Segal, Zeev.

The power to probe into matters of vital public importance. *Tulane law review*, v. 58, Mar. 1984: 941-973. LRS84-12029

Article sets forth the basic characteristics of an independent, quasi-judicial commission of inquiry in the British and Israeli contexts. The author notes that the United States usually handles such matters through such devices as congressional committees, ad hoc bodies (e.g., the Warren Commission) and, most recently, the special prosecutor provisions of the Ethics in Government Act.



CRS-155

Shampansky, Jay R.

Congressional investigatory power. Congressional Research Service review, v. 10, Mar. 1989: 28-30. LRS89-2322

"Challenges to congressional probes have raised questions about the scope of the investigatory power and the role of the courts and criminal law in information access disputes between the Congress, on the one hand, and the executive branch and private parties, on the other."

Stathis, Stephen W.

Executive cooperation: Presidential recognition of the investigative authority of Congress and the courts. Journal of law & politics, v. 3, fall 1986: 183-294. LRS86-10442

Article recounts historic incidents in which sitting Presidents appeared before congressional committees or consulted with committee members; former Presidents testified before committees about actions of their administrations; Presidents released documents or information to Congress; and Presidents submitted testimony or documents to judicial proceedings.

Sundquist, James L.

To tighten control over administration: oversight. In The decline and resurgence of Congress. Washington, Brookings Institution, 1981. p. 315-343. LRS81-10869

Examines the difficulties and limitations of before-the-fact and after-the-fact oversight.

Taking on Congress. Government executive, v. 21, Jan. 1989:

12-20, 22, 25. LRS89-70

In the first of four articles on executive branch relations with Congress, Richard E. Cohen discusses why "the new administration wants to stop congressional usurpation of executive branch powers"; next, Bruce Stokes describes how agencies can become "overburdened" with congressionally mandated reports, using the Trade Representative's Office as an example; then, Andrew A. Feinstein examines executive frustration with "micromanagement;" and finally, Clyde Linsley sets forth the "do's and don't's of effective congressional liaison work."

Thomas, Norman C.

Presidential accountability since Watergate. Presidential studies quarterly, v. 8, fall 1978: 417-434. LRS78-23305

Argues that since the Watergate affair, "the constitutional balance has been readjusted to favor Congress which has reasserted itself through limited symbolic and operational terms," but only precariously, with the threat of an imperial Presidency remaining.

Tiefer, Charles.

The constitutionality of independent officers as checks on abuses of executive power. Boston University law review, v. 63, Jan. 1983: 59-103. LRS83-5003

Assistant Senate legal counsel concludes that history and case law "suggest, at least in the area of non-'political' functions, that special circumstances can justify legislation that creates independent officers to check abuses in the Executive branch."

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Oversight jurisdiction. In his Congressional practice and procedure: a reference, research, and legislative guide. Westport, Conn., Greenwood Press, 1989. p. 82-87. LRS89-6806

"Committees have 'oversight jurisdiction'--the power to conduct oversight--for areas of their legislative jurisdiction, beyond the areas where they have legislative jurisdiction, and even when they have no legislative jurisdiction at all."

U.S. Commission on the Operation of the Senate.

Techniques and procedures for analysis and evaluation; a compilation of papers. Washington, G.P.O., 1977. 128 p. LRS77-2106

At head of title: 94th Congress, 2nd session. Committee print.

Contents.--The Senate's legislative power, by Louis Fisher.--The tools of futures research: some questions and answers, by Marvin Kornbluh, Dennis L. Little, and William L. Renfro.--Senate committee foresight, by Clement Bezold.--Foresight in the Senate, by William L. Renfro.--The development of oversight in the U.S. Congress: concepts and analysis, by Joel D. Aberbach.--Senate oversight activities, by Susan Webb Hammond, Harrison W. Fox, Jr., Richard Moraski, and Jeanne B. Nicholson.--Status and potential program evaluation for the Congress, by Keith Marvin.--Applying computers to analyze decision intelligence information, by Richard W. Long.

U.S. Congress. Joint Committee on Congressional Operations.

Leading cases on congressional investigatory power. Washington, G.P.O., 1976. 101 p. LRS76-839

At head of title: 94th Cong., 2d sess. Committee print.

Includes "discussion of the power of Congress to investigate, the issuance of congressional subpoenas, the procedural conduct of an investigative hearing, and the constitutional rights of witnesses who appear before congressional committees."

CRS-157

U.S. Congress. Senate. Committee on Government Operations. Congressional oversight of regulatory agencies. Prepared pursuant to S. Res. 71, to authorize a study of the purpose and current effectiveness of certain Federal agencies. Washington, G.P.O., 1977. 272 p. (Document, Senate, 95th Congress, 1st session, no. 95-26) LRS77-827  
Volume 2 of the committee's Study on Federal Regulation.

U.S. General Accounting Office. Congressional oversight reform proposals. Washington, G.A.O., 1978. 85 p. LRS78-16042

"PAD-78-73, June 8, 1978"

"This report discusses ways of strengthening the oversight process, particularly the nature of congressional review of broad policy subjects. GAO suggests (1) a requirement that over an 8-year cycle programs and activities be reviewed in policy subject areas designated in biennial concurrent resolutions on oversight, (2) a presumption that any program which is not reviewed during the 8-year cycle should be considered for termination, and (3) a mechanism by which individual programs can be designated for reauthorization which are not now subject to the reauthorization process."

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Finding out how programs are working: suggestions for congressional oversight; report to the Congress by the Comptroller General of the United States. Washington, G.A.O., 1977. 46 p. LRS77-15769

"PAD-78-3, Nov. 22, 1977"

"Outlines an approach that could be used by the Congress when it desires to establish oversight requirements in legislation in order to enhance its oversight of programs."

U.S. General Accounting Office. Office of General Counsel. Principles of Federal appropriations law. 1st ed. Washington, G.A.O., 1982. 1 v. (various pagings) LRS82-12276

Partial contents.--The legal framework.--Availability of appropriations as to purpose.--Availability of appropriations as to time.--Availability of appropriations as to amount.--Obligation of appropriations.--Continuing resolutions.--Liability and relief of accountable officers.--Claims against and by the United States.--Payment of judgments.--Federal assistance--grants and cooperative agreements.--Federal assistance--guaranteed and insured loans.

Vineyard, Dale.

Congressional committees on small business: patterns of legislative-executive agency relations. *Western political quarterly*, v. 21, Sept. 1968: 391-399. JAL.W4, v. 21

"Examines the relationship between the agency and congressional committees. Findings indicate that oversight may be carried out "in the name of the committee by a few . . . . Committees will be most effective in influencing the agency when there is considerable commonality of interests . . . . Oversight tends to be somewhat erratic, [and] while oversight is frequently equated with formal committee investigations, especially public hearings, it covers a wider range of methods."

Weiss, Carol H.

Congressional committees as users of analysis. *Journal of policy analysis and management*, v. 8, summer 1989: 411-431.

LRS89-6336

"Interviews with committee staff show that they are aware of much analysis, use it primarily for political advantage, but that they also take it seriously as warning of problems and as guidance on particular issues. Staff value information more when they know and trust its source and understand its political motivations. The use of analysis to reconceptualize problems is not much in evidence."

White, Richard G.

Congressional limitations and oversight of executive decision-making power: the influence of the members and of the staff. In *National security policy: the decision-making process*. Edited by Robert L. Pfaltzgraff, Jr., Uri Ra'anan. Hamden, Conn., Archon Books, 1984. p. 241-249. LRS84-19393

Former Member of Congress describes how, in the making of defense policy, "reliance on the expertise of the professional [committee] staff and the usual acceptance of their recommendations constitutes the normal legislative oversight and decision exercised over Executive proposals--i.e., staff recommendation, and approval by committee membership."

Wisconsin. Legislature. Legislative Council.

Legislative oversight: an overview. Madison, The Council, 1978. 33 p. (Research bulletin 78-8) KFW2821.5.085A25 1978

Provides an overview and an introduction to the scope of legislative oversight mechanisms. Part I discusses the scope of various oversight activities, part II review legislative oversight of the judicial branch of government, part III describes some of the problems associated with oversight activities and suggests areas for consideration by the Legislature in implementing oversight mechanisms.

CRS-159

Workshop on Congressional Oversight and Investigations (1978 :  
Washington, D.C.)  
Proceedings of the three-day workshop . . . December 1, 6, and  
7, 1978. Washington, G.P.O., 1979. 217 p. (Document, House,  
96th Congress, 1st session, no. 96-217) LRS79-14074

Yarwood, Dean L.

Oversight of Presidential funds by the appropriations  
committees: learning from the Watergate crisis.  
Administration & society, v. 13, Nov. 1981: 299-346.

LRS81-19678

"During the crisis it became clear members of the  
Appropriations Committees of Congress were reluctant to look  
into the use of presidential funds. When they did, it was  
apparent that these funds were virtually uncontrolled. Three  
problems are examined here: the use of the Special Projects  
fund, the lack of distinction between it and the Emergency  
Fund for the President, and the absence of authorization for  
the White House Office, Salaries, and Expenses fund."

Zeidenstein, Harvey G.

The reassertion of congressional power: new curbs on the  
President. Political science quarterly, v. 93, fall 1978:  
393-409. LRS78-23184

Examines instances and mechanisms in which the Congress  
"has increased its ability to restrict presidential actions  
and to hold the president and the executive branch more  
accountable to itself by allowing for formal congressional  
disapproval in some instances, requiring to be provided with  
critical information in others, and mandating that certain  
presidential initiatives cease automatically in other cases in  
the absence of congressional action to affirmatively approve  
those initiatives."

Peter Giordano  
George Walser  
Bibliographers, Government and  
American Law  
Library Services Division  
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(Appendix B)

Guide to the  
Records of the  
United States  
House of Representatives  
at the  
National Archives

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1789-1989  
Bicentennial Edition

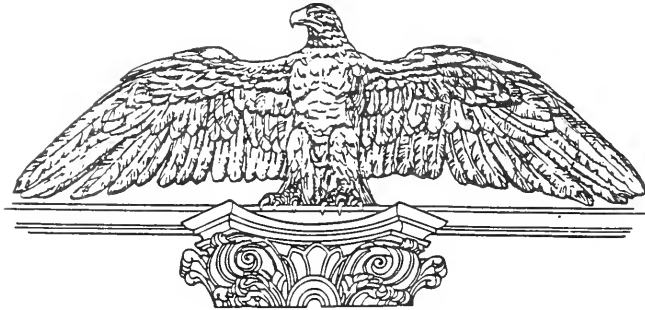
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National Archives and Records Administration

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Prepared under the direction of  
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Clerk of the House of Representatives



January 1989

# Chapter 11

## RECORDS OF THE GOVERNMENT OPERATIONS COMMITTEE AND ITS PREDECESSORS

CONGRESSES

1	10	20	30	40	50	60	70	80	90
1789	1809	1829	1849	1869	1889	1909	1929	1948	1968

Public Expenditures . . . . .	_____									
(1814-80)										
Expenditures in the following departments:										
Navy Department . . . . .	_____									
(1816-1927)										
Post Office Department . . . . .	_____									
(1816-1927)										
Treasury Department . . . . .	_____									
(1816-1927)										
State Department . . . . .	_____									
(1816-1927)										
War Department . . . . .	_____									
(1816-1927)										
Public Buildings . . . . .	_____									
(1816-1927)										
Interior Department . . . . .	_____									
(1860-1927)										
Justice Department . . . . .	_____									
(1874-1927)										
Agriculture Department . . . . .	_____									
(1889-1927)										
Commerce and Labor Departments . . . . .	_____									
(1905-13)										
Commerce Department . . . . .	_____									
(1913-27)										
Labor Department . . . . .	_____									
(1913-27)										
Expenditures in the Executive Departments . . . . .	_____									
(1927-52)										
Government Operations . . . . .	_____									
(1952-68)										

## CHAPTER 11

### RECORDS OF THE COMMITTEE ON GOVERNMENT OPERATIONS AND ITS PREDECESSORS

#### Introduction

11.1 Article I, section 9 of the Constitution provides that "No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time." From the founding of our Government it has been the right of Congress, the legislative branch, to appropriate funds for the executive branch and to specify, except in extreme cases, where the funds should be spent. This chapter includes descriptions of the records of the Committee on Government Operations and numerous other standing committees, subcommittees, and special subcommittees of the House that have been created specifically to oversee the expenditure of funds by the executive agencies of the Government.

#### *History and Jurisdiction*

11.2 Initially, the House appointed special committees to monitor the use of public moneys. In 1802, the Committee of Ways and Means was empowered to review expenditures and to report such provisions and arrangements "as may be necessary to add to the economy of the departments, and the accountability of their officers."<sup>1</sup> On February 26, 1814, Congress divided the duties of the Committee of Ways and Means and transferred that part relating to the examination of past expenditures to a standing Committee on Public Expenditures.<sup>2</sup>

11.3 The Committee on Public Expenditures was to "examine into the state of the several public departments, and particularly into the laws making appropriations of moneys and to report whether the moneys had been disbursed conformably with such laws." It was also to report measures to increase the

economy of the Departments and the accountability of officers.<sup>3</sup>

11.4 In 1816 the House initiated an organizational change that provided a means of continuously and consistently following the operations of the various Departments and scrutinizing their expenditures. Henry St. George Tucker of Virginia proposed the appointment of six standing committees to examine the accounts and expenditures of the State, Treasury, War, Navy, and Post Office Departments, and those related to the construction and maintenance of public buildings.

11.5 The committees were created on March 30, 1816,<sup>4</sup> and committees for the Departments of Interior, Justice, Agriculture, Commerce and Labor (later split into two committees), were established between 1860 and 1913. The jurisdiction of these new committees included the following subjects:

The examination of the accounts and expenditures of the several Departments of the Government and the manner of keeping the same; the economy, justness, and correctness of such expenditures; their conformity with appropriation laws; the proper application of public moneys; the security of the Government against unjust and extravagant demands; retrenchment; the enforcement of the payment of moneys due to the United States; the economy and accountability of public officers; the abolishment of useless offices; [and] the reduction or increase of the pay of officers.<sup>5</sup>

11.6 Until January 28, 1878, each committee generally consisted of three to five members. After that date, the number was fixed at seven. Frequently, first-term members of Congress were assigned to these committees. Abraham Lincoln, for example, served as a member of the Committee on Expenditures in the

<sup>1</sup> *Annals of the Congress of the United States*, 7th Cong., 1st sess., Jan. 7, 1802, p. 412.

<sup>2</sup> *Journal of the House Representatives of the United States*, 13th Cong., 2d sess., Feb. 26, 1814, pp. 311, 314.

<sup>3</sup> *Journal of the House Representatives of the United States*, 13th Cong., 2d sess., Feb. 26, 1814, pp. 311, 314.

<sup>4</sup> *Journal of the House Representatives of the United States*, 14th Cong., 1st sess., Mar. 30, 1816, p. 330.

<sup>5</sup> Asher C. Hinds, *Hinds' Precedents of the House of Representatives of the United States* (Washington: Government Printing Office, 1907) vol. 4, p. 830, para. 4315.



## CHAPTER 11

11.7

War Department during the 30th Congress, his only term in Congress.

11.7 From 1816 to 1927 the committees on expenditures reviewed the financial accountability of the Departments and infrequently followed the reviews with investigations. Although they usually had relatively little to do, at times the committees attained considerable importance and prominence. Faced with a substantive war debt during their first decade, most of the committees actively monitored their respective Departments and recommended ways to effect economies in departmental operations. The committees usually were busy and effective during periods of financial crisis, but their activities generally were curtailed when the United States was at war.

11.8 The committees could conduct investigations with or without specific direction from the House. Authority for compelling testimony, however, had to be obtained from the House, except during the 44th and 45th Congresses. Because of this limitation, investigations made under authority of the rules were merely inquiries undertaken with the cooperation or acquiescence of the officers of the Departments involved. Investigations were also made at the request of Congress, but many investigations that the committees could have handled were conducted by special committees created specifically for the purpose.

11.9 By 1879 the usefulness of the Committee on Public Expenditures was being questioned by the Committee on Rules which argued that the mission of the Committee on Public Expenditures essentially duplicated on a broad scale the work of the committees on expenditures of the individual Departments. The Committee on Rules maintained that one committee could not examine the financial management of the several Departments as thoroughly as committees whose sole purpose was to examine the accounts and expenditures of a single Department. Effective March 8, 1880, the Committee on Public Expenditures ceased to exist although Congress had stipulated that no standing committee should be abolished before March 3, 1881, the end of the 46th Congress. The Committee on Public Expenditures was revived as a select committee during the 47th Congress.

11.10 The fate of the House committees on departmental expenditures was directly influenced by organizational changes in the Treasury Department. From 1817 to 1921 the Treasury Department em-

ployed six accounting officers called Auditors who examined accounts involving the collection or disbursement of public funds and decided which accounts were to be admitted or rejected. The seventh "Auditor" was the Comptroller of the Treasury whose principal duty was to construe the laws governing the disbursement and application of public moneys but who also occasionally reviewed accounts previously examined by the Auditors. The work of the Auditors was not performed for Congress, and the audited accounts were not submitted to Congress.

11.11 By the end of World War I Congress realized the limitations of its control over expenditures and its inability to monitor effectively the use of funds by the executive departments. In practice the executive branch audited its own accounts through the Treasury Department with relatively little congressional supervision. Consequently, as a measure designed to increase congressional control over expenditures as well as over matters of economy and efficiency in governmental operations, Congress passed the Budget and Accounting Act of 1921.

11.12 The Budget and Accounting Act of 1921 (Public Law 67-13) combined the six auditing offices of the Treasury Department with the Office of the Comptroller of the Treasury to form the General Accounting Office (GAO). The GAO was separated from the Treasury Department and established as an independent office responsible to Congress. The act also created the Office of the Comptroller General and ordered that official to investigate "all matters relating to the receipt, disbursement, and applications of public funds" and to make reports to Congress on his work and recommendations and to "make such investigations and reports as shall be ordered by either House . . . or by any committee . . . having jurisdiction over revenue appropriations, or expenditures."

11.13 When Alvan T. Fuller of Massachusetts resigned from the Committee on Expenditures in the Interior Department in 1918, he said that the committee was "wasting the taxpayers' money" and was "the most inefficient and expensive barnacle that ever attached itself to a ship of state."<sup>6</sup> Following World War I most of the committees on expenditures continued to be relatively inactive, a situation that was aggravated after the General Accounting Office was

<sup>6</sup> George B. Galloway, *Congress at the Crossroads* (New York: Thomas Y. Crowell, 1946), p. 263, n. 64.

created in 1921 because many committee members believed that the GAO was looking out for the interests of Congress. Because the committees were accomplishing so little, Congress, on the first day of the 70th Congress, December 5, 1927, abolished the 11 committees on expenditures and replaced them with a single committee, the Committee on Expenditures in the Executive Departments.<sup>7</sup>

11.14 The Committee on Expenditures in the Executive Departments consisted of 21 members. Initially its jurisdiction was the same as that of the departmental committees. In 1928 its jurisdiction was expanded to cover independent establishments and commissions. In time the committee acquired jurisdiction over a wide variety of activities. For example, it came to be responsible for facilitating the conservation of public lands and other natural resources by coordinating the conservation functions of executive agencies. It also became involved with recordkeeping requirements for various governmental agencies.

11.15 During its early years the committee addressed a few select issues, such as the public works function in Government, the consolidation of veterans' affairs, and a retirement system for Federal employees. However, the Great Depression made monitoring economy and efficiency in the Government an urgent issue, and the committee's activities greatly increased under John J. Cochran of Missouri who chaired the committee from 1932 to 1940. America's entry into World War II, and the subsequent slowing down of New Deal activities led to a relatively inactive period for the committee.

11.16 With the end of the war and passage of the Legislative Reorganization Act of 1946 (Public Law 79-601), the committee once again became active. This act charged the committee with receiving and examining the reports of the Comptroller General and of reporting on them to the House; studying the operation of government activities at all levels to determine their economy and efficiency; evaluating the effects of laws enacted to reorganize the legislative and executive branches of the government; and studying intergovernmental relationships.

11.17 Much of the post-war committee work had to do with Government reorganizations. In 1939 Congress authorized the President to formulate plans for

abolishing, consolidating, or regrouping agencies of the executive department in the interest of efficiency and economy and to transmit the plans to Congress where they were reviewed by the Committee. If the plans were not disapproved by the Committee and Congress did not reject them within 60 days they would automatically take effect. Beginning in 1949, the Committee also reviewed the recommendations of the Commission on Organization of the Executive Branch of the Government (the Hoover Commission) and the reorganization plans subsequently submitted under the general Reorganization Act of 1949. This Act ratified the Hoover Commission's recommendations in principle and authorized the President to draw up specific reorganization plans. However, the legislators reserved to themselves the right to veto any plan by adverse vote of either House within 60 days of its submission. Subsequent legislation made similar provisions about reorganization plans. Between 1949 and 1973, 19 of the 93 reorganization plans submitted by the President were rejected.

11.18 Much of the work of the committee and its successor, the Committee on Government Operations, related to the work of the General Accounting Office. In 1946 the committee was charged in the Legislative Reorganization Act with responsibility for reviewing the audit reports of the General Accounting Office. These reports grew in number and scope after 1945 when Public Law 79-248 authorized the GAO to conduct audits of Government-owned agencies and again after 1949, when GAO began "comprehensive audits" of all Departments and agencies.

11.19 On July 3, 1952, the Committee was renamed the Committee on Government Operations.<sup>8</sup> The jurisdiction of the Committee on Government Operations pursuant to the rules of the 90th Congress included:

- A. Budget and accounting measures, other than appropriations; B. Reorganizations in the executive branch of the Government; C. (1) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the House as it deems necessary or desirable in connection with the subject matter of such reports; (2) studying the operation of Government activities at all levels with a view to determining its economy and efficiency; (3) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; (4) studying intergovernmental relationships between the United States and States

<sup>7</sup> *Journal of the House of Representatives of the United States*, 70th Cong., 1st sess., Dec. 5, 1927, p. 4.

<sup>8</sup> *Journal of the House of Representatives of the United States*, 82nd Cong., 2d sess., July 3, 1952, pp. 720-721.

and municipalities, and between the United States and international organizations of which the United States is a member.<sup>9</sup>

11.20 For the purpose of performing its duties, the committee, or any of its subcommittees when authorized by the committee, was authorized to hold hearings and act at any time and place within the United States. It was also authorized to require by subpoena or otherwise the attendance of witnesses and the production of papers, documents, and books, and to take such testimony as it deemed necessary.

11.21 The Committee's jurisdiction with respect to oversight responsibilities overlapped with that of most other standing committees. Such overlapping jurisdiction necessarily arose from the broad oversight functions assigned to the committee by the House rules.

11.22 The work of the committee has increased with almost every Congress during the past four decades. The same has been true of the oversight activities of the other House committees, as a result, in part, of the directive in Section 136 of the Legislative Reorganization Act of 1946 that "each standing committee . . . shall exercise continuous watchfulness of the execution . . . of any laws" by the administrative agencies within their jurisdiction, and by the requirement of the Reorganization Act of 1970, that the committees report annually on their oversight activities.

11.23 Two series of records that document the administrative operation of the committees are common to most of the committees on expenditures for the period 1814-1927. Minute books contain information about committee membership and attendance at meetings, the appointment of clerks, topics discussed during the meetings, and lists of witnesses who appeared before the committees. The docket books contain information about the status of bills, correspondence, and actions of committee interest. Because the contents of the minute and docket books are basically the same for each committee, only those volumes that contain unusual information are mentioned specifically in the discussion of the records of each committee.

11.24 Two other series that are found for most of the committees are petitions and memorials and committee papers. Relatively few petitions and memorials were referred to the committees and for most com-

mittees the footage for this series is negligible. Committee papers form the bulk of the records for most of the committees. These papers generally consist of financial statements and other fiscal records providing information about specific and contingent expenditures. Often detailed information is given about the expenses, salaries, and promotions of individual employees of the Government. Many of the records concern studies on the adjustment of pay and allowances for governmental workers. The volume of committee papers increases significantly with the 80th Congress (1947-49).

11.25 The bill files, are found in great volume after the 80th Congress. They are arranged by Congress and thereunder by bill type: House bills, House resolutions, House joint resolutions, House concurrent resolutions, Senate bills, Senate joint resolutions, and Senate concurrent resolutions, and thereunder by bill or resolution number.

### Committee on Public Expenditures (1814-80)

11.26 There are records for this committee for the entire period of its existence.

#### *Records of the Committee on Public Expenditures, 13th-46th Congresses (1814-80)*

Record Type	Volume	Date	Congress
Minute Books	2 vols.	1865-71, 1877-80	39th-41st, 45th-46th
Docket Books	3 vols.	1861-79	37th-45th
Persons & Mem.	2 in.	1815-17, 1839-43 1847-49	14th, 26-27th 30th
Comm. Papers	3 ft.	1814-17, 1819-23 1827-33, 1839-45 1847-49, 1859-61 1863-65 1871-73 1875-77	13th-14th, 16th-17th 20th-22d, 26th-28th 30th, 36th 38th, 42d 44th
TOTAL: 3 ft. and 5 vols. (5 in.)			

11.27 Docket books show the status of legislation and topics of committee interest. Occasionally, remarks are noted, which, in some instances, actually are minutes of meetings.

11.28 Petitions and memorials are sparse. Calls in 1842 for "retrenchment and reform" in Congress and in the executive departments comprise most of the petitions and memorials (27A-G19.1).

<sup>9</sup> *Journal of the House of Representatives of the United States, 90th Cong., 2d sess., Rule XI "Powers and Duties of Committees,"* p. 1315.

11.29 Committee papers indicate the wide variety of activities that the committee reviewed or investigated to see if they were being conducted in an economical and efficient manner. For example, in 1822 and 1828 the committee conducted surveys to determine whether governmental departments were structured in a manner that facilitated reviews for accountability (17A-C22.1, 20A-D19.1). In 1841, the committee reviewed contract procedures to determine what benefits, if any, executive departments derived from the requirement that they accept the lowest bids for printing services and stationery supplies (26A-D22.1).

11.30 Many matters relating to military procurement practices came within the committee's purview. Among the committee papers are records relating to an 1816 inquiry into the procurement practices of General William Henry Harrison in 1813-14 (14A-C13.1); an 1817 review of expenditures, including wartime contracts (14A-C13.2); and an 1844 inquiry into financial mismanagement by the commanding officer of the Florida Squadron during 1841-42 (28A-D24.1). Also included are records of three investigations of the financial affairs of military officers in 1842 (27A-D18.1, 27A-D18.2, 27A-D18.3).

11.31 Committee papers concerning activities of civil agencies include records relating to an investigation of contracts for mailbags (27A-D18.5); a review of the expenditures on repairs, alterations, and improvement of the White House in 1842 (27A-D18.6); reports in 1848 on the Secretary of Treasury's annual report (30A-D19.1) and in 1860 on public printing (36A-D20.1); and a review of the operations of the New York Customhouse (38A-E18.1).

11.32 The committee papers also include records created in 1831 and 1832 when the committee attempted to develop a better system for estimating the distance Members traveled to Congress (21A-D20.1, 22A-D20.1).

#### Committee on Expenditures in the Navy Department (1816-1927)

11.33 The earliest records extant are from the 16th Congress (1819-21).

#### Records of the Committee on Expenditures in the Navy Department, 14th-69th Congresses (1816-1927)

Record Type	Volume	Date	Congress
Minute Books	3 vols.	1891-1893, 1907-11	52d, 60th-61st
Docket Books	1 vol.	1907-9	60th
Petitions & Mem.	1 in.	1865-67	39th
Comm. Papers	1 ft.	1819-21, 1829-35 1843-45, 1859-61 1875-77, 1887-89 1893-95, 1907-9 1919-21	16th, 21st-23d 28th, 36th 44th, 50th 53d, 60th 66th
TOTAL: 1 ft. and 4 vols. (4 in.)			

11.34 Few petitions and memorials exist for this committee. One that has been preserved is a January 1867 petition by employees of the Washington Navy Yard requesting an increase in their pay (39A-H9.1).

11.35 Most of the committee papers concern accounting for the contingency expenditures in the Navy Department; investigating contracting practices (28A-D8.1, 36A-D7.1, 44A-F11.1); and reviewing pay and allowances (16A-D7.1, 66A-F12.2). Records relating to President Theodore Roosevelt's communication to Congress of February 25, 1909 concerning the needs of the Navy are included in this series (60A-F16.1).

#### Committee on Expenditures in the Post Office Department (1816-1927)

11.36 The earliest records available date from the 17th Congress (1821-23).

*Records of the Committee on Expenditures in the Post Office Department, 14th-69th Congresses (1816-1927)*

Record Type	Volume	Dates	Congress
Minute Books	4 vols.	1889-91, 1907-9 1911-13	51st, 60th 62d
Docket Books	3 vols.	1889-91, 1907-9 1911-13	51st, 60th 62d
Petitions & Mem.	1 in.	1911-13	62d
Comm. Papers	12 fl.	1821-23, 1829-31 1843-45, 1891-97 1905-9, 1911-15 1917-19	17th, 21st 28th, 52d-54th 59th-60th, 62d-63d 65th
TOTAL: 12 fl. and 7 vols. (6 in.)			

11.37 The minutes of the meetings held during the 1911-13 period, document the committee's efforts to review the economy and efficiency of the Post Office Department's operations, conflicts of interest by postmasters, and the political involvement of postal employees (62A-F11.2).

11.38 Only a few petitions and memorials exist for this committee. Most are from various groups calling for an investigation of the Post Office Department's actions against a Socialist weekly, *The Appeal to Reason* (62A-H8.1), or protesting the Post Office Department's actions against certain publications, including the *Woman's National Daily* (62A-H8.2).

11.39 Over 90 percent of the committee papers consists of listings of bidders for contracts for mail delivery routes during the years 1891-95 (52A-F15.1, 53A-F13.1). Most of the remaining records relate to reports of and examinations of Post Office Department contingent expenses. Among the most interesting of the committee papers are those of a subcommittee appointed during the 59th Congress to determine whether the Post Office Department was harrasing E. G. Lewis, publisher of *The Woman's Magazine* and *Woman's Farm Journal* (59A-F13.1, 59A-F13.2, 62A-F11.1).

**Committee on Expenditures in the Treasury Department (1816-1927)**

11.40 The earliest records available for this committee are from the 21st Congress (1829-31).

*Records of the Committee on Expenditures in the Treasury Department, 14th-69th Congresses (1816-1927)*

Record Type	Volume	Dates	Congress
Minute Books	4 vols.	1891-95, 1907-9 1915-17	52d-53d, 60th 64th
Docket Books	7 vols.	1859-61, 1879-81 1889-95, 1907-9 1915-17	36th, 46th 51st-53d, 60th 64th
Petitions & Mem.	1 in.	1839-41, 1893-95 1907-11	36th, 53d 60th-61st
Comm. Papers	2 fl.	1829-31, 1859-61 1865-67, 1875-83 1887-89, 1891-93 1895-97, 1909-27	21st, 36th 39th, 44th-47th 50th, 52d 54th, 61st-69th
Bill Files	5 in.	1907-9, 1915-19 1923-25	60th, 63d-65th 68th
TOTAL: 3 fl. and 11 vols. (9 in.)			

11.41 Petitions and memorials for this committee are sparse. Most of them either oppose closing certain customs offices in 1894 (53A-H10.1) or support legislation in 1908 relating to the appointment of pharmacists in the Public Health and Marine Hospital Service (60A-H10.1).

11.42 The committee papers contain records relating to numerous investigations. They include inquiries into the way the fund for the relief of sick and disabled seamen was expended (36A-D8.1); the sale of captured and abandoned cotton and other property from 1865 to 1867 (44A-F14.1); the water-proofing process employed in the manufacture of fractional currency (44A-F14.2); the effectiveness of the Secret Service and fraud in the Customs Service in New York City (61A-F18.1); and the management of St. Elizabeths Hospital (68A-F14.1) and the War Risk Insurance Bureau (66A-F14.1, 66A-F14.2). Also included are records created when the committee attempted from 1909 to 1912 to make the Treasury Department more efficient (61A-F18.1, 62A-F13.2, 62A-F13.3).

11.43 Additional information about efforts in 1908 to regulate the appointment of pharmacists in the Public Health and Marine Hospital Service (60A-D7) is found in the bill files. Also included are records concerning efforts in 1918 to determine money due the Government from the States (65A-D5); and attempts in 1924 to determine Government indebtedness and to review income tax returns of Harry F. Sinclair and other associates of his oil company (68A-D9). There are also records relating to hearings held in

## COMMITTEE ON GOVERNMENT OPERATIONS AND ITS PREDECESSORS

11.51

1916 to determine how effectively income taxes were being collected (64A-D5).

### Committee on Expenditures in the State Department (1816-1927)

11.44 The earliest records for this committee date from the 17th Congress (1821-23).

#### *Records of the Committee on Expenditures in the State Department, 14th-69th Congresses (1816-1927)*

Record Type	Volumes	Dates	Congress
Minute Books	3 vols.	1879-81, 1907-9 1911-13	46th, 60th 62d-63d
Docket Books	4 vols.	1877-81, 1885-87 1907-9, 1911-13	45th-46th, 49th 60th, 62d
Bonded Reports	1 vol.	1827-39	20th-25th
Comm. Papers	2 ft.	1821-25, 1827-33 1835-39, 1843-43 1875-81, 1909-13 1919-27	17th-18th, 20th-22d 20th-22d, 28th 44th-46th, 61st-62d 66th-69th
TOTAL: 2 ft. and 7 vols. (7 in.)			

11.45 The committee papers include one volume of committee reports covering the period April 5, 1828 to May 26, 1838.

11.46 The committee infrequently conducted investigations of financial irregularities by Department personnel. Among the committee papers are records concerning several investigations undertaken during the 1876-79 period on financial dealings of American diplomatic personnel and fiscal operations in American diplomatic and consular offices (44A-F13.1, 44A-F13.2, 46A-F12.1, 46A-F12.2, 46A-F12.3, 46A-F12.4).

### Committee on Expenditures in the War Department (1816-1927)

11.47 The earliest records are from the 16th Congress (1819-21).

#### *Records of the Committee on Expenditures in the War Department, 14th-69th Congresses (1816-1927)*

Record Type	Volumes	Dates	Congress
Minute Book	1 vol.	1885-87	49th
Docket Books	2 vols.	1885-87, 1907-9	49th, 60th
Minutes	1 in.	1839-41, 1881-83 1925-27	26th, 47th 69th
Petitions & Mem.	1 in.	1863-65, 1887-89	38th, 50th
Comm. Papers	25 ft.	1819-23, 1831-33 1837-43, 1859-61 1875-81, 1885-87 1895-1903, 1907-11 1913-15, 1919-27	16th-17th, 23d 25th-27th, 36th 44th-46th, 49th 54th-57th, 60th-61st 63d, 66th-69th
TOTAL: 25 ft. and 3 vols. (2 in.)			

11.48 In addition to the minute book some unbound minutes are among the committee papers. These cover committee meetings held during January and February 1840 (26A-D8.1), February through June 1882 (47A-F11.3) and, on May 10, 1926 (69A-F17.2).

11.49 Only a few petitions and memorials exist for this committee. Among them is a 1864 petition from a Washington, DC, resident complaining about mismanagement of the Military Storekeeping Department in the District (38A-G6.1) and several 1888 petitions regarding the establishment of a National Bureau of Harbors and Water Works under the War Department (50A-H9.1).

11.50 Forms used to certify the inspection of money accounts of Army disbursing officers, for 1877-1914 (with a few gaps) and 1921-1924 constitute the majority of the committee papers; they provide detailed accountings of Army expenses. However, a sizable portion of the committee papers concerns examinations of specific and contingent War Department expenditures, and a substantial quantity of the material documents various financial activities of the War Department. Included are records concerning outstanding checks issued by Army disbursing officers during the years 1892 to 1899; abstracts of articles and services purchased for the Army, 1886-1894; and lists of contracts made by the War Department and its bureaus, 1886-1894.

11.51 Records relating to investigations are also contained in the committee papers. Typical are documents concerning an 1860 investigation to determine why an 1852 contract for marble columns for the

Capitol extension had not been completed (36A-D9.1), an 1876 inquiry into the payments for publishing *The Official Records of the War of the Rebellion*. (44A-F15.1), and an 1878 investigation into the financial activities of the chief inspector of clothing at the quartermaster's depot in Philadelphia (45A-F14.1). Also included in the committee papers are records relating to efforts in 1878 to reduce the clerical force in the War Department (46A-F14.1) and an 1842 printed report on extra pay to compensate Maj. Gen. Winfield Scott for services rendered in the 1838 Cherokee removal (27A-D7.1).

### Committee on Expenditures on the Public Buildings (1816-1927)

11.52 Records for this committee are sparse, particularly after the 44th Congress (1875-77).

#### *Records of the Committee on Expenditures on the Public Buildings, 14th-69th Congresses (1816-1927)*

Record Type	Volume	Date	Congress
Docket Book	1 vol.	1819-91	31st
Bound Report	1 vol.	1815-41	14th-26th
Petitions & Mem.	1 in.	1825-27	19th
Comm. Papers	1 ft.	1815-23, 1825-29 1835-41, 1843-47 1853-55, 1875-77 1907-9	14th-17th, 19th-20th 24th-26th, 28th-29th 33d, 44th 60th
TOTAL: 1 ft. and 2 vols. (5 in.)			

11.53 Petitions and memorials are virtually non-existent for this committee. The one petition in the records was submitted in 1826 by William J. Chaffee regarding his design for "ornamenting the pediment of the Capitol" (19A-G6.1).

11.54 About half of the committee papers are reports of the Commissioner of Public Buildings regarding expenditures between 1816 and 1846 on public buildings, primarily in Washington, DC. Included are reports relating to an 1817 plan for "warming" the public buildings (14A-C12.2) and the status of fire fighting equipment in Washington, DC in 1826 (19A-D7.3). A number of detailed reports and other records concern the White House and its furnishings between 1816 and 1840 (14A-C12.1, 15A-D13.1, 19A-D7.2, 26A-D7.1) and work done on the Capitol between

1816 and 1827 (14A-C12.1, 15A-D13.1, 17A-C8.1, 19A-D7.1).

11.55 A few committee papers relate to public buildings outside Washington, DC. Among these are an 1840 report on the branch mint at Charlotte, NC (26A-D7.2) and records from 1876 relating to the contract for the construction of the New York Post Office (44A-F12.1).

11.56 A bound volume of committee reports covers the period from February 18, 1817 to July 21, 1840.

### Committee on Expenditures in the Interior Department (1860-1927)

11.57 The Committee on Expenditures in the Interior Department was created on March 16, 1860. The earliest records for this committee are from the 44th Congress (1875-77).

#### *Records of the Committee on Expenditures in the Interior Department, 36th-69th Congresses (1860-1927)*

Record Type	Volume	Date	Congress
Minute Books	6 vols.	1875-77, 1891-93 1907-13, 1919-21	44th, 52d 60th-62d, 66th
Docket Books	3 vols.	1907-13	60th-62d
Petitions & Mem.	8 in.	1907-13	60th-62d
Comm. Papers	1 ft.	1875-81, 1895-97 1907-11, 1919-27	44th-46th, 54th 60th-61st, 66th-69th
Bill Files	2 in.	1907-9, 1919-21	60th, 66th
TOTAL: 2 ft. and 9 vols. (7 in.)			

11.58 The minute book for the 44th Congress contains information about the committee's actions in investigating alleged abuses and irregularities at the Government Hospital for the Insane (St. Elizabeths Hospital); and alleged frauds involving the issuance of Chippewa and Sioux "Half-Breed" script, land surveys in Washington Territory, the patent of the "Flag-Staff" Mining Company of Utah, and the employees of the Patent Office.

11.59 Most of the petitions and memorials relate to efforts in 1910 and 1911 to establish a national health bureau (61A-H8.2, 62A-H7.1) and to efforts in 1909

and 1910 to establish a children's bureau in the Interior Department (60A-H9.1, 61A-H8.1).

11.60 The committee papers provide information on a 1910 investigation of misuse of funds in the General Land Office (61A-F15.1); efforts in 1908-09 to establish a children's bureau (60A-F14.1, 61A-F15.2); and reviews of the contingent and other expenditures in the Department, including those for St. Elizabeths Hospital and the Freedman's Hospital, conducted between 1896 and 1926. A 91-page volume contains a detailed listing of contingent expenses in the Patent Office during the 1875-78 period (46A-F11.1).

11.61 The bill files contain information on efforts in 1908 to establish a children's bureau in the Interior Department (60A-D5) and in 1919 to create a department of public works (66A-D7).

#### Committee on Expenditures in the Justice Department (1874-1927)

11.62 The Committee on Expenditures in the Department of Justice was created on January 16, 1874. The earliest records for this committee date from the 44th Congress (1875-76).

##### *Records of the Committee on Expenditures in the Department of Justice, 43d-69th Congresses (1874-1927)*

Record Type	Volume	Date	Congress
Minute Books	6 vols.	1883-89, 1897-99 1907-09	48th-50th, 55th 60th
Docket Books	4 vols.	1875-77, 1885-87 1891-93, 1907-9	44th, 49th 52d, 60th
Comm. Papers	1 ft.	1883-87, 1907-9 1921-23	48th-49th, 60th 67th
Bill Files	1 in.	1907-9	60th

TOTAL: 1 ft. and 10 vols. (9 in.)

11.63 One of the docket books contains a memorandum listing correspondence for the period February-April 1876 for B. G. Caulfield, a member of both the Judiciary Committee and the Committee on Expenditures in the Justice Department. Most of the letters involve requests to the Attorney General for information and records.

11.64 Most of the committee papers date from the years 1884-86 and concern investigations into financial

and political irregularities by U.S. Marshals, U.S. District Attorneys, and other officers appointed by or connected with the Department of Justice (48A-F11.1, 48A-F11.2, 48A-F11.3, 49A-F12.1) and into alleged fraud in the "Star Route" mail service (48A-F11.4). They also contain information about irregularities in accounts of the Pension Office (49A-F12.1) and the Department of Justice (48-F.11.2).

11.65 The bill files consist only of copies of 1908 bills relating to the collection of fees associated with naturalization laws (60A-D6).

#### Committee on Expenditures in the Agriculture Department (1889-1927)

11.66 The Committee on Expenditures in the Department of Agriculture was created on December 20, 1889. The earliest records are from the 52d Congress.

##### *Records of the Committee on Expenditures in the Department of Agriculture, 51st-69th Congresses (1889-1927)*

Record Type	Volume	Date	Congress
Minute Books	4 vols.	1891-93, 1905-11	52d, 59th-61st
Docket Book	1 vol.	1891-93	52d
Comm. Papers	3 ft.	1891-93, 1905-11 1925-27	52d, 59th-61st 69th

TOTAL: 3 ft. and 5 vols. (4 in.)

11.67 Statements of expenditures of the Department of Agriculture for the years 1891-92 and 1907-10 constitute most of the committee papers. There are also records related to a 1909 North American Conservation Conference (60A-F13.3).

#### Committee on Expenditures in the Commerce and Labor Department (1905-13)

11.68 The Committee on Expenditures in the Department of Commerce and Labor was created on December 11, 1905. It was terminated in 1913 and was succeeded by the Committee on Expenditures in the Department of Commerce and the Committee on Expenditures in the Department of Labor. There are virtually no records for this committee.



## CHAPTER 11

11.69

*Records of the Committee on Expenditures in the Department of Commerce and Labor, 59th-63d Congresses (1905-13)*

Record Type	Volume	Date	Congress
Comm. Papers	1 in.	1909-11	61st
TOTAL: 1 in.			

11.69 Two printed House documents relating to efforts in 1910 to establish a children's bureau in the Department of Commerce and Labor and two pamphlets published by the National Child Labor Committee constitute the committee papers (61A-F14.1).

**Committee on Expenditures in the Commerce Department (1913-27)**

11.70 The Committee on Expenditures in the Department of Commerce was created on May 27, 1913. The few records that exist for this committee are from the 67th Congress.

*Records of the Committee on Expenditures in the Department of Commerce, 63d-69th Congresses (1913-27)*

Record Type	Volume	Date	Congress
Comm. Papers	2 in.	1921-23	67th
TOTAL: 2 in.			

11.71 Statements of disbursements, including individual pay and allowances, made within the Department of Commerce, comprise most of the committee papers.

**Committee on Expenditures in the Labor Department (1913-27)**

11.72 The Committee on Expenditures in the Department of Labor was created on May 27, 1913. The National Archives holds no records for this committee.

**Committee on Expenditures in the Executive Departments, (1927-52)**

11.73 This committee was created on December 5, 1927, to replace the 11 expenditures committees that were terminated at that time.

*Records of the Committee on Expenditures in the Executive Departments, 70th-82d Congresses (1927-52)*

Record Type	Volume	Date	Congress
Petitions & Mem.	4 in.	1931-33, 1947-52	72d, 80th-82d
Comm. Papers	125 ft.	1927-52	70th-82d
Bill Files	9 ft.	1927-49, 1951-52	70th-80th, 82d
TOTAL: 134 ft.			

11.74 Most of the petitions and memorials are calls for additional benefits for disabled veterans (72A-H3.1) and the implementation of various recommendations of the Hoover Commission (81A-H4.1).

11.75 War Department accountability forms for 1931-38 and ledger-type reports for 1939-42, constitute most of the committee papers before the 80th Congress. Similar forms for earlier periods are found in the records of the Committee on Expenditures in the War Department (see para. 11.45). Most of the committee papers for the full committee for the 1927-52 period consist of mandatory agency reports, legislative recommendations and reports submitted by the Comptroller General, and original messages and executive orders from the President.

11.76 The committee papers also include unbound minutes of committee meetings held in 1941-42 (77A-F12.3), 1943 (78A-F14.4) 1945-46 (79A-F13.3), and 1947 (80A-F6.4).

11.77 Hearings and investigations are documented in the committee papers as well. There are records pertaining to hearings on St. Elizabeths Hospital in 1928 (70A-F12.1); hearings on the National Archives in 1936 (74A-F13.2); hearings on the Federal Trade Commission and the Social Security Board in 1943 (78A-F13.2); a 1937 investigation of executive agency expenditures on publicity, travel, and reproduction work (75A-F14.1); and an investigation in 1948 of the effectiveness of Civil Service Commission investigations (80A-F6.4).

11.78 The committee papers also contain information on efforts in 1937-38 to reorganize the Govern-

ment (75A-F14.4), the work of the Hoover Commission and reorganization plans for 1946-50 (79A-F13.2, 80A-F6.7, 81A-F6.3, 81A-F6.6), and reorganization of the Armed Forces under the National Security Act of 1947 (80A-F6.4).

11.79 Much of the work of the Committee was accomplished by its subcommittees. In most instances the subcommittee records (104 ft.) include correspondence, memoranda, transcripts of hearings, minutes of meetings, reports, bills and resolutions with accompanying papers and exhibits, general administrative records and reference materials, investigative files, and questionnaires and exhibits.

11.80 While most of the subcommittee records are filed separately, the committee papers contain records related to a 1935-36 effort by a subcommittee to investigate the organization of all agencies with a view to reducing expenditures and increasing efficiency through consolidation and coordination of governmental activities (74A-F13.4).

11.81 Information about various reorganization plans are provided in the records of the Subcommittee on Executive and Legislative Reorganization (81A-F6.7, 82A-F6.5, 6 in.).

11.82 The records of the Subcommittee on Extra Legal Activities (2 in.) provide information on investigations of irregularities in the National Labor Relations Board, the Federal Reserve Board, and other organizations (80A-F6.13).

11.83 The records of the Subcommittee on Federal Relations with International Organizations (3 ft.) relate to studies of international organizations and the cost of American participation in related programs, international narcotics control, inter-American cooperation, and efforts to create a department of peace (81A-F6.3, 81A-F6.7, 82A-F6.6).

11.84 The records of the Subcommittee on Government Operations (13 ft.) pertain to a wide range of investigations and studies, including those relating to the operations of the General Accounting Office, Government use of consultants and advisory committees, activities of the Tennessee Valley Authority and the War Housing Disposal Program (81A-F6.3, 81A-F6.7). Housing construction at Andrews Air Force Base, procurement practices, and the operations of various governmental housing programs and agencies were also monitored by the subcommittee (82A-F6.7).

11.85 The records of the Subcommittee on Inter-governmental Relations (13 ft.) involve several studies and investigations, including those related to military procurement, disposition of war surplus property, and the operations of the Bunker Hill School of Aeronautics. (81A-F6.3, 81A-F6.7, 82A-F6.1, 82A-F6.8)

11.86 The records of the Subcommittee on Paroles (1 ft.) were created in the course of a 1947 investigation to determine why four of Al Capone's friends received early paroles (80A-F6.12).

11.87 The records of the Subcommittee on Procurement and Public Buildings (20 ft.) document its investigations into waste and fraud, and its attempts to improve efficiency and economy in Government procurement and building construction and related operations (80A-F6.5, 80A-F6.14).

11.88 The records of the Subcommittee on Surplus Property (28 ft.) concern efforts by the War Assets Administration and other agencies to dispose of surplus property during the 1946-48 period (80A-F6.9, 80A-F6.11). Some of the records were created during the 79th Congress as part of the Select Committee to Investigate Disposition of Surplus Property. For additional information on the Select Committee see Chapter 22, paras. 22.127-22.130.

11.89 The records of the Subcommittee on Public Accounts (1 in.) are primarily administrative and are part of a series of records on subcommittees kept by the committee chairman (81A-F6.7).

11.90 The records of the Subcommittee on Publicity and Propaganda (12 ft.) document investigations held to determine the degree to which civil servants, particularly those in the Agricultural Adjustment Agency, Bureau of Reclamation, and Federal Security Agency, were attempting to shape public opinion (80A-F6.6, 80A-F6.15).

11.91 Information pertaining to various studies and investigations of the efficiency and effectiveness of the operations of the State Department is found in the records of the Subcommittee on the State Department (80A-F6.8, 80A-F6.16, 7 in.).

11.92 There are records of several special subcommittees for the 82d Congress (1951-52). They include those of the Special Subcommittee Investigating the Home Loan Board (82A-F6.2, 10 ft.), the Special Subcommittee Investigating House Construction in Alaska

(82A-F6.3, 10 in.), and the Special Subcommittee Investigating the Veterans Administration (82A-F6.4, 5 in.).

11.93 The bill files of the 1930's contain information about efforts to create a department of national defense (72A-D6, 73A-D8, 74A-D12, 75A-D11), the Public Works Administration (72A-D6), the Reconstruction Finance Corporation (72A-D6), and several other agencies. There is also information about a public works function in Government (70A-D8, 74A-D12), the organizational placement and coordination of veterans affairs (70A-D8, 71A-D8, 74A-D12), and the 1932 and 1945-46 governmental reorganization plans (72A-D6, 79A-D12).

11.94 For the 1930's the bill files contain information about the committee's efforts to get contractors to name their subcontractors on Government-sponsored projects (72A-D6, 74A-D12, 75A-D11); to provide military pensions and disability compensation for World War I veterans (74A-D12); and to require Government agencies to purchase American manufactured goods (72A-D6), to give preference to American citizens in hiring (75A-D11), and to provide night differential pay (75A-D11).

11.95 The committee's effort to improve the economy, efficiency, and the integrity of the Government is also documented in the bill files. Included is information about attempts to regulate government-related travel (71A-D8, 75A-D11), improve records disposition (76A-D12), reduce Federal and congressional wages (72A-D6), provide for uniform cost accounting and reporting systems for executive agencies (73A-D8, 74A-D12, 75A-D11), improve Government statistics (74A-D12, 75A-D11), reduce the number of reports the public is required to submit to the Government (77A-D11), restrict nepotism in governmental appointments (74A-D12), limit the employment of more than one family member in the Government (74A-D12), and improve the Budget and Accounting Act of 1921 (78A-D9).

11.96 One of the largest collections of bill files is that dating from 1938 concerning H.R. 9848, which provided for the disposition of Army horses and mules. The legislation prompted a substantial number of letters from a wide variety of sources, including school children and Dale Carnegie (75A-D11).

## Committee on Government Operations (1952-68)

11.97 The name of the Committee on Expenditures in the Executive Departments was changed to the Committee on Government Operations on July 3, 1952. The new name more clearly indicated the functions and duties of the committee.

### *Records of the Committee on Government Operations 83d-90th Congress (1952-1968)*

Record Type	Volume	Date	Congress
Petitions & Mem.	1 ft.	1955-68	84th-90th
Comm. Papers	363 ft.	1953-68	83d-90th
Bill Files	37 ft.	1953-68	83d-90th
TOTAL: 401 ft.			

11.98 Most of the petitions and memorials relate to the creation and termination of Federal agencies.

11.99 Included in the committee papers are calendars; committee prints of House reports and documents; transcripts of executive sessions; prints and transcripts of hearings; reference materials; administrative records; and minutes of meetings. There are also reports of negotiated sales and disposals of governmental property (5 ft.) and inventory reports from agencies providing information on their properties and assets (2 ft.). The committee papers also contain a series of chronological and alphabetical "reading" files for the 88th-90th Congresses (4 ft.); records kept by William L. Dawson on the work of the subcommittees; and, for most Congresses, General Accounting Office audit reports, often arranged by the subcommittee to which they were referred.

11.100 The committee papers include 47 feet of executive communications, including reports, from agencies and a small quantity of records on reorganization plans submitted annually by the President and subsequent action, such as hearings held on the creation of a "Department of Urban Affairs and Housing" (87A-F6.2).

11.101 The committee papers for each Congress generally contain a distinct subject file providing information on the agencies and topics with which the committee dealt. There are also separate subject files on topics of interest, such as one on the implementa-

tion of the recommendations of the second Hoover Commission between 1955 and 1963 (88 GO.4).

11.102 While most of the investigatory material is contained in the records of the standing and special committees, the committee papers contain 10 feet of such files, including records relating to the Government's public information activities (83A-F7.1), ideological bias in the work of the Library of Congress (83A-F7.1), activities of the Federal Deposit Insurance Corporation (84A-F7.3), and the effectiveness of agencies in publicizing and enforcing conflict of interest statutes (87A-F6.4).

11.103 The Committee utilized subcommittees and special subcommittees to accomplish much of its work.

11.104 Records of the subcommittees (244 ft.) include minutes, reports, correspondence, memoranda, General Accounting Office audit reports, bills and resolutions referred to subcommittee and accompanying papers, printed copies and transcripts of hearings, prints of committee and House reports, transcripts of executive sessions, and subject files on agencies. Not every type of record is available for each subcommittee.

11.105 The Subcommittee on Anti-Racketeering records (11 in.) were created during a 1954 investigation of racketeering in and around the Cleveland area and in the Washington, DC-Baltimore metropolitan area (83A-F7.14).

11.106 Most of the records of the Subcommittee on Executive and Legislative Reorganization (38 ft.) relate to reorganizations, including the establishment of departments, agencies, commissions, and assignments of governmental functions to agencies and departments (84A-D7, 84A-F7.17, 85A-D7, 85A-F7.5, 86A-F7, 86A-D5, 86A-F7.12, 87A-F6.9, 88 GO.13, 89 GO.5, 89 GO.7, 89 GO.17-19, 89 GO.25, 90 GO.11). The largest quantity of records (8 ft.) pertains to an 1960-66 investigation of the Foreign Agricultural Service (88 GO.13, 89 GO.16). Ten inches of subcommittee records from the 89th Congress relating to the creation of the Department of Transportation were retired with records of the Legislative and National Security Subcommittee of the Government Operations Committee for 92d Congress.

11.107 The records of the Subcommittee on Foreign Operations and Government Information (3 ft.)

concern a variety of investigations and studies conducted during the mid-1960's, including the use of polygraphs as "lie detectors" by the Federal Government; U.S. economic aid and military assistance programs in Vietnam; U.S. aid operations in Latin America under the Alliance for Progress program, and issues related to access to governmental information (88 GO.15, 89 GO.5, 89 GO.7, 89 GO.25, 90 GO.11, 90 GO.12). Approximately 5 inches of records from this subcommittee for the 89th Congress are in the records of the Legislative and National Security Subcommittee for the 92th Congress. They provide information about trips to Southeast Asia, including Vietnam, to inspect various aid programs in 1966, 1967, and 1968, and trips to Brazil to inspect U.S. aid operations under the Alliance for Progress program.

11.108 The records of the Subcommittee on Foreign Operations and Monetary Affairs (8 ft.) were created during investigations of the administration of overseas personnel, U.S. technical assistance in Latin America, administrative management of the Department of State, and aid to Iran (84A-F7.4); U.S. aid operations in Laos, executive branch practices in withholding information from congressional committees, and the management of the Federal Reserve and the Export-Import Bank (86A-F7.13); U.S. aid operations in Peru and Cambodia (87A-F6.10) and contracting activities of the Agency for International Development and International Cooperation Administration (87A-F6.10).

11.109 The records of the Subcommittee on Government Activities (24 ft.) provide information about the Government-owned nickel plant at Nicaro, Cuba (85A-F7.6, 87A-F6.11); the purchase and use of automated data processing equipment by the Federal Government (89 GO.5); data processing management in the Federal Government (90 GO.14); and the various agencies the committee had oversight responsibility for, including the General Services Administration.

11.110 The records of the Subcommittee on Intergovernmental Relations (20 ft.) pertain to a variety of investigations and studies, including those related to commercial and industrial-type activities in the Federal Government, such as box manufacturing, printing, commissaries, and the postal savings system (83A-F7.15); the donable surplus property program (83A-F7.15); the business operations of Billie Sol Estes with the Government (87A F6.12, 88 GO.16, 89 GO.7);

(Appendix C)

REPUBLICAN MEMBERSHIP OF THE  
 COMMITTEE ON GOVERNMENT OPERATIONS  
 1952 - 1993

<u>MEMBERS</u>	<u>year of retained or appointed membership</u>	<u>year left/ present member</u>
• Clare E. Hoffman (MI)	1952	1962
• R. Walter Riehlman (NY)	1952	1964
Cecil M. Harden (IN)	1952	1958
George H. Bender (OH)	1952	1954
Charles Brownson (IN)	1952	1958
Thomas B. Curtis (MO)	1952	1952
Marguerite S. Church (IL)	1952	1954
George Meader (MI)	1952	1964
William E. McVey (IL)	1952	1952
Alvin R. Bush (PA)	1952	1952
Frank Osmers, Jr. (NJ)	1953	1954
• Clarence J. Brown (OH)	1953	1966
Louis J. Graham (PA)	1953	1954
Walter H. Judd (MN)	1953	1954
Gordon L. McDonough (CA)	1953	1954
Katharine St. George (NY)	1953	1954
William E. Miller (NY)	1953	1954
Jeffrey P. Hillelson (MO)	1953	1954
Richard H. Poff (VA)	1953	1954
Glenard P. Lipscomb (CA)	1954	1958
B. Carroll Reece (TN)	1955	1956
J. Arthur Younger (CA)	1955	1956
Victor A. Knox (MI)	1955	1958
Otto Krueger (ND)	1955	1956
Charles Raper Jonas (NC)	1955	1956
William E. Minshall (OH)	1955	1958
Edwin H. May, Jr. (CT)	1957	1958
H. Allen Smith (CA)	1957	1958
• Florence P. Dwyer (NJ)	1957	1972
Joe Holt (CA)	1959	1960
Robert P. Griffin (MI)	1959	1966
George M. Wallhauser (NJ)	1959	1964
Jessica McC. Weis (NY)	1959	1960
Odin Langen (MN)	1959	1962
Robert R. Barry (NY)	1959	1960

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## Republican membership

	<u>Year appointed</u>	<u>year left/ present member</u>
John B. Anderson (IL)	1961	1964
Richard S. Schweiker (PA)	1961	1963
F. Bradford Morse (MA)	1961	1962
• Frank J. Horton (NY)	1963	1992
Ogden R. Reid (NY)	1963	1972
Bill Stinson (WA)	1963	1964
Robert McClory (IL)	1963	1964
Albert W. Johnson (PA)	1964	1964
John N. Erlenborn (IL)	1965	1986
Donald Rumsfeld (IL)	1965	1969
William L. Dickinson (AL)	1965	1966
Howard H. Callaway (GA)	1965	1966
Delbert Latta (OH)	1965	1965
Edward J. Gurney (FL)	1965	1965
John Wydler (NY)	1966	1980
Bob Dole (KS)	1966	1967
Clarence J. Brown, Jr. (OH)	1967	1982
Gilbert Gude (MD)	1967	1976
Guy Vander Jagt (MI)	1967	1974
John T. Myers (IN)	1967	1970
William Cowger (KY)	1967	1970
Jack Edwards (AL)	1967	1968
Fletcher Thompson (GA)	1967	1968
Margaret M. Heckler (MA)	1967	1968
Paul McCloskey (CA)	1969	1982
John H. Buchanan (AL)	1969	1976
Paul Findley (IL)	1969	1970
Lowell P. Weicker (CT)	1969	1970
Sam Steiger (AZ)	1970	1976
Garry Brown (MI)	1971	1978
Charles Thone (NE)	1971	1978
Barry M. Goldwater (CA)	1971	1972
Walter E. Powell (OH)	1971	1972
J. Kenneth Robinson (VA)	1971	1971
H. John Heinz III, (PA)	1971	1972
Joel Pritchard (WA)	1973	1978

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Republican membership	<u>year appointed</u>	<u>year left/ present member</u>
Alan Steelman (TX)	1973	1976
Robert P. Hanrahan (IL)	1973	1974
Richard W. Mallary (VT)	1973	1974
Stanford E. Parris (VA)	1973	1974
Ralph S. Regula (OH)	1973	1974
Andrew J. Hinshaw (CA)	1973	1974
Robert W. Kasten (WI)	1975	1978
Edwin B. Forsythe (NJ)	1975	1976
Willis Gradison (OH)	1975	1976
Robert S. Walker (PA)	1977	1990
Thomas N. Kindness (OH)	1977	1986
Arlan Stangeland (MN)	1977	1980
John E. Cunningham (WA)	1977	1978
Tom Corcoran (IL)	1977	1978
J. Danforth Quayle (IN)	1977	1978
Lyle Williams (OH)	1979	1984
M. Caldwell Butler (VA)	1979	1982
Joel Deckard (IN)	1979	1982
Jim Jeffries (KS)	1979	1980
Olympia J. Snowe (ME)	1979	1980
Wayne Grisham (CA)	1979	1980
* William F. Clinger (PA)	1981	present
Raymond McGrath (NY)	1981	1984
Judd Gregg (NH)	1981	1984
Hal Daub (NE)	1981	1982
Jack Hiler (IN)	1981	1982
David Dreier (CA)	1981	1982
Wendel Bailey (MO)	1981	1982
Larry DeNardis (CT)	1981	1982
Alfred A. McCandless (CA)	1983	present
Larry Craig (ID)	1983	1988
John R. McKernan (ME)	1983	1984
Tom Lewis (FL)	1983	1984
Dan Burton (IN)	1983	1984
Howard Nielson (UT)	1985	1990
Richard K. Armev (TX)	1985	1990

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Republican membership	<u>year appointed</u>	<u>year left/ present member</u>
Jim Lightfoot (IA)	1985	1988
Joseph J. DioGuardi (NY)	1985	1988
John Miller (WA)	1985	1986
John Rowland (CT)	1985	1986
Patrick Swindall (GA)	1985	1986
Thomas D. DeLay (TX)	1985	1986
Jim Saxton (NJ)	1985	1986
David Monson (UT)	1985	1986
J. Dennis Hastert (IL)	1987	present
Jon L. Kyl (AZ)	1987	present
Donald E. Lukens (OH)	1987	1990
Beau Boulter (TX)	1987	1988
Amo Houghton (NY)	1987	1988
Ernest L. Konnyu (CA)	1987	1988
James M. Inhofe (OK)	1987	1988
Christopher Shays (CT)	1989	present
Steven Schiff (NM)	1989	present
Christopher Cox (CA)	1989	present
Peter Smith (VT)	1989	1990
Chuck Douglas (NH)	1989	1990
Larkin I. Smith (MS)	1989	
Ileana Ros-Lehtinen (FL)	1990	present
Craig Thomas (WY)	1991	present
Ronald Machtley (RI)	1991	present
Dick Zimmer (NJ)	1991	present
William Zeliff (NH)	1991	present
David Hobson (OH)	1991	1992
Scott L. Klug (WI)	1991	1992
John McHugh (NY)	1993	Present
Stephen Horn (CA)	1993	Present
Deborah Pryce (OH)	1993	Present
John L. Mica (FL)	1993	Present

• Ranking Minority Members



DEMOCRATIC MEMBERSHIP  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS  
1953 - 1993

<u>MEMBERS</u>	<u>Year of retained or appointed membership</u>	<u>Year left/ present member</u>
* Willian Dawson (IL)	1952	1970
* Chet Hollifield (CA)	1952	1974
Henderson Lanham (GA)	1952	1952
Porter Hardy, Jr. (VA)	1952	1952
Frank M. Kasten (MO)	1952	1954
John W. McCormack (MA)	1952	1954
Herbert C. Bonner (NC)	1952	1952
John A. Blatnik (MN)	1952	1952
Harold D. Donohue (MA)	1952	1952
M.G. Burnside (WV)	1952	1952
Richard Bolling (MO)	1952	1952
John F. Shelley (CA)	1952	1952
W.J. Bryan Dorn (SC)	1952	1952
Sidney A. Fine (NY)	1952	1953
William C. Bill Lantaff (FL)	1952	1954
Walter S. Baring (NV)	1952	1952
Earl Chudoff (PA)	1953	1957
Frank Ikard (TX)	1953	1954
*Jack Brooks (TX)	1953	1988
Lester Holtzman (NY)	1953	1956
Robert C. Condon (CA)	1953	1954
Thomas J. Dodd (CT)	1953	1954
Robert L. Mollohan (WV)	1953	1954
L. H. Fountain (NC)	1953	1982
J.L. Pilcher (GA)	1954	1954
Harrison A. Williams, Jr. (NJ)	1954	1954
Porter Hardy, Jr. (VA)	1955	1968
John A. Blatnik (MN)	1955	1970
Robert E. Jones (AL)	1955	1974
Edward A. Garmatz (MD)	1955	1972
John E. Moss (CA)	1955	1978
Joe M. Kiegore (TX)	1955	1962
Dante Fascell (FL)	1955	1982
Martha W. Griffiths (MI)	1955	1962
Henry S. Reuss (WI)	1955	1974
Overton Brooks (LA)	1957	1962
Elizabeth Kee (WV)	1957	1962
Kathryn E. (Mrs. William T.) Granahan (PA)	1959	1962
John S. Monagan (CT)	1959	1972
Neal Smith (IA)	1959	1962

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## Democratic membership

	<u>Year Appointed</u>	<u>Year left/ present member</u>
Richard Lankford (MD)	1963	1965
Torbet H. MacDonald (MA)	1963	1976
Edward Roush (IN)	1963	1968
William S. Moorhead (PA)	1963	1980
Cornelius E. Gallagher (NJ)	1963	1972
William J. Randall (MO)	1963	1972
Benjamin S. Rosenthal (NY)	1963	1982
James C. Wright (TX)	1965	1976
Fernand J. St Germain (RI)	1965	1980
David S. King (UT)	1965	1966
John J. Dow (NY)	1965	1966
Henry Helstoski (NJ)	1965	1966
John C. Culver (IA)	1969	1974
Floyd V. Hicks (WA)	1969	1976
George W. Collins (IL)	1971	1972
Don Fuqua (FL)	1971	1986
*John Conyers, Jr (MI)	1971	Present
Bill Alexander (AZ)	1971	1974
Bella Abzug (NY)	1971	1976
Cardiss Collins (IL)	1973	Present
Leo J. Ryan (CA)	1973	1978
James V. Stanton (OH)	1973	1976
Harold D. Donohue (MA)	1973	1974
Glenn English (OK)	1975	Present
Elliott Levitas (GA)	1975	1984
John Burton (CA)	1975	1982
David W. Evans (IN)	1975	1982
Toby Moffett (CT)	1975	1982
Andrew Maguire (NJ)	1975	1980
Les Aspin (WI)	1975	1980
Richardson Preyer (NC)	1975	1980
Robert F. Drinan (MA)	1975	1980
Michael Harrington (MA)	1975	1978
Barbara Jordan (TX)	1975	1978
Edward Mezvinsky (IA)	1975	1976
Henry A. Waxman (CA)	1977	Present
Ted Weiss (NY)	1977	1992
Floyd J. Fithian (IN)	1977	1982
Peter Kostmayer (PA)	1977	1980
Jack Hightower (TX)	1977	1978
John W. Jenrette (SC)	1977	1978
Michael T. Blouin (IA)	1977	1978

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## Democratic membership

	<u>Year appointed</u>	<u>Year left</u> <u>present member</u>
Michael L. Synar (OH)	1979	Present
Robert T. Matsui (CA)	1979	1980
Eugene V. Atkinson (PA)	1979	1982
Stephen L. Neal (NC)	1981	Present
Doug Barnard (GA)	1981	1992
Tom Lantos (CA)	1981	Present
Barney Frank (MA)	1981	1990
Peter Peyser (NY)	1981	1982
Harold Washington (IL)	1981	1982
Robert E. Wise (WV)	1983	1992
Barbara Boxer (CA)	1983	1992
Major R. Owens (NY)	1983	Present
Edolphus Towns (NY)	1983	Present
Ben Erdreich (AL)	1983	1992
John M. Spratt (SC)	1983	Present
Joe Kolter (PA)	1983	1990
Sander M. Levin (CA)	1983	1986
Buddy MacKay (FL)	1983	1984
Ronald D. Coleman (TX)	1983	1984
Mel Levine (CA)	1983	1984
Gerald D. Kleczka (WI)	1985	1992
Albert G. Bustamante (TX)	1985	1992
Matthew G. Martinez (CA)	1985	1992
Louise McIntosh Slaughter (NY)	1987	1990
Thomas C. Sawyer (OH)	1987	1988
Bill Grant (FL)	1987	1988
Donald Payne (NJ)	1989	Present
Nancy Pelosi (CA)	1989	1990
Jim Bates (CA)	1989	1990
Gary A. Condit (CA)	1991	Present
Patsy T. Mink (HI)	1991	1992
Ray Thornton (AR)	1991	1992
Collin Peterson (MN)	1991	Present
Rosa L. DeLauro (CT)	1991	1992
Charles J. Luken (OH)	1991	1992
John W. Cox (IL)	1991	1992
Karen L. Thurman (FL)	1993	Present
David Mann (OH)	1993	Present
Bobby L. Rush (IL)	1993	Present
Carolyn B. Maloney (NY)	1993	Present
Thomas M. Barrett (WY)	1993	Present

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Democratic membership

	<u>Year appointed</u>	<u>Year left</u> <u>present member</u>
Floyd H. Flake (NY)	1993	Present
James A. Hayes (LA)	1993	Present
Craig A. Washington (TX)	1993	Present
Barbara-Rose Collins (MI)	1993	Present
Corrine Brown (FL)	1993	Present
Marjorie Margolies-Mezvinsky (PA)	1993	Present
Lynn C. Woolsey (CA)	1993	Present

\* Chairmen

BOB GRAHAM  
FLORIDA

## United States Senate

WASHINGTON, DC 205 10-0903

Testimony of Senator Bob Graham  
before the  
Joint Committee  
on the Organization of Congress

Mr. Chairman, I am pleased to appear before the Joint Committee today. I welcome the opportunity to work with the Committee to explore ways to improve the organization and operations of the Congress.

This year, Congress is under special scrutiny. In November, voters sent 110 new members to the House of Representatives - a turnover of 25 percent. The American people have demanded that Congress end business as usual and look for better, more effective ways to respond to the needs of all Americans.

The American people sent us to work this year with a mission - to reduce the deficit, to improve the economy, to reform health care. Years of legislative gridlock and budgetary sleight-of-hand have caused many Americans to doubt the rationality and integrity of Congressional operations. I contend that unless Congress looks to itself and examines critically the way we do business, we will be unable to fulfill this mission.

Last year, at my request, Senator Boren (the chief Senate sponsor of the resolution which created the Joint Committee) confirmed that the Joint Committee's activities would include a review of House and Senate rules governing access by Members, staff and the public to meetings and materials of Congressional committees, including conference committees.

My goal today is to discuss the problems inherent in our current way of conducting the business of Congress and to outline the merits of bringing government into the sunshine. Specifically, I propose that this Committee undertake a thorough review of House and Senate rules governing access by Members, staff and the public to meetings and materials of congressional Committees.

We cannot afford to overlook these issues any longer. For both the American people and their Congressional representatives, a timely review of "sunshine" rules, with the goal of enhancing the openness of Congressional committee operations, may be one of the most important tasks the Joint Committee will undertake.

The Problem:

The perception that most legislative decisions are being made out of the public's view has caused our citizens to distrust their government. Their distrust is justifiable given the fact that they -- and even members of Congress -- are sometimes shut out of key meetings. Existing Senate rules do not guarantee a member timely access to materials or reports, the opportunity to fully participate in the legislative process, or even the courtesy of adequate notification of scheduled meetings.

Responsibility for justifying and crafting new legislation is, for the most part, delegated by the House and Senate to their respective committees, including the conference committees. Because of the sheer volume and diversity of the issues that come before Congress, and to speed up the processes of floor consideration and conference, individual Members have little choice but to rely on committees to address issues and craft legislation within their respective subject-matter jurisdictions. Both as a practical and political matter, however, individual Members cannot simply assume that committee processes will be thorough and even-handed when matters of sharp partisan or constituent interest are at stake.

The result:

In my experience, this closed-door way of doing business has led to three crippling problems.

First, the exclusion of full public scrutiny has led to increasingly justified public skepticism and cynicism about Congress' ability to do the work of the people.

A study compiled by Mellman Lazarus Lake shows a dramatic decline in the public's trust of government, reaching an all-time low in 1993. In 1964, there was a favorable 60-point margin, indicating that Americans trusted their government to act in their best interest. In 1993, we see a negative 60-point margin, which shows how little trust Americans now have in their government, expecting government to act on their behalf almost none of the time. (see graph)

Voters are also feeling more and more alienated by government. In 1964, by a positive margin of 28 points, those polled agreed that their opinions mattered to public officials. By 1991, an overwhelming majority believed that public officials were not interested in what they thought. (see graph)

Public disgust with late night or closed-door legislating has led to wide-spread calls for accountability. This lack of public faith in the credibility of Congressional processes has manifested itself in increasing voter support for measures such as term-limitations. (see Roll Call article) Calls for greater public accountability have even included demands that Congress should be made subject to the Freedom of Information Act, a law enacted by Congress to direct some much-needed "sunshine" on the operations of Executive Branch agencies and departments.

A second problem is the possibility for full and useful contributions by both the public and other members of Congress is excluded by a poor notification system. For Members of Congress and their staff, timely access to Congressional committee proceedings and materials are essential to the effective performance of legislative responsibilities. On a day-to-day basis, they can determine whether a Member will cast an informed vote, hear crucial testimony, offer a key amendment, participate in the major debate, or otherwise be prepared and available to deal with national and constituent interests in a timely and knowledgeable manner as they arise in the legislative forum.

If Members and their staff have clearer windows into the workings of Congressional committees, they will be able to enhance their participation in the legislative process and better address the interests of their constituents, without the need to obstruct or delay floor action while they acquire the necessary facts to enable them to decide how to address a particular matter at hand. Timely notice and access with regard to committee proceedings would also help Members deal with scheduling difficulties. In time, much of the delay, overlap and redundancy that wastes so much time and effort in the current legislative process could be avoided.

Take, for example Senate Standing Rule XXVI on "committee procedure." This rule, which is the only Senate rule which addresses public notification regarding the scheduling of committee proceedings, states that each committee (except for Budget and Appropriations) must make "public announcement" of the date, place, and subject matter of a hearing at least one week before it is to take place, unless the committee determines that there is "good cause" to begin the hearing at an earlier date.

Clearly, this vague "sunshine" requirement raises more questions than it resolves. Any person consulting that portion of Senate Rule XXVI which addresses the scheduling of certain committee activities would have to ask:

- 4 -

\* How is the required "public announcement" to be made and where should one look for it?

\* Why does the public announcement requirement apply only in the case of a hearing? Are such announcements required for other committee proceedings, such as markups?

\* Why does the public announcement requirement apply only to committee hearings? What about subcommittee hearings?

\* Why doesn't the announcement have to include the time, as well as the date, place and subject matter, of the hearing?

\* What constitutes "good cause" for beginning the hearing at an earlier date? What about delays to a later date? Are changes in scheduling announced in the same way?

\* Why are the Budget and Appropriations committees exempt from the "public announcement" requirement? Do they have any obligation to announce scheduled proceedings?

The third problem is that deals made outside of public scrutiny lead to bad public policy. A good example of this relates to the Savings and Loan crisis.

- The 1980 banking bill increased federal deposit insurance from \$40,000 to \$100,000 during conference, with little attention in either Senate or House floor debate. This change, which few people were aware of, resulted in increasing taxpayer liability for the savings loans institutions' failures. A newly published book by Kathleen Day, S&L Hell, chronicles the savings and loan crisis, including this event. (see appendix)

#### The Solution:

One of the solutions to help restore public confidence in Congress is to adopt some of the sunshine provisions which have already proven effective in State legislatures. (see Washington Post article)



Today, the only "sunshine" requirements applicable to Congressional committees are in rules which the House and Senate have each adopted to govern their own proceedings and materials. As currently written, these rules are vague, inconsistent, and inadequate to the task of ensuring timely awareness of, and access to, Congressional committee proceedings and materials by Members, staff and the general public.

Apart from requiring that "[e]ach House shall keep a Journal of its Proceedings, and from time to time publish the same," the U.S. Constitution does not address the openness of Congressional operations. And, while Congress has enacted "open government" laws to guarantee public accountability for the activities of federal agencies, collegial bodies, and advisory committees, it has not made these laws applicable to its own operations.

As former Governor of Florida, I have seen that government that works in the sunshine works best. Sunshine for committees in State legislatures has been variously assured through mandates in State Constitutions, "open meetings" and "open records" statutes, and rules adopted by the Legislatures themselves. My own State of Florida, which has a long and proud history of "Government in the Sunshine," amended its Constitution just last year to overturn a State Supreme Court decision which held that the State's "Sunshine Law" does not apply to the Legislature.

The Constitutional amendment, which takes affect July 1, 1993 requires legislators to adopt procedural rules, ensuring that meetings of committees, subcommittees, and conference committees are open and that the public is notified. Further, the amendment requires that any proposed closure exemptions be drafted as narrowly as possible and be contained in free standing legislation.

Last year, the Alaska Legislature enacted legislation to similarly overturn a State Supreme Court ruling which denied enforcement of Alaska's "open meeting" statute against the State Legislature.

#### Conclusion:

I propose that the Committee study the rules of the House and the Senate with the goal of improving public access to public decision making simply by clarifying the rules. The Committee should ask the question: what are the rights of members, staff, and most importantly, the public to timely awareness and access to proceedings and materials of Congressional committees?

Clear rules regarding their rights to timely awareness and access with respect to proceedings and materials of Congressional committees are too important to be overlooked in the Joint Committee's "full and complete study of the organization and operation of the Congress".

As a starting point, regarding committee, subcommittee and conference committee meetings, I recommend Congress establish:

- a) Requirements and procedures for the timely notification of scheduling for hearings, including the time, date, place, subject matter, and participants, of all meetings (including hearings and markups) as well as subsequent changes in such information.

Although this information is sometimes listed in at the back of the Congressional record, this is not always a reliable or timely notice.

- (b) Standards and procedures for closing types of meetings or individual meetings to Members, staff, or the general public.
- (c) With respect to hearings and markups, the timely availability of related printed material (including prepared statements of witnesses, transcripts, bills, proposed amendments, etc.) to Members, staff, or the general public.

In considering the substance of such requirements, the Joint Committee should consider:

1. Whether there should be different rules for Members, staff, and other interested persons, generally.
2. Whether there should be different rules for committees and subcommittees, and what discretion, if any, should committees and subcommittees individually have to establish rules which depart from rules of general applicability.
3. Whether the rules applicable to Members and staff who are on particular committees or subcommittees should differ from rules applicable to those who are not on them.
4. Whether the rules applicable to Members and staff who are on Conference Committees should differ from the rules applicable to those who are not on them.

5. Whether a general presumption in favor of open meetings and unrestricted access to materials should be established, together with rules that clearly articulate --

(a) appropriate grounds for closing meetings, or denying access to materials, to Members, staff, or other interested persons

(b) the burden of proof regarding such grounds

(c) requirements and procedures for the vote necessary to close meetings, or deny access to materials, to Members, staff, or other interested persons

(d) the availability of an appeals process

I say to my colleagues that we have a personal and political interest in reforming Congressional operations. We must realize that we are accountable and will be held accountable for the actions of Congress. Because the work of Congressional Committees is such an integral part of the Congressional operations as a whole, addressing sunshine issues in this context could ultimately improve Congressional efficiency and effectiveness as much as any other matter being examined by the Joint Committee. I appreciate this opportunity to testify before you today, and look forward to working with the Committee on this issue.

REFERENCE

In the case of the Senate, Standing Rule XXVI on "Committee Procedure" and Standing Rule XXVIII on "Conference Committees; Reports; and Open Meetings" are illustrative. Relevant provisions addressing "sunshine" concerns may be summarized as follows:

\* Each committee (except for Budget and Appropriations) must make "public announcement" of the date, place, and subject matter of a hearing at least one week before it is to take place, unless the committee determines that there is "good cause" to begin the hearing at an earlier date.

\* Each meeting of a committee or subcommittee, including meetings to conduct hearings, shall be open to the public, unless closed by a vote of a majority of its members on the grounds that testimony to be taken or matters to be discussed --

- (1) will disclose national security matters;
- (2) relate solely to committee personnel or internal staff management or procedure;
- (3) tend to charge an individual with a crime or misconduct, disgrace or injure an individual's professional standing, or otherwise expose an individual to public contempt or obloquy, or represent a clearly unwarranted invasion of an individual's privacy;
- (4) disclose the identity of an informer or law enforcement agent, or disclose any information relating to the investigation or prosecution of a criminal offense required to be kept secret in the interests of effective law enforcement;
- (5) disclose trade secrets or confidential financial or commercial information; or,
- (6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

\* Each committee must prepare and keep a complete transcript or electronic recording adequate to fully record each meeting or conference, whether open or closed, unless a majority of its members vote to forgo such a record.

\* All committee hearings, records, data, charts, and files must be kept separate and distinct from the office records of the committee chairman; such records shall be the property of the Senate; and, all members of the committee and the Senate shall have access to such records.

\* Each conference committee between the Senate and the House shall be open to the public except when a majority of the managers present from either side determine by a roll call vote that all or part of the meeting on the day of the vote shall be closed to the public.

With respect to the House, the relevant provisions of Rule XI,

Clause 2 may be summarized as follows:

\* Each meeting for the transaction of business, including the markup of legislation, of each standing committee or subcommittee, shall be open to the public unless a majority of the committee or subcommittee determines, with a majority of members present, that all or part of the meeting on that day shall be closed to the public. No person other than members of the committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public.

\* Each hearing conducted by each committee or subcommittee shall be open to the public, unless a majority present votes to close all or part of the hearing on that day because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or rule of the House. No Member may be excluded from nonparticipatory attendance at any hearing of any committee or subcommittee, with the exception of the Committee on Standards of Official Conduct, unless the House, by a majority vote, authorizes a particular hearing to be closed to Members by the same procedures for closing hearings to the public.

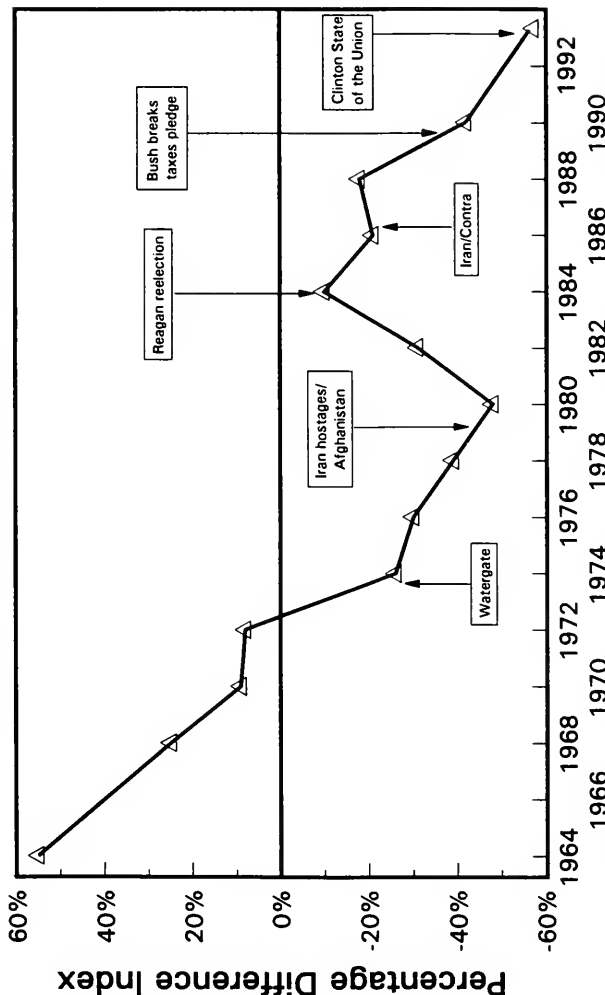
Other relevant provisions of the Senate Rules

\* The Senate Rule states that all members of the Senate, rather than just the members of the committee, shall have access to all committee records. Is there a similar rule regarding committee meetings? What access rule applies to staff? To other interested persons?

\* The Senate Rule permits a majority of the committee or subcommittee to close a meeting to the public only if the testimony to be taken or matters to be discussed would fall within specific categories of harms to be avoided. Compare this to the Senate Rule which permits a majority of either the House or Senate managers present to close a conference committee meeting to the public apparently without having to provide any reason at all.

\* The House Rule permits a majority of committee or subcommittee members present to close any meeting, including a markup session, to all persons other than members of the committee and such staff and departmental representatives as they may authorize to be present. The Rule also provides, however, that no Member of the House may be excluded from "nonparticipatory attendance" at any committee or subcommittee hearing except by majority vote of the House.

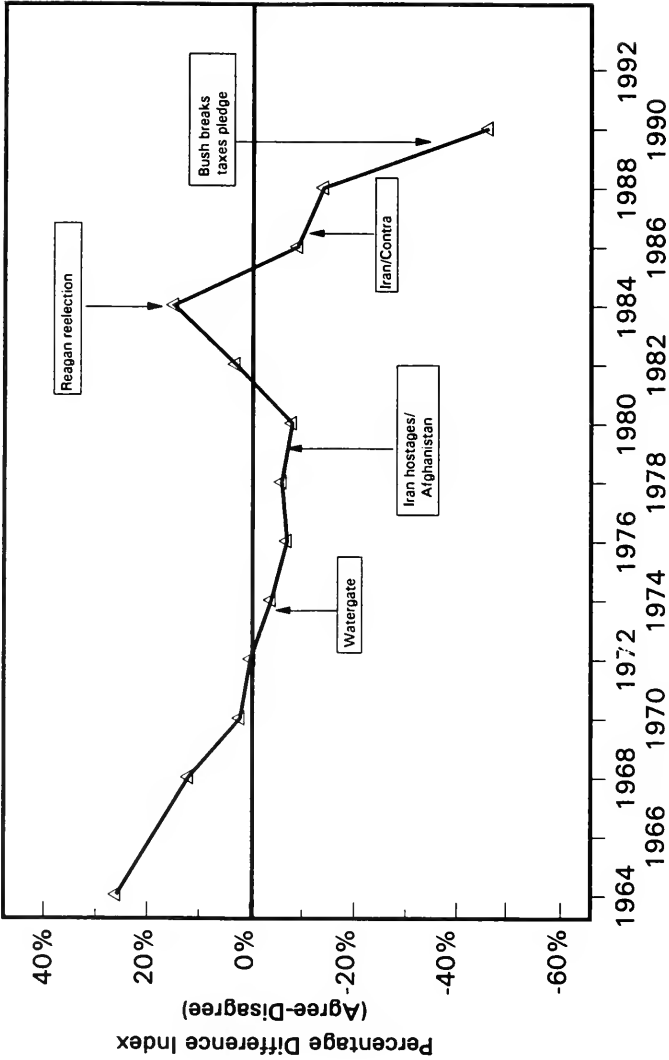
# Trust in Government Is Low



"How much of the time do you think you can trust the government in Washington to do what is right -- just about always, most of the time, some of the time, or none of the time?"

*Mellman Lazarus Lake*

# Voter Alienation Is Increasing



Agree/Disagree "I don't think public officials care much what people like me think."



Foley Expresses Doubt on Gift Ban, Revolving-Door Limits, p. 8

# ROLL CALL



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## Just 19 Sign A 'Humility' Vow on Pay, Term Limits

By Peter H. Spiegel

Only 19 Members of Congress, almost half of them Republican freshmen, signed onto all three parts of a so-called "humility pledge" to support term limits and reduce Congressional pay.

The pledge — which was circulated by the Congressional Accountability Project, a Ralph Nader group — specifically asked Members to pledge support for a rollback of Congressional and White House pay to Jan. 1, 1990, levels (\$89,500); for repeal of the 1993 Congressional cost-of-living increase; and for term limits.

A total of 22 signed the pay raise pledge; 32, the COLA pledge; and 26, the term-limit pledge.

"Congress has once again failed to accept self-discipline, and to lead by example," Nader said in a statement Tuesday. "Our Representatives and Senators don't want to touch their own taxpayer-fattened wallets [while] the average American is hurting."

The 19 Members signing all three parts of the pledge were Reps. Peter Blute (R-Mass.), Howard Coble (R-NC), Mac Collins (R-Ga.), Terry Everett (R-Ala.), Thomas Ewing (R-Ill.), Porter Goss (R-Fla.), Rod Grams (R-Minn.), Mel Hancock (R-Mo.), Andy Jacobs (D-Ind.), Jay Kim (R-Calif.), James Leach (R-Iowa), John Mica (R-Fla.), Arthur Ravenel (R-SC), Ed Royce (R-Calif.), Rick Santorum (R-Pa.), Nick Smith (R-Mich.), Bob Stump (R-Ariz.), Dick Swett (D-NH), and Jim Talent (R-Mo.).

Sen Dennis DeConcini (D-Ariz.) refused to sign any of the pledges, but was listed as a supporter of all three parts. He was the only Senator on any of the lists.

In addition to those who supported all three parts, the Members who backed rolling back the Congressional pay raise were Reps. Robert Andrews (D-NJ), Marcy Kaptur (D-Ohio), and Steven Schiff (R-NM).

The others backing the repeal of the 1993 COLA were Reps. Andrews, Sam Cooper-Smith (D-Ariz.), Bob Goodlatte (R-Va.), Jay Insole (D-Wash.), Kaptur, Ron Klink (D-Pa.), Scott Klug (R-Wis.), David Minge (D-Minn.), Jerrold Nadler (D-NY), Bill Orton (D-Utah), Christopher Smith (R-NJ), and Peter Torkildsen (R-Mass.). Rep. Ron Mazzoli (D-Ky.) was listed as a supporter of the repeal, although he did not sign the pledge.

And the others pledged to support term limits were Reps. Goodlatte, Klug, Jon Kyl (R-Ariz.), Minge, Orton, Schiff, and Torkildsen.

# THE FEDERAL PAGE

## GOP Freshmen Knocking on Closed Doors

Group of 48 Endorses 'Sunshine' Proposal for House Hearings—at a Private Session

By Kenneth J. Cooper  
Washington Post Staff Writer

Private meetings called to finalize legislation used to be the rule on Capitol Hill, but few congressional committees conduct "markups" in "executive session" anymore.

Two of the committees most likely to retreat behind closed doors to approve legislation are those that raise taxes and spend taxpayers' money—the House Ways and Means and Appropriations committees.

Yesterday, 48 Republican freshmen, many elected from states with strong open meeting laws, endorsed—at a closed caucus—a proposed "sunshine" rule that would open all House hearings to the public and news media unless national security or defamatory matters would be aired.

The freshmen asserted that the closed meetings conceal the influence of lobbyists. Defenders of the practice argue that it insulates members from lobbyists' pressure.

Currently, House rules allow a committee majority—which often means a partisan majority—to approve an "executive session." The Senate similarly allows closed markups but its Appropriations and Finance committees rarely eject representatives of the public and news media when those panels prepare legislation for the floor.

"As a rule, our hearings and markups are done in open session," said a Senate Appropriations aide.

The lobbyists and reporters who linger outside in the hallways have grown accustomed to closed meetings in which the Ways and Means Committee approved its version of the 1986 tax bill, 1988 welfare reform bill, 1988 catastrophic illness bill and other legislation. Afterward, members or committee aides brief reporters and lobbyists about what occurred out of sight or earshot.

"The committee has done the bulk of its work behind closed doors," said Jim Jaffe, a Ways and Means spokesman.

But when the committee last Thursday voted along party lines, 23 to 14, to close its markup of a tax bill, Republican freshmen led by Rep. Richard W. Pombo (R-Calif.) protested at a news conference outside the Ways and Means hearing room in the Longworth House Office Building.



*"When you're talking about Ways and Means ... I think that ought to be done in public."*

—Rep. Richard W. Pombo (R-Calif.)

*The resolution was drafted to give "access by the people to government that is responsive."*

—Rep. Jennifer B. Dunn (R-Wash.)



The GOP freshmen, who have no representative on Ways and Means, displayed a made-for-television sign: "Do not disturb!!! Democrats raising taxes!!!"

Pombo said his support for open meetings is based on his experience as a councilman in Tracy, Calif., where, under a state sunshine law, his friends on the municipal payroll sat before him and watched as he voted to lay them off. The city attorney, he said, advised the five-member council that if a majority of them attended the same social event, that could constitute a "meeting" under the state law.

"When I look at what's going on back here, I think the decisions would be a lot more honest and a lot

more responsive if it had to be done in public," Pombo said. "When you're talking about Ways and Means, the largest tax increase in the country's history. . . . I think that ought to be done in public."

Freshman Rep. Jennifer B. Dunn (R-Wash.) drafted the open meeting resolution based on her state's sunshine law, she said, to give "access by the people to government that is responsive."

Speaker Thomas S. Foley (I-Wash.) defended the current rules, which he helped write in the early 1970s. "I think sometimes there is a feeling that there is better discussion, less inhibited, more free and full discussion . . . in closed session," Foley said.

Jaffe said Ways and Means members have complained of "an incredible amount of posturing when there are lobbyists in the room. When they're not there, things go a lot faster."

Until last Thursday's vote, Jaffe said, most committee Republicans routinely voted for closed markups.

Rep. Steny H. Hoyer (D-Md.), chairman of the Appropriations subcommittee on treasury, postal service and general government, said the committee closes markups for self-protection. Otherwise, "the agency lobbying would be horrific," he said.

The issue of open meetings came up earlier this year with the health care task force led by First Lady Hillary Rodham Clinton. The administration is appealing a U.S. District Court's interpretation of a 1972 law that requires advisory boards composed of non-federal employees to meet in public.

Thomas Mann, a congressional scholar at the Brookings Institution, said that because of their constitutional role in instituting tax and spending bills, the two House committees need more insulation from lobbyists.

"It's nice to let members deliberate without hundreds of lobbyists hanging on their words and giving them subtle and not so subtle signals," Mann said. "I think they will do a better job that way. . . . The people who come to public markups are the special interests affected, not the broad public."

Markups, the committee meeting where legislation is reviewed section by section before being sent to the floor, tend to be technical and difficult to understand for anyone who has not studied the specifics under consideration.

But closed markups aren't the only target of freshmen Republicans. Yesterday, they held a second news conference outside the closed doors of the Ways and Means hearing room in the Longworth building to express concern about committee Democrats caucusing elsewhere.

It turned out the Democrats were gathered in a committee office in the Capitol, where more than 50 lobbyists and reporters in nearby corridors awaited word on their deliberations.

## United States Senate

WASHINGTON, DC 20510-0903

List of Books

S&L Hell, Kathleen Day,

Unaccountable Congress, Joseph DioGuardi, Regnery/Gateway, 1992

The Culture of Spending, James Payne, ICS Press, 1991

Washington -- City of Scandals, Donald Lambro, Little, Brown & Company, 1984

Honest Graft, Brooks Jackson, Farragut Publishing Company, 1990

Fat City, Donald Lambro, Regnery/Gateway, 1980

Still the Best Congress Money Can Buy, Philip Stern, Regnery/Gateway, 1992

Under the Influence, William Ashworth, Hawthorn/Dutton, 1981

Adventures in Porkland, Brian Kelly, Villard Books, 1992

Who Will Tell the People, William Greider, Simon & Schuster, 1992

Congressman Benjamin A. Gilman  
Ranking Republican Member  
Committee on Foreign Affairs

Remarks Before the Joint Committee  
on the Organization of Congress  
May 13, 1993

Thank you, Mr. Chairman and members of the Joint Committee.

Before I get into my statement, I want to say that I truly appreciate the efforts that the Joint Committee has undertaken to solicit the views of Committee Chairmen and Ranking Members on how the present committee structure might be improved.

My fellow Members of Congress, the Constitution mentions nothing about committees, but they have been an integral part of the Congress from its very first session. They do not exist for their own sake, but for one simple reason: Members, while expected by their constituents to exercise broad legislative and oversight responsibilities, cannot be everywhere at once and cannot be specialists in everything.

Committees were therefore conceived long ago as a means to help the members, all of them, minority as well as majority, to meet the voters' expectations in these areas. In short, they are the agents of all of the Members, meant to help them do their jobs.

Having said that, let me touch on a few things that concern me about some current aspects of committee operations as a member of the minority—of the "loyal opposition"—in the House.

First, there are some well-known problems with the use of proxy voting; with the possibility for abuse of the new, so-called "rolling" quorum; and with disproportionate allocation of committee investigative staff and committee facilities between majority and minority members.

Second, there is growing complaint among the House minority that there is really no mechanism available to committee members to ensure that committee procedures—and the precedents they may be followed in those procedures—are consistent with the standing rules of the House of Representatives. As it stands now, committee members have relatively little recourse to either rulings of the House Parliamentarian or to enforcement of points of order in the House to seek redress for the use of any inappropriate procedures in committee.

While I know of no egregious example of this in my experience in the Foreign Affairs Committee, I believe that the current situation could invite abuse. I therefore want to lend my voice to the call that this procedural question be examined in order to ensure that there is adequate enforcement of House rules within House committees.

Members of the Committee, let me recommend that you examine the following solutions to these problems:

First, elimination of such clearly objectionable committee procedures as the use of proxy voting and "rolling quorums."

Second, clearly setting out in the standing rules of the House the right of the minority on committees to one-third of the investigative staff of that committee—the same proportion already reserved to the minority under those rules when it comes to so-called “statutory” staff.

Finally, the possibility of providing more parliamentary guidance, perhaps of a binding nature, to committees in order to ensure that their actual procedures, not just the rules that they adopt, are consistent with House rules and precedents.

I would like to now raise some points that concern me as a long-time member of the Foreign Affairs Committee interested in ensuring that that Committee fulfills its duty to the Members of the House of Representatives—namely, conducting oversight and recommending appropriate legislation in the area of foreign policy.

The Committee took a leading role in the historic debate and vote on the Persian Gulf resolution and in securing passage of the FREEDOM Support Act. But in other areas the Committee is almost powerless to work its will and fulfil its responsibilities. Its jurisdiction has been usurped to a very great degree by the appropriations process and by inroads from other committees. When foreign assistance authorization legislation is — more often than not — held up, the appropriations process marches forward according to the calendar set out under the Budget Act, pulling the Congress with it.

An indication of just how bad things are is the fact that the committee has not enacted its principle legislation — the foreign assistance authorization act — since 1985.

Appropriators, aided by waivers of standing House rules against authorizing in appropriations bills, and the need to keep important government programs operating, time and time again step in and become foreign policy-makers. While not necessarily seeking that role, the Appropriations Committees inadvertently become more than just the guardian of the public purse they were meant to be.

I will not pretend to know the complete solution to this problem, but I feel strongly it needs to be addressed. Let me just recommend that you explore the following ideas in this regard.

First, the incorporation of the Appropriations Committees into the authorizing committees. I view this as the best solution. Short of this, I would urge that current House Rules be enforced, or new rules promulgated, to prevent authorizing on appropriation bills. I would be all in favor, for instance, on a rule which prevented any appropriation measure from being considered on the floor if the authorizing legislation had not already preceded it.

Second, you might consider use of special procedures in each of the bodies for the convening of temporary, special committees, composed of members of both the appropriations committees and the relevant authorizing committees, to mark-up appropriations bills when the necessary, major authorizing legislation has not yet been enacted.

Mr. Chairman, I would also like to comment on a recent proposal to merge our Committee with the Armed Services Committee. It is no secret that this Committee is now considering issues and legislative proposals that directly impact our Committee's jurisdiction, particularly in the areas of peacekeeping and weapons sales and proliferation.

-3-

But I would argue that there is a continuing need for the Foreign Affairs Committee to conduct its own oversight and legislative review in these critical areas of foreign policy. Our participation in future peacekeeping missions and our continuing efforts to control the proliferation of the weapons of mass destruction has a direct impact in our relations with key allies in Europe and Asia and needs to be carefully considered by our appropriate regional subcommittees.

I will close my testimony at this point with some final general requests.

In every way possible, please be certain that any changes in committee structure and procedures you recommend make it clear that the minority is always to be informed and consulted to the maximum degree possible.

Also, I would request that the House leadership try to limit the practice of moving omnibus "emergency" legislation through the Congress in a fashion that undercuts the deliberative process of our Committee. When necessary, we have demonstrated our ability to act on a timely basis as demonstrated by the enactment of the FREEDOM Support Act and the Persian Gulf Resolution. Let us be vigilant in not short-circuiting the legislative process especially in the critical area of foreign and national security policy. If, for example, we are to commit ground troops into the Balkans, our Committee and the entire House should have a full and ample debate in this critical foreign policy area.

Finally, please do whatever you can to minimize the scheduling conflicts that all Members confront in trying to balance their work in committee, on the floor, and in their states and districts. Anything that can be worked out in that area would, in itself, be a terrific service to this institution.

Once again, thank you for soliciting the comments of Committee Chairmen and Ranking Members. The efforts you and your Joint Committee are making are appreciated by the members in both houses and in both parties.

STATEMENT BY THE HONORABLE DON YOUNG  
(R.-ALASKA), RANKING REPUBLICAN MEMBER,  
COMMITTEE ON NATURAL RESOURCES, BEFORE THE JOINT  
COMMITTEE ON THE ORGANIZATION OF CONGRESS:  
APRIL 22, 1993.

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Mr. Chairman, Members of the Committee: you have invited me to speak in my capacity as Ranking Republican on the Committee on Natural Resources. However, I want to spend time speaking in my other capacity - that of being the longest serving Republican Member of the Committee on Merchant Marine and Fisheries.

You have before you 14 reorganization options prepared by the Congressional Research Service. Several of these rip apart or even abolish the Committee on Merchant Marine and Fisheries. If you are seeking efficiency in this body, destroying my Committee is the last thing you want to do!

Strangely enough, my Committee is criticized because we seek to achieve consensus, because we avoid lengthy battles in markup and on the Floor, and because we bring matters up on the Suspension calendar, rather than going through bitter fights in the Rules Committee. I suggest that this, in fact, makes us more efficient than most other Committees. For that matter, we should serve as a model for them, not the other way around!

We have Members from North, South, East, and West. We have liberals and conservatives. We represent urban and rural areas. We have environmentalists and conservationists. Yet, we work together, work out our differences, and produce sound legislation that meets the needs of our Nation.

Through passage of the Magnuson Fishery Conservation and Management Act and other related laws, we developed a domestic commercial fishing industry that landed over \$3.8 billion in 1991.



As original authors of oil spill liability legislation that eventually became the Oil Pollution Act, we are helping to keep our marine waters safe.

Through the National Sea Grant College Program Act, we are contributing to research on global warming, providing advisory assistance to marine users, and educating our Nation's youth.

And with our jurisdiction over the United States Coast Guard and maritime law, we provide safe, reliable transportation, the means to slow the influx of illegal drugs (over \$7 million worth seized in the average day), enforcement against driftnet fishing pirates, and save 16 lives per day by providing search and rescue services to every man, woman, and child who is caught in a fierce ocean storm or runs out of gas in their pleasure boat on the Great Lakes.

We do this by working together, by avoiding costly partisan battles and Floor fights, and by keeping a group of professional, competent, motivated staff, many of whom have worked for a

dozen years or longer on our Committee's issues. Let me remind you that Committees employ professional staff to provide expertise. Our staff includes biologists, oceanographers, economists, educators, policy specialists, and attorneys. They have written numerous professional articles on education, the oceans, the environment, and our Nation's laws. If our Committee is lost, so is that knowledge, that expertise, that experience, that professionalism. The many women and men who have served the American people so long and so well would no longer be there to do the job.

Perhaps we should look at numbers as a measure of how well our Committee handles its responsibilities. In the 102nd Congress, 314 House bills were referred to the Committee on Merchant Marine and Fisheries; 102 of those bills - or 32.5% - were enacted into law. The Interior Committee had 479 House bills referred to it; only 116, or 24.2%, were enacted.

Is this the so-called "inefficiency" you are trying to correct? I hope not.

As to those from outside the Congress who suggest our Committee is a captive of outspoken interest groups, I suggest that they have never worked with our Committee. Anyone, including yourselves, who has ever hunted or fished, sailed a pleasure boat or taken a cruise, fed ducks in a pond, hiked through a wildlife refuge, swam in the ocean, eaten seafood in a restaurant, driven a car powered by petroleum obtained from the Outer Continental Shelf or transported on a tanker, or enjoyed the benefits of a clean environment, is part of the interest group our Committee represents.

If you truly want efficiency, if you truly want sound legislation that benefits the American people, if you want this Congress to work as it should, then protect the Committee on Merchant Marine and Fisheries.

If, on the other hand, you are absolutely committed to abolishing Committees, then start with the Committee on Natural Resources.

Natural Resources has shared jurisdiction with at least three other Committees: Agriculture; Energy and Commerce; and Merchant Marine and Fisheries. It would be just as easy - if not easier - to dismantle the Committee on Natural Resources as it would any other legislative committee.

It has a much lower "success rate" than Merchant Marine and Fisheries: fewer than one quarter of its bills get enacted into law. It takes up time on the House Floor with hundreds of minor bills, many of which immediately disappear in the Senate, never to be seen again.

In spite of our best efforts, the Natural Resources Committee is torn with partisan bickering: nearly every roll call vote is decided almost 100% on party lines. There is no spirit of accommodation, of consensus, of trying to work together to do what is right for the American people.

And finally, it is a committee of negatives: no mining, no timber harvest, no fishing, no jobs. In contrast, the Merchant Marine and Fisheries Committee has for years taken the same position recently advocated by President Clinton: by working together, we can protect the environment without forgetting the American worker.

Mr. Chairman, I am not suggesting you abolish any House committee. But, if that is the will of this body, then keep alive a Committee that works for Americans and let the axe fall somewhere else.

Thank you.

STATEMENT OF SENATOR DENNIS DeCONCINI  
TO THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

IT IS A PLEASURE FOR ME TO APPEAR BEFORE THE JOINT COMMITTEE TODAY. IT IS A PARTICULAR PLEASURE TO APPEAR BEFORE A COMMITTEE JOINTLY CHAIRED BY SENATOR BOREN AND CONGRESSMAN HAMILTON, BOTH OF WHOM HAVE SERVED AS CHAIRMAN OF THE INTELLIGENCE COMMITTEES IN THEIR RESPECTIVE BODIES, FOR IT IS THE ORGANIZATIONAL ARRANGEMENTS FOR THOSE COMMITTEES WHICH I WISH TO FOCUS UPON THIS AFTERNOON.

I AM AWARE THAT YOU ARE CONSIDERING SEVERAL ORGANIZATIONAL MODELS WITH RESPECT TO THE COMMITTEE STRUCTURE OF THE CONGRESS AS A WHOLE, AND THAT CERTAIN OF THESE MODELS WOULD FOLD RESPONSIBILITY FOR INTELLIGENCE OVERSIGHT INTO THE JURISDICTIONS OF OTHER EXISTING COMMITTEES OR INTO THE JURISDICTION OF BROADER, AS-YET-UNFORMED COMMITTEES ON NATIONAL SECURITY AND THE LIKE.

YOU HAVE ALSO HAD WITNESSES SUGGEST COMBINING THE TWO SELECT COMMITTEES INTO ONE JOINT COMMITTEE ON

INTELLIGENCE.

I WOULD URGE YOU TO DO NEITHER. KEEP THE EXISTING ARRANGEMENT IN PLACE. IT IS WORKING WELL. THERE IS NO COMPELLING REASON TO CHANGE. INDEED, ELIMINATING THE OVERSIGHT COMMITTEES OR COMBINING THEM INTO ONE WOULD UNDERMINE THE SYSTEM THAT HAS TAKEN YEARS TO CONSTRUCT.

IT IS WORTH A MOMENT TO RECALL WHY CONGRESS SAW FIT TO CREATE SEPARATE INTELLIGENCE OVERSIGHT COMMITTEES IN THE FIRST PLACE. IT WAS CLEAR FROM THE CHURCH AND PIKE COMMITTEE INVESTIGATIONS OF THE MID-1970S THAT THE EXISTING OVERSIGHT ARRANGEMENTS FOR INTELLIGENCE HAD NOT WORKED. NOT ONLY WAS FUNDING FOR INTELLIGENCE SUBJECTED TO LITTLE SCRUTINY, BUT SENSITIVE ACTIVITIES LIKE COVERT ACTION PROGRAMS AND COLLECTION ON THE POLITICAL ACTIVITIES OF AMERICAN CITIZENS WENT VIRTUALLY UNCHECKED AND UNRESTRAINED. IT HAS BEEN ABOUT 17 YEARS NOW SINCE THOSE ABUSES WERE ENDED, AND WE TEND TO FORGET THE MAGNITUDE OF THE PROBLEM THAT WAS UNCOVERED IN THE MID-1970S. TO OUR SHOCK AND EMBARRASSMENT, WE FOUND OUR INTELLIGENCE AGENCIES HAD BEEN INVOLVED IN PLOTS TO ASSASSINATE FOREIGN LEADERS AND UNDERMINE GOVERNMENTS IN SOVEREIGN STATES BY A VARIETY OF MEANS. AT HOME,

GOVERNMENT AGENCIES FROM THE CIA AND THE FBI, ON THE ONE HAND, TO THE POSTAL SERVICE AND IRS, ON THE OTHER, WERE COLLECTING INFORMATION ON THE POLITICAL AND PERSONAL ACTIVITIES OF U.S. CITIZENS. BY THE EARLY 1970S, THE VOLUME OF DOMESTIC SURVEILLANCE ACTIVITIES CARRIED OUT BY OUR GOVERNMENT AGAINST LAW-ABIDING CITIZENS WAS TRULY STAGGERING.

CONGRESS, ALONG WITH THE GENERAL PUBLIC, HAD BEEN LARGELY OBLIVIOUS TO ALL OF THIS AND DECIDED THAT GREATER OVERSIGHT WAS ESSENTIAL. OVERSIGHT COMMITTEES IN EACH HOUSE OF CONGRESS WERE ESTABLISHED, FIRST BY THE SENATE IN 1976 AND BY THE HOUSE IN 1977. U.S. INTELLIGENCE ACTIVITIES WERE SUBSEQUENTLY BROUGHT UNDER CONTROL AND HAVE -- WITH A FEW UNFORTUNATE EXCEPTIONS -- REMAINED UNDER CONTROL THANKS IN GREAT MEASURE TO THE OVERSIGHT COMMITTEES.

SOME SAY THAT THINGS HAVE COME SO FAR THAT A RETURN TO THE OLD DAYS IS UNTHINKABLE. I AM NOT SO CONFIDENT. THERE WILL ALWAYS BE PRESSURE WITHIN ANY ADMINISTRATION TO ACHIEVE ITS POLITICAL OBJECTIVES, AND ALL TOO OFTEN LITTLE CONSIDERATION IS GIVEN TO THE MEANS OF GETTING THERE. WITHOUT THE POSSIBILITY OF INTERVENTION BY THE



OVERSIGHT COMMITTEES, THE CHANCE THAT OUR INTELLIGENCE AGENCIES MIGHT AGAIN BE DRAWN INTO FUTURE MISUSE OF EXECUTIVE AUTHORITY IS CONSIDERABLY INCREASED.

I ALSO THINK, PERHAPS COUNTER TO ONE'S INTUITION, THAT THE SCALING BACK OF INTELLIGENCE ACTIVITIES WITH THE END OF THE COLD WAR MAY CALL FOR GREATER OVERSIGHT RATHER THAN LESS. WE NO LONGER HAVE AS CLEAR A FOCUS FOR U.S. INTELLIGENCE ACTIVITIES AS WE DID DURING THE SUPERPOWER CONFRONTATION. HOW INTELLIGENCE RESOURCES AND CAPABILITIES ARE SIZED AND DEPLOYED IS FAR MORE PROBLEMATIC THAN IT USED TO BE. TAKE ECONOMIC INTELLIGENCE, FOR EXAMPLE. THE COMMITTEE CONTINUES TO EXPLORE WHAT THE PROPER ROLE FOR INTELLIGENCE AGENCIES SHOULD BE IN TERMS OF COLLECTING AND ANALYZING ECONOMIC INTELLIGENCE. THE ANSWERS ARE FAR FROM CLEAR.

WHILE I THINK THERE CONTINUES TO BE COMPELLING JUSTIFICATION FOR CONTINUING THE EXISTING OVERSIGHT STRUCTURE, I DO THINK THE WORK OF THIS JOINT COMMITTEE PROVIDES AN OPPORTUNITY TO RECONSIDER HOW THE INTELLIGENCE COMMITTEES CURRENTLY FUNCTION -- PARTICULARLY WHEN IT COMES TO FUNDING. I SUSPECT THAT FEW MEMBERS OF THE SENATE AND HOUSE APPRECIATE HOW

ARCANE AND CONVOLUTED A PROCESS WE HAVE. LET ME JUST HIT THE HIGH POINTS:

THE BUDGET FOR INTELLIGENCE IS CLASSIFIED. BUT THE CONSTITUTION CALLS FOR APPROPRIATIONS TO BE PUBLIC. THE SOLUTION TO THIS DILEMMA HAS SINCE 1947 BEEN FOR THE BUDGET FOR THE CIA AND VIRTUALLY ALL OTHER INTELLIGENCE AGENCIES TO BE "BURIED" WITHIN THE BUDGET OF THE DEPARTMENT OF DEFENSE IN LINE ITEMS WHICH MASK THE INTELLIGENCE PURPOSE.

INDEED, SINCE 1982, THE ADMINISTRATION'S BUDGET REQUEST FOR INTELLIGENCE HAS BEEN DECIDED BY THE SECRETARY OF DEFENSE AND DIRECTOR OF CENTRAL INTELLIGENCE AS A PORTION OF THE OVERALL DEFENSE BUDGET. THERE IS NO REAL OPPORTUNITY UNDER THE PRESENT ARRANGEMENT FOR AN ADMINISTRATION TO ASSESS SEPARATELY WHAT IS BEING SPENT ON INTELLIGENCE OVERALL AGAINST THE OTHER SPENDING PRIORITIES APART FROM THOSE OF THE DEPARTMENT OF DEFENSE.

WHEN THE BUDGET REQUEST FOR INTELLIGENCE COMES TO THE CONGRESS, IT GOES TO THE INTELLIGENCE COMMITTEES WHO DO A DETAILED SCRUB OF IT AND REPORT ANNUALLY AN

INTELLIGENCE AUTHORIZATION BILL. BUT BECAUSE<sup>-6-</sup>  
INTELLIGENCE IS PART OF THE DEFENSE BUDGET, THE  
INTELLIGENCE COMMITTEES AS A PRACTICAL MATTER IS OBLIGED  
TO CONSIDER EACH YEAR'S AUTHORIZATION FOR INTELLIGENCE  
WITHIN THE CONTEXT OF THE DEFENSE BUDGET. SO, FOR  
EXAMPLE, IF WE KNOW THE ARMED SERVICES COMMITTEE INTENDS  
TO TAKE A CUT IN THE DEFENSE BUDGET, WE CAN EXPECT A  
REQUEST TO FIND PART OF THE REDUCTION IN INTELLIGENCE.  
IF WE DO NOT ACHIEVE THE LEVEL OF CUTS SOUGHT BY THE  
ARMED SERVICES COMMITTEE, IT WILL LIKELY IMPOSE THEM  
WHEN OUR BILL GOES TO THEM ON SEQUENTIAL REFERRAL.

BY THE SAME TOKEN, IF THE INTELLIGENCE COMMITTEE  
SHOULD DECIDE TO TAKE A LARGER CUT IN INTELLIGENCE THAN  
WHAT THE ARMED SERVICES COMMITTEE HAD SOUGHT, WHEN THE  
INTELLIGENCE COMMITTEE'S BILL GOES TO THE ARMED SERVICES  
COMMITTEE ON SEQUENTIAL REFERRAL, THE CUTS WE ACHIEVED  
MIGHT WELL BE APPLIED TO FUND ANOTHER DOD PROGRAM RATHER  
THAN BEING RETURNED TO THE TREASURY. AGAIN, THIS  
RESULTS FROM INTELLIGENCE BEING A PART OF THE DEFENSE  
BUDGET. I MIGHT SAY IN PASSING, THAT TO THEIR CREDIT,  
SENATORS BOREN AND NUNN LAST YEAR AGREED THAT THE CUT  
TAKEN BY THE INTELLIGENCE COMMITTEE SHOULD BE APPLIED TO  
REDUCE THE DEFICIT RATHER THAN FUNDING DEFENSE PROGRAMS.

BUT THIS WAS AN EXCEPTION TO THE NORMAL PROCESS.

IN ANY CASE, TO COMPLETE THE CYCLE: WHILE THE ARMED SERVICES REPORTS OUR AUTHORIZATION BILL, IT ALSO REPORTS ITS OWN DOD AUTHORIZATION BILL EACH YEAR WHICH HAS THE INTELLIGENCE NUMBERS "BURIED" WITHIN IT IN NONDESCRIPT LINE ITEMS. THUS, IN EFFECT, CONGRESS PASSES AN INTELLIGENCE AUTHORIZATION EACH YEAR IN TWO FORMS: ONCE IN THE INTELLIGENCE BILL AND ONCE IN THE DOD BILL.

THE SITUATION IS SIMILAR ON THE APPROPRIATIONS SIDE. APPROPRIATIONS FOR INTELLIGENCE ARE CONTAINED IN NONDESCRIPT LINE ITEMS IN THE DEFENSE APPROPRIATIONS BILL. THERE IS ALSO A CLASSIFIED ANNEX TO THE DEFENSE APPROPRIATIONS BILL WHICH EXPLAINS WHAT IS BEING APPROPRIATED IN THE PUBLIC BILL IN TERMS OF PARTICULAR INTELLIGENCE PROGRAMS.

I THINK WE WOULD ALL AGREE THIS IS AN EXTRAORDINARILY COMPLEX SYSTEM, DRIVEN ESSENTIALLY BY THE NEED TO KEEP THE INTELLIGENCE BUDGET SECRET.

THIS PROCESS WOULD BE ENORMOUSLY SIMPLIFIED IF

THERE WERE SEPARATE AUTHORIZATION AND APPROPRIATIONS BILLS FOR INTELLIGENCE. THERE WOULD BE NO NECESSITY TO BURY INTELLIGENCE IN THE DEFENSE BILLS, NO NEED TO TRANSLATE INTELLIGENCE EXPENDITURES INTO NONDESCRIPT LINE ITEMS IN THE DEFENSE BUDGET. MEMBERS OF CONGRESS WOULD ACTUALLY KNOW WHAT THEY ARE VOTING FOR IN TERMS OF SPENDING ON INTELLIGENCE. GRANTED, TO COMPLY WITH THE CONSTITUTIONAL REQUIREMENT, THE BOTTOM LINE NUMBER FOR INTELLIGENCE WOULD HAVE TO BE MADE PUBLIC. BUT THE DETAILS COULD REMAIN CLASSIFIED AND WOULD BE SET FORTH IN A CLASSIFIED ANNEX.

THIS WOULD MEAN THAT THE AMERICAN PEOPLE WOULD KNOW WHAT PORTION OF THE FEDERAL BUDGET GOES TO INTELLIGENCE ACTIVITIES. IT WOULD MEAN THAT INTELLIGENCE WOULD HAVE TO COMPETE AGAINST OTHER SPENDING PRIORITIES IN A WAY IT DOES NOT DO TODAY. IT WOULD ALSO MEAN THAT INTELLIGENCE COULD BE ASSESSED ON ITS OWN MERITS WITHOUT BEING TIED TO THE FORTUNES OF THE DEFENSE BUDGET. I SEE EACH OF THESE AS PLUSES RATHER THAN MINUSES.

I ALSO DO NOT THINK THAT DECOUPLING INTELLIGENCE FROM THE DEFENSE BILL WOULD WEAKEN THE ROLE OF THE ARMED SERVICES COMMITTEE. THE PORTIONS OF THE INTELLIGENCE

AUTHORIZATION WHICH DEAL WITH DEFENSE ELEMENTS COULD CONTINUE TO GO TO THE ARMED SERVICES COMMITTEES ON SEQUENTIAL REFERRAL IF THEY SO DESIRED.

IN SHORT, MR. CHAIRMEN AND MEMBERS OF THE COMMITTEE, I THINK YOU OUGHT TO GIVE SERIOUS CONSIDERATION IN YOUR REPORT TO ADDRESSING THIS ASPECT OF HOW CONGRESS DEALS WITH INTELLIGENCE. I THINK SUCH A CHANGE MIGHT STRIKE A BLOW FOR GREATER OPENNESS AND ACCOUNTABILITY, AS WELL AS GREATLY SIMPLIFY A CONFUSING AND CONVOLUTED CONGRESSIONAL PROCESS.

I NOW WANT TO TURN VERY BRIEFLY TO ONE OTHER FEATURE OF THE EXISTING OVERSIGHT ARRANGEMENT WHERE I BELIEVE ORGANIZATIONAL CHANGE SHOULD BE CONSIDERED. THIS INVOLVES THE JURISDICTION OF THE SENATE INTELLIGENCE COMMITTEE OVER SO-CALLED TACTICAL INTELLIGENCE AND RELATED ACTIVITIES OF THE DEPARTMENT OF DEFENSE. OUR COUNTERPART COMMITTEE IN THE HOUSE HAS JURISDICTION OVER THESE ACTIVITIES WHILE THE SENATE COMMITTEE DOES NOT.

WHEN THE CHARTER FOR THE SENATE COMMITTEE WAS APPROVED BY THE SENATE IN 1976, IT SPECIFICALLY EXCLUDED

"TACTICAL MILITARY INTELLIGENCE SERVING NO NATIONAL POLICYMAKING FUNCTION." THE CONCERN AT THE TIME WAS THAT THE NEW OVERSIGHT COMMITTEE SHOULD CONFINE ITSELF TO "NATIONAL" OR "STRATEGIC" INTELLIGENCE MATTERS AND LEAVE PURELY TACTICAL MILITARY INTELLIGENCE ACTIVITIES TO THE COMMITTEE ON ARMED SERVICES.

WHEN THE HOUSE CREATED ITS OVERSIGHT COMMITTEE IN 1977, THE SAME LIMITATION WAS NOT APPLIED TO ITS JURISDICTION, AND, INDEED, IN THE ENSUING YEARS THE HOUSE INTELLIGENCE COMMITTEE EXTENDED ITS OVERSIGHT TO A NUMBER OF "RELATED ACTIVITIES" IN DOD WHICH WERE AT BEST TANGENTIALLY RELATED TO TACTICAL INTELLIGENCE. THE FUNDS FOR THESE ACTIVITIES ARE AGGREGATED BY DOD INTO A BUDGET CATEGORY CALLED TIARA, WHICH IS AN ACRONYM FOR "TACTICAL INTELLIGENCE AND RELATED ACTIVITIES." IN MONETARY TERMS, IT NOW CONSTITUTES A SUBSTANTIAL SLICE OF THE DEFENSE BUDGET SUBSUMING, FOR EXAMPLE, THE ENTIRE BUDGET OF THE DEFENSE MAPPING AGENCY AND A PORTION OF THE SDI PROGRAM.

THE SENATE INTELLIGENCE COMMITTEE, NOTWITHSTANDING THE LIMITATION IN ITS CHARTER, CONDUCTS A REVIEW AT THE STAFF LEVEL OF THE FUNDING REQUEST FOR TACTICAL

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INTELLIGENCE AND RECOMMENDS TO THE COMMITTEE ON ARMED SERVICES WHAT ACTIONS SHOULD BE TAKEN WITH RESPECT TO IT. MORE OFTEN THAN NOT, THE RECOMMENDATIONS OF THE INTELLIGENCE COMMITTEE ARE GIVEN SUBSTANTIAL WEIGHT, IF NOT ADOPTED ENTIRELY, BY THE ARMED SERVICES COMMITTEE.

WHEN IT COMES TIME TO CONFERENCE THE ACTIONS OF THE HOUSE AND SENATE AS THEY PERTAIN TO TACTICAL INTELLIGENCE, HOWEVER, THE CONFEREES FROM THE HOUSE COME FROM THE INTELLIGENCE COMMITTEE WHILE THE CONFEREES FROM THE SENATE COME FROM THE ARMED SERVICES COMMITTEE. THE SENATE INTELLIGENCE COMMITTEE, WHICH HAS DONE MUCH OF THE SPADE WORK, TAKES NO PART IN CONFERENCING THESE ISSUES.

IT SEEMS TO ME THE INTELLIGENCE COMMITTEE OUGHT TO HAVE JURISDICTION OVER ALL INTELLIGENCE PROGRAMS WHETHER THEY ARE DENOMINATED AS "NATIONAL" OR "TACTICAL." AND, AGAIN, I DON'T SEE THIS AS DOING HARM TO THE EQUITIES OF THE ARMED SERVICES COMMITTEE. ARMED SERVICES WOULD CONTINUE TO RECEIVE OUR BILL ON SEQUENTIAL REFERRAL AND IF THEY HAD A PROBLEM WITH WHAT WE HAD DONE WITH RESPECT TO TACTICAL INTELLIGENCE PROGRAMS, THEY WOULD BE IN A POSITION TO CHANGE IT.



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I WOULD ENCOURAGE THE COMMITTEE TO CONSIDER THE ADVANTAGES OF THIS MODEST CHANGE IN THE INTELLIGENCE COMMITTEE'S JURISDICTION AS IT DRAFTS ITS REPORT.

IN CONCLUSION, LET ME JUST SAY THAT THE EXPERIMENT WHICH CONGRESS LAUNCHED IN THE MID-1970S TO BRING EFFECTIVE OVERSIGHT BY THE ELECTED REPRESENTATIVES OF THE PEOPLE TO THE ACTIVITIES OF U.S. INTELLIGENCE HAS ACHIEVED REMARKABLE SUCCESS. WE HAVE AN EFFECTIVE SYSTEM THAT HAS MANAGED OVER THE YEARS TO EXERCISE APPROPRIATE RESTRAINT OVER U.S. INTELLIGENCE ACTIVITIES WITHOUT REVEALING OUR MOST SENSITIVE SECRETS. WE ARE LOOKED ON AS A MODEL TO BE EMULATED BY MANY OTHER COUNTRIES. INDEED, OVER THE LAST TWO YEARS, PARLIAMENTARY DELEGATIONS FROM MORE THAN A DOZEN COUNTRIES HAVE PAID VISITS TO THE INTELLIGENCE COMMITTEE SEEKING OUR ASSISTANCE IN SETTING UP THEIR OWN SYSTEMS OF PARLIAMENTARY CONTROL. FOR THEM, OVERSIGHT OF THEIR INTELLIGENCE AND SECURITY SERVICES IS SEEN AS A VITAL PART OF THEIR EFFORTS TO ESTABLISH A DEMOCRATIC FRAMEWORK WHICH PROTECTS THE RIGHTS OF THEIR CITIZENS.

IT WOULD BE IRONIC INDEED IF WE WERE TO MOVE IN THE

DIRECTION OF WEAKENING, RATHER THAN STRENGTHENING, THIS SYSTEM AT A TIME WHEN IT IS REGARDED AS EXEMPLARY BY MOST OF THE WORLD.

MR. CHAIRMEN AND MEMBERS OF THE JOINT COMMITTEE, THIS CONCLUDES MY STATEMENT. I WOULD BE PLEASED TO ANSWER ANY QUESTIONS YOU MAY HAVE.

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

March 30, 1993

The Honorable Lee H. Hamilton  
Co-Chairman  
The Honorable David Dreier  
Co-Vice-Chairman  
Joint Committee on the Organization of Congress  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Co-Chairman and Mr. Co-Vice-Chairman:

If congressional reform means anything, it means fairness to the Minority in allocation and control of resources. Reform without fairness is merely shuffling the cards in a marked deck.

There is no justification for the unfair disparity between Majority and Minority committee staff. Our colleagues in the Senate, under both Democratic and Republican majorities, have managed quite well with a staffing ratio of one-third/two-thirds. That, after all, is how we in the House apportion, by law, statutory staff.

The problem is that we do not so apportion investigative staff. We estimate that there are currently 947 investigative staff in the House, of which the Minority is allocated only 170, a mere 18 percent of the total. In past years, some have tried to justify that overwhelming disproportion by claiming the Minority could rely on the then-Republican Executive Branch to make up the difference. Whatever the accuracy of that argument then, it certainly no longer applies.

There are currently 175 Republicans serving in the House, more than 40 percent of total membership. Despite that, the Minority holds only 24 percent of total committee staff. Indeed, on several committees, the percentage is much lower than that. According to the Committee on House Administration, there are currently 1131 Majority committee staff and 367 Minority counterparts, exclusive of the expiring select committees, the Committee on Budget and the Committee on Appropriations. The situation on those last two committees is equally flagrant: the Budget Committee boasts 50 Majority and 10 Minority staff while the Appropriations Committee has a professional staff ratio of 95 to 10 and an associate staff ratio of 74 to 46.

A ratio of one-third/two-thirds for all committee staff, investigative as well as statutory, is a sine qua non for bridging the institutional animosities that now poison our policy debates. We therefore urge the Joint Committee on the

The Honorable Lee H. Hamilton  
 The Honorable David Dreier  
 March 30, 1993  
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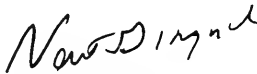
Organization of Congress to recommend, in your final report, this more equitable allocation of resources.

We would welcome the opportunity, as a group, to present and expand upon these views in a public hearing of the Committee.

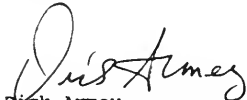
Sincerely yours,



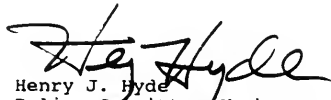
Robert H. Michel  
 Minority Leader



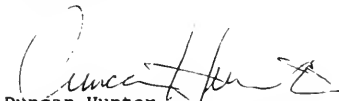
Newt Gingrich  
 Minority Whip



Dick Arme  
 Conference Chairman



Henry J. Hyde  
 Policy Committee Chairman



Duncan Hunter  
 Research Committee Chairman



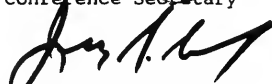
Bill McCollum  
 Conference Vice-Chairman



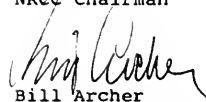
Tom DeLay  
 Conference Secretary



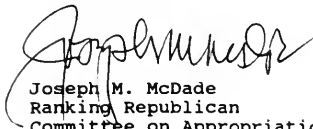
Bill Paxon  
 NRCC Chairman



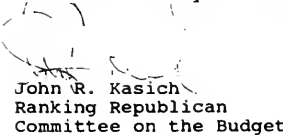
Gerald B.H. Solomon  
 Ranking Republican  
 Committee on Rules



Bill Archer  
 Ranking Republican  
 Committee on Ways and Means



Joseph M. McDade  
 Ranking Republican  
 Committee on Appropriations

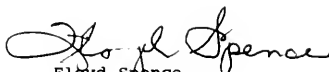


John R. Kasich  
 Ranking Republican  
 Committee on the Budget

The Honorable Lee H. Hamilton  
 The Honorable David Dreier  
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 Page Three



Pat Roberts  
 Ranking Republican  
 Committee on Agriculture



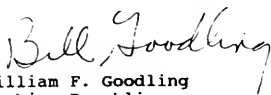
Floyd Spence  
 Ranking Republican  
 Committee on Armed Services



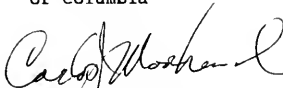
Jim Leach  
 Ranking Republican  
 Committee on Banking, Finance  
 and Urban Affairs



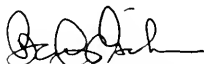
Thomas J. Bliley  
 Ranking Republican  
 Committee on the District  
 of Columbia



William F. Goodling  
 Ranking Republican  
 Committee on Education and Labor



Carlos J. Moorhead  
 Ranking Republican  
 Committee on Energy and Commerce



Benjamin A. Gilman  
 Ranking Republican  
 Committee on Foreign Affairs  
 Operations



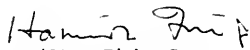
William F. Clinger, Jr.  
 Ranking Republican  
 Committee on Government



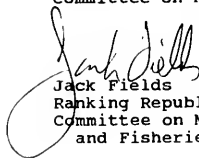
William M. Thomas  
 Ranking Republican  
 Committee on House Administration



Don Young  
 Ranking Republican  
 Committee on Natural Resources

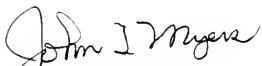


Hamilton Fish, Jr.  
 Ranking Republican  
 Committee on the Judiciary

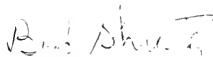


Jack Fields  
 Ranking Republican  
 Committee on Merchant Marine  
 and Fisheries

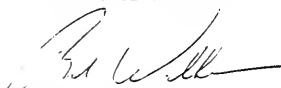
The Honorable Lee H. Hamilton  
The Honorable David Dreier  
March 30, 1993  
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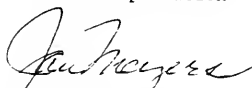
John T. Myers  
Ranking Republican  
Committee on Post Office  
and Civil Service



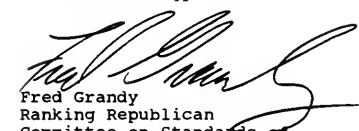
Bud Shuster  
Ranking Republican  
Committee on Public Works  
and Transportation



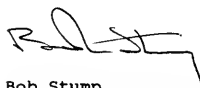
Robert S. Walker  
Ranking Republican  
Committee on Science, Space  
and Technology



Jan Meyers  
Ranking Republican  
Committee on Small Business



Fred Grandy  
Ranking Republican  
Committee on Standards of  
Official Conduct



Bob Stump  
Ranking Republican  
Committee on Veterans' Affairs



Larry Combet  
Ranking Republican  
Permanent Select Committee on Intelligence

ONE HUNDRED THIRD CONGRESS  
 JIM McDERMOTT, WASHINGTON, CHAIRMAN  
 GEORGE (BUDDY) DARDEN, GEORGIA  
 BENJAMIN L. CARDIN, MARYLAND  
 NANCY PELOSI, CALIFORNIA  
 KWEISI MFUME, MARYLAND  
 ROBERT A. BORSI, PENNSYLVANIA  
 THOMAS C. SAWYER, OHIO

## U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

SUITE HT-2, THE CAPITOL  
 WASHINGTON, DC 20515-8328  
 (202) 225-7103

FRED GRANDY, IOWA  
 NANCY L. JOHNSON, CONNECTICUT  
 JIM BUNNING, KENTUCKY  
 JON L. KYL, ARIZONA  
 PORTER J. GOSS, FLORIDA  
 DAVID L. HORNER, OHIO  
 STEVEN SCHIFF, NEW MEXICO

BERNARD RAIMO, CHIEF COUNSEL

April 22, 1993

The Honorable David L. Boren, Co-Chairman  
 The Honorable Pete V. Domenici, Vice Chairman  
 The Honorable Lee H. Hamilton, Co-Chairman ✓  
 The Honorable David Dreier, Vice-Chairman  
 Joint Committee on the Organization of Congress  
 Congress of the United States  
 175 Ford House Office Building  
 Washington, D.C. 20515

Dear Colleagues:

Thank you for your letter of March 19, 1993, in which you invite me and other Committee chairs to testify before the Joint Committee. While I do not wish to testify, I would like to state my concerns in two areas of particular relevance to the Committee on Standards of Official Conduct.

### Ethics Investigations by Former Members

I have noted with interest the testimony before the Joint Committee on the issue of delegating a portion of the investigative authority of the Committee on Standards to former members. I agree with Mr. Stokes and Mr. Hansen, who testified before your Committee on February 25, 1993, that such a delegation is both unnecessary and unwise.

While I understand that the more responsible of these proposals are motivated by the genuine belief that altering public perceptions of the Congress is of the utmost importance, I do not believe that the proffered changes will have such effect. It seems to me that most people will not differentiate between current and former Members when a decision is made with which they disagree; nor are they likely to perceive that a Committee decision to reject the advice of former Members would ever be justified. In addition, another layer of judges will only prolong deliberations, further skewering public perceptions.

It has also been suggested that outside judges will lessen the need for outside counsel. While I agree that use of outside counsel should be discouraged, I suggest that, if appointed, outside judges will demand — and the public will agree — that they must have their own staff, which will, in effect, function as outside counsel.

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It also seems reasonable to conclude that to avoid conflicts of interest and to insure availability of the time necessary to arrive at a reasoned judgment, the former members selected would most likely be those in retirement and far removed in time and place from the evolving complexities of congressional life. Such judges, to be blunt, would not afford a current Member a jury of his or her peers.

In my opinion, the courts and, most importantly, the voters are the proper arbiters of Members' conduct, except in those limited areas that effect the House as an institution. In the latter cases, as the framers contemplated, Members must judge other Members. To shift this burden to outsiders in order to influence public opinion risks subjecting the reputation of a Member of the United States House of Representatives to a thumbs up or down verdict of the talk show emperors.

#### Committee Reorganization

By letter of April 1, 1993, you forwarded an options paper on committee reorganization prepared by the Congressional Research Service. You point out that neither the Joint Committee nor any of its Members endorse any of the options presented.

Two of the options (Plans F and G) would combine into one committee the functions now performed by the Committee on Rules, the Committee on House Administration, and the Committee on Standards of Official Conduct. These options, in my opinion, would be unworkable.

First of all, as you know, the Committee on Standards is, and always has been, the only committee of the House the membership of which is divided equally by party. This structure is crucial to the maintenance of the nonpartisan spirit which pervades the committee deliberations and which insures, in most cases, the support of the House for the Committee's recommendations. The Committee on Rules, on the other hand, is designed to be partisan and could not operate effectively with membership evenly divided between parties. The Committee on House Administration, while not necessarily a leadership instrument to the same degree as the Rules Committee, still must maintain an operational majority in order to insure the efficient conduct of House operations.

The reverse effect is also relevant. The Committee on Rules, and to a lesser extent the Committee on House Administration, are actively engaged in the party and policy disputes that are at the core of a parliamentary body. It would be difficult for ethics questions to be impartially considered in such an atmosphere.



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Finally, the burdens on a Member's time would prove too heavy to bear. Indeed, one of the reasons stated for the "outside judges" proposal is to reduce the time a Member must spend deliberating ethics cases. While I am opposed to that proposal, I am also sensitive to the time problem and do not believe that even the most diligent, hard working member could effectively attend to the duties of the committee described in Options F or G.

I thank you for the opportunity to offer my comments and very much appreciate the important work being performed by the Joint Committee. If you or your staff have any questions, please call on me or the Chief Counsel of the Committee on Standards, Bernard Raimo.

Sincerely,



JIM McDERMOTT  
Chairman

Copy: The Honorable Fred Grandy

TESTIMONY OF SENATOR CLAIBORNE PELL  
CHAIRMAN, SENATE COMMITTEE ON FOREIGN RELATIONS  
BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

April 27, 1993

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I appreciate the opportunity given to me by the Chairman and Vice Chairman to present my views and recommendations on the organization of Congress. I have been a member of the Senate for thirty-two years. It may be only nostalgia, but I believe that the Congress worked better in my early days as a Senator than it does now. There were fewer votes then, less partisanship, fewer turf battles, and more accomplishments of lasting value. So I am a strong supporter of the work of the Joint Committee on the Organization of Congress.

Structure and Jurisdiction of Committees

The Congressional Research Service paper that the Joint Committee circulated on April 1 presents some very helpful options for reorganizing the structure and jurisdiction of committees. I would favor realigning committees on the basis of budget resolution functions. Activities involving funding under budget function 150, the international affairs account, are currently divided among four authorizing committees in the Senate. While the Foreign Relations Committee has jurisdiction over most of function 150, it is hampered by its inability to make funding trade-offs involving all the funding components of function 150. The Foreign Relations Committee would be better able to serve the interests of the Senate as a whole if it were able to make a comprehensive funding recommendation addressing all activities in the international affairs account.

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While I favor consolidating all function 150 activities in the Senate Foreign Relations Committee and the House Foreign Affairs Committee, I would do it in a manner different from either of the two approaches contained in the CRS paper as Plans A and B.

For the Foreign Relations Committee, I would combine the jurisdictional list on page seven of CRS's Plan A, which deals only with funding categories, with the broader jurisdictional list contained on page 75 in Plan D. With one important exception, CRS Plan D is identical to the current jurisdictional statement of the Foreign Relations Committee set forth in the Senate's Rules. In that way, both funding and non-funding items of jurisdiction, such as treaties and declarations of war, would be clearly spelled out as being in the jurisdiction of the Foreign Relations Committee.

In this connection, I would highlight that the jurisdictional list in Plan D of the CRS paper includes a transfer of jurisdiction over reciprocal trade agreements from the Finance Committee to the Foreign Relations Committee. It makes no sense to continue to exclude only trade agreements from the Foreign Relations Committee's jurisdiction over treaties and other international agreements. The Committee already has jurisdiction over such matters as tax treaties, investment treaties, and commodity agreements. It would therefore be entirely logical to add trade agreements so that all international economic agreements are handled by one committee.

This would certainly be consistent with President Clinton's view that U.S. foreign policy should focus more on economic issues.

Two of the options discussed in the CRS paper would combine the Foreign Relations and Armed Services Committees, and one option would add the Intelligence Committee as well. That would be a mistake, and I would strongly oppose it. The Foreign Relations and Armed Services Committees are already two of the busiest committees in the Senate, and combining them would be unwieldy and inefficient in my view.

If some committees are to be combined in order to reduce the number of committees, it would make more sense to fold the current activities of the Intelligence Committee into those of the Foreign Relations Committee. I am not advocating that, because there is enough work to justify a separate Intelligence Committee; but it could be more readily accomplished than combining the Foreign Relations and Armed Services Committees. We should bear in mind that the oversight activities of the Intelligence Committee are most closely associated with those of the Foreign Relations Committee, and that is likely to be increasingly the case in the future. Another approach would be to create a Joint Committee on Intelligence to replace the separate Senate and House Intelligence Committees.

As a final observation on the structure and jurisdiction of committees, I would add that the jurisdictions of Senate and House committees should be as identical as possible within the parameters set by the Constitution.

Senate Procedures

Strengthening the authorization function. Under the Senate's current rules and practices, the authority of authorizing committees is undermined in a variety of ways. In an effort to bring more order to the legislative process, specific steps should be taken to (1) reduce jurisdictional conflicts between committees and (2) to reduce friction between authorizing committees and the Appropriations Committee. I propose the following actions, all of which would require changes in Senate rules.

Jurisdictional Issues:

-- Prohibit any committee from holding hearings on a matter in another committee's jurisdiction unless the Chairman and Ranking Minority Member of the committee of jurisdiction consent in writing.

-- Require that legislation reported by any committee containing matters in the jurisdiction of another committee be referred to the committee of jurisdiction, if the Chairman and Ranking Minority Member of that committee so request, for the consideration of those matters before the legislation is considered by the Senate.

-- Require all floor amendments to be relevant to the subject matter of the legislation to which the amendments have been offered; require a three-fifths majority to waive.

Appropriations Issues:

-- Establish a point of order against any appropriations conference report that contains funding for a program not authorized by either the Senate or the House, requiring a three-fifths majority to waive; or establish some mechanism for a separate vote on any such matter.

-- Strengthen the means to enforce the existing prohibition against legislating on an appropriations bill.

In addition to these rules changes, I would suggest two other rules changes that would greatly expedite the work of all committees. The first would be to abolish the Senate rule requiring unanimous consent for committees to meet beyond two hours after the Senate has convened. A second change might be to permit proxy votes to count on the same basis as live votes.

This concludes my testimony, and I would be pleased to respond to any questions you may have.

STATEMENT BY THE HONORABLE JACK FIELDS (R.-TX),  
RANKING REPUBLICAN MEMBER, COMMITTEE ON  
MERCHANT MARINE AND FISHERIES, BEFORE THE JOINT  
COMMITTEE ON THE ORGANIZATION OF CONGRESS:  
APRIL 29, 1993.

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I would like to thank Chairman David Boren, Chairman Lee Hamilton, and the other distinguished Members of the Joint Committee on the Organization of Congress for allowing me to testify today.

As the Ranking Republican Member, who has served on the Committee on Merchant Marine and Fisheries for the past 13 years, I appreciate the opportunity to speak in strong and enthusiastic support of this vital Committee.

In its 106-year history, the Merchant Marine and Fisheries Committee has served the Congress and the American people with great distinction. In fact, we have produced a remarkable record of landmark legislation on a number of diverse topics. While not an exhaustive list, our Committee has either written or been largely instrumental in drafting the following statutes:

- \* Merchant Marine Act of 1936
- \* Cargo Preference Act of 1954
- \* National Environmental Policy Act of 1969
- \* Federal Boat Safety Act of 1971
- \* Ports and Waterways Safety Act of 1972
- \* Marine Mammal Protection Act of 1972
- \* Coastal Zone Management Act of 1972
- \* Endangered Species Act of 1973
- \* Magnuson Fishery Conservation and Management Act of 1976
- \* Outer Continental Shelf Lands Act Amendments of 1978
- \* Panama Canal Act of 1979
- \* Deep Seabed Hard Mineral Resources Act of 1980
- \* Coastal Barrier Resources Act of 1982
- \* Shipping Act of 1984
- \* Recreational Boating Safety Act of 1986

- \* Plastic Pollution Research and Control Act of 1988
- \* Abandoned Shipwreck Act of 1988
- \* Oil Pollution Act of 1990; and
- \* Oceans Act of 1992.

Mr. Chairmen, these few examples clearly demonstrate that our Committee's broad jurisdiction affects the lives and livelihoods of millions of Americans. It is for this reason that I must strongly disagree with a statement made by Messrs. Thomas Mann and Norman Ornstein in their testimony before your Committee.

While I will leave it to others to defend their Committees, it is simply wrong to suggest that the Merchant Marine and Fisheries Committee is an unabashed advocate of outspoken, single-interest groups. One might have been able to make that argument 20 or 30 years ago, before the Boland Commission, but that is simply not true today. And to those who argue that our Committee is in the pocket of shipping companies and maritime interests, I emphatically disagree.

First, I would counter that contention with this: if the maritime industry is a special interest, it is so because it provides jobs for Americans, assures that our shippers have low-cost, reliable shipping services, and allows us to maintain a strong defense.

Second, while it has been periodically fashionable to malign the U.S. merchant marine, its importance has always ultimately been recognized. I would encourage those two latest critics of the industry to review a little history because they will see that the maritime industry has been indispensable to the growth, prosperity, and defense of this country.

In fact, some of the first Acts of the first Congress were devoted to protecting and promoting U.S. shipbuilding and shipping. Colonial businessmen and legislators recognized that their prosperity was linked to trade—the more colonial shipping involved in importing and exporting goods at colonial ports, the better for everyone.



While the industry suffered fits and starts during the ensuing two centuries, those who laud the industry's importance to commerce and defense have always been vindicated. Recognizing those considerations, FORTUNE magazine devoted an entire issue to the subject of the U.S. merchant marine. The following is an excerpt from that issue:

Most arguments for a merchant marine are based upon the presumption of a more or less perpetual economic war. But if one goes further, to imagine an outright emergency, the necessity of maintaining our own merchant marine is thrown into even bolder relief. The proponents of a merchant marine point back to 1914-15 when the European nations withdrew their ships from the Atlantic trade for service in the War. U.S. goods, rushed to the coast for export to a hungry market, were piled upon the shipless docks and rotted in freight cars stretching back for miles behind the waterfront. Without ships the U.S. was helpless to render assistance or to make a profit, and those who want ships today argue that the greatest industrial nation on earth must never again be put in that situation.

Still more cogent is the argument that, if the U.S. itself were to become embroiled in a foreign war, a big merchant marine would be needed.

That issue of FORTUNE was published in September 1937. Despite these lessons, when general war broke out in Europe in 1939, the United States once again found itself confronted by shipping emergencies. For those who doubted, World War II proved how essential the U.S. shipping and shipbuilding industries are to this country.

As our past experiences should have taught us, without American ships, we can be held hostage to the whims of foreign shipping. Without U.S. ships on the seas, discrimination against U.S. shippers would be easier than it is. At a time when we are all interested in jobs and economic growth, we should remember that shipbuilding contributes significantly to our economy, including providing 1.5 million jobs and a \$170 billion annual contribution to

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the GNP. Finally, we can never forget that shipbuilding is a vital component of our national defense providing both commercial and combat vessels.

I have concentrated on the historic and future importance of the commercial shipping and shipbuilding industries. However, we cannot ignore the fact that the jurisdiction of the Merchant Marine Committee is far broader than trade and commerce. It includes navigation safety, recreational boaters, the Panama Canal, the fishing industry, conservation of wildlife, and protection of the marine environment.

Just as the attention of the American people has been directed at the preservation of endangered species and protection of the marine environment, so too, has the attention of our Committee. A good deal of the Committee's focus is the world's oceans and we have been a responsible steward of these resources. We must not forget that the oceans comprise over 70 percent of the earth, and that between 50 and 75 percent of the American people live along our coasts. No Committee in Congress, except Merchant Marine and Fisheries, spends the time or has developed the expertise on ocean policy.

Just look at the statistics. Of the laws and programs within the jurisdiction of the Merchant Marine Committee, 130 are concerned with the global environment. Moreover, during the 101st and 102nd Congresses, the Committee held 230 hearings, almost two-thirds of which dealt with the environment.

Our Committee has appeal far beyond saltwater concerns. In fact, our first Chairman was from the State of Arkansas and eight of the 13 original members were from the interior of our country. Even today we have members from totally landlocked districts.

Mr. Chairman, we also have a distinguished list of alumni of our Committee which includes former Speaker of the House Thomas P. O'Neill, Jr., Senator Paul Sarbanes of Maryland, Senator John Breaux of Louisiana, Senator Barbara Mikulski of Maryland, Chairman Kika de la Garza of Texas, and the legislative giant, Chairman John Dingell, who served on our Committee for 24 years.

Our legislative agenda is not only broad but it is full. Every department of the Federal Government has testified before our Committee. Our Committee has conducted oversight from the ozone hole over Antarctica to the exploration for mineral resources of the deep ocean floor. We've enacted legislation affecting the tiny zebra mussel in the Great Lakes and the great whales in the world's oceans. We helped develop legislation dealing with the most significant environmental threat of our time - global climate change. The safety of every man, woman, or child aboard a U.S. vessel is our concern, as are every endangered or threatened species of plant or animal. We minister to the 482 National Wildlife Refuges in America, from Salt Plains, Oklahoma, to Muscatatuck Refuge in Indiana, to San Maxwell in New Mexico, to Seal Beach in California.

We have conducted hearings on the tuna/porpoise controversy, on efforts to save the African elephant, the spotted owl, the Kemp's Ridley Sea Turtle, and the Law of the Sea Treaty. It is this Committee which has investigated whether it is harmful to our coastal environment to burn PCB's offshore, to dump sewage sludge into the oceans, and whether certain chemicals used in paints applied to ships are poisonous to fish or other aquatic life. In addition, our Committee authored the only enforceable nonpoint source pollution prevention program in the country as part of the Coastal Zone Management Act, a national model for combatting this obstinate problem.

Other House Committees may share oversight over portions of some of these programs, but we have repeatedly been the legislative leader. With all due respect to the Public Works and Transportation Committee, it was Merchant Marine and Fisheries which introduced and held hearings on comprehensive Clean Water Act reauthorization legislation during the last two Congresses, and it was Merchant Marine and Fisheries which was the driving force behind the Oil Pollution Act of 1990. In fact, our Committee was promoting the essential need for this legislation long before the EXXON VALDEZ or before "oil spill" became household words or front page news.

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The environmental implications of the North American Free Trade Agreement (NAFTA), wetlands issues, biodiversity, and marine biotechnology are all on our schedule for this year. Without our expertise and effort, these issues will receive little, if any, of the attention they deserve from the House of Representatives.

The same can be said for these issues in the Senate. As recognized by Messrs. Mann and Ornstein, committee work is far more significant in the House than Senate, and ocean programs have always received minimal attention in the other body. In almost every instance, it is the Merchant Marine and Fisheries Committee that produces legislation for coastal environment and maritime issues.

In many ways, the Merchant Marine and Fisheries Committee is a model Congressional Committee. Since we have historically operated in a bipartisan manner, we are not plagued by partisan tensions. The Minority has always been treated fairly, both in terms of our Committee's budget and in having our views incorporated into the legislative process. When our Members disagree, it is most often due to regional rather than party differences.

Furthermore, our Committee reduced the number of Subcommittees in the last Congress, we have clarified jurisdiction to eliminate joint subcommittee referrals, and we have pared down our Committee staff. We have made these reforms while conducting an exhaustive hearing and markup schedule. We have 16 events scheduled for the month of May alone and that reflects the level of activity we expect in the future.

While I suspect every standing committee will testify as to why they should be retained in the future, the overwhelming preponderance of evidence suggests the need for the Merchant Marine and Fisheries Committee.

Having said that, however, I would support a clarification of our Committee's jurisdiction, the elimination of most joint or sequential Committee referrals, and other efforts to expedite

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consideration of important legislation. As an example, there is no reason why the Deep Seabed Hard Mineral Resources Act needs oversight by both Merchant Marine and the Foreign Affairs Committee. I am sure our Committee would be pleased to resolve this matter with Chairman Hamilton.

Finally, we are conducting our business at a time when our Committee's budget has been frozen for the past three years. While we cannot operate at this funding level indefinitely, it is clear that the American people are getting more than their money's worth from the House Merchant Marine and Fisheries Committee.

Mr. Chairman, I want to again thank you for this opportunity to testify. In the final analysis, I hope that you will conclude that the vast oceans and the 206 million Americans who live in coastal areas deserve to have a forum in the United States Congress. I strongly believe that forum should be the House Merchant Marine and Fisheries Committee and I am sure that after carefully reviewing our impressive legislative record and not baseless rhetoric, you will agree that the Committee should be retained in the 104th Congress and beyond.

Thank you, Mr. Chairman.

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Statement of the  
 Honorable Ronald V. Dellums  
 Chairman, Committee on Armed Services  
 U.S. House of Representatives  
 before the  
 Joint Committee on the Organization of Congress  
 May 3, 1993

Mr. Chairman and Members of the Joint Committee, it is a pleasure and a distinct personal privilege to appear before you today to offer my views on the important subjects you have under consideration. From the outset, let me say that I applaud your efforts and stand in awe of the task you have undertaken.

I am a strong supporter and defender of the institutional prerogatives of the Congress within our system of government. For example, as Chairman of the Committee on Armed Services I am working to improve the constitutionally mandated consultative process between the Executive and Legislative branches on matters involving the use of military forces. That said, I also believe that the Congress must grow, adapt, and improve as an institution if we are to retain the trust of our constituents and our rightful place among the three branches. So it is in this context that I offer testimony to you today.

I will address the two broad areas you suggested in your invitations: committee structures and procedures; and the congressional budget process. In each of these areas I will outline several issues that I believe merit your attention and consideration for improvement.

These ideas arise from many years of experience as both a Member of Congress and Chairman. As you may recall, Armed Services is the second full committee I have been privileged to chair. With 13 years as a full committee chairman and 10 years as a subcommittee chairman with the Armed Services Committee I have had a wonderful opportunity to contemplate and weigh ideas for change and improvement.

#### COMMITTEE STRUCTURES AND PROCEDURES

##### Overlapping and Imprecise Committee Jurisdictions

Let me begin with a discussion of the most fundamental aspect of the committee system, the jurisdictions of committees. In the House, the imprecise and overlapping nature of the jurisdictions as set forth in the Rules is, in my view, a tremendous source of friction, duplication of effort, and excessive time demands on Members. It's easy to see how such a system could develop; after all, it avoids hard choices and hard feelings.

But the effect of this situation is insidious. I understand that the Department of Defense estimates that no fewer than 30

congressional committees and 77 subcommittees claim to exercise some form of jurisdiction over its operations. Under the Rules of the House, it's difficult to bring forth defense-related legislation from our committee that does not attract subsequent referral to other committees. And it's difficult and frustrating to run an aggressive and positive oversight program when other committees work the same subjects but we retain the legislative authority and responsibility for crafting remedies.

There hasn't been a thorough, top-to-bottom review of committee jurisdictions since the Legislative Reorganization Act of 1947. I believe that such a reexamination is long overdue and would inevitably provide salutary results.

I recommend that the Joint Committee find a way to clear up as much ambiguity in jurisdictions as possible. This may require not only positive declarations of jurisdictions, but perhaps "fences" around certain areas. For example, one committee might be given jurisdiction over a particular area with specific exceptions reserved for another committee.

#### Legislative Conflicts Between the Two Bodies

Reconciling legislative differences in conference committees between the House and Senate is always a challenging task. I believe this task has become an order of magnitude more difficult because of the lack of an effective germaneness rule in the Senate.

Without being so presumptuous as to tell the other body how to govern itself, I would point to our experience on Armed Services as an example of how intricate this process has become.

Given the fundamental scope of the annual defense authorization bill and its reputation as a piece of "must pass" legislation the bill inevitably becomes a vehicle in the Senate for all manner of legislation that is not germane to the jurisdiction of the Committees on Armed Services. In the House, this inevitably results in the appointment of large numbers of non-committee conferees. Indeed, in the recent past an average of 130 conferees from 13 committees have been appointed by the Speaker. It's always a very delicate matter as to how much "clout" these non-committee conferees will have over the bill. For example, if made exclusive conferees for certain provisions or if given a majority of conferees, these appointments can hold up the entire defense authorization bill over provisions the Armed Services Committee cannot control. At the very least, massive amounts of time and effort must be expended just to schedule meetings of the conferees.

I recommend that the Joint Committee work toward processes and procedures that will alleviate this situation.

### Members' Time is Spread Too Thinly

The proliferation of committees and subcommittees and the large number of Members per committee requires Members to be in too many places -- both physically and intellectually -- at the same time. I applaud the efforts of the House Democratic Caucus this year to limit both the number of subcommittees per committee and the ability of Members to serve on subcommittees.

But more needs to be done, especially regarding the size of committees. I understand that it's very hard to say "no" to Members who actively seek certain committee memberships -- especially the more popular committees -- and make such memberships a part of their campaigns.

But this is an pernicious problem that diminishes the overall effectiveness of the Congress. For example, on the Armed Services Committee we are attempting to acquaint and involve our Members with complex issues that have far-reaching consequences for our national security. But with 56 committee members it is extremely difficult to probe such issues with the limited time available for questioning of witnesses by each Member. Large committee memberships also demand large amounts of staff resources for their care and feeding. There is an immutable relationship here that must be recognized if we are to reduce the cost of operating the Congress in the future.

I would suggest that the Joint Committee consider placing further limits on the number of committees and subcommittees, the ability of Members to serve on subcommittees, and on the number of Members per committee.

### The Need for Standard Accounting Rules for Committee Funds

Recent attention has highlighted the operating budgets of the standing committees of both the Senate and House of Representatives. Various attempts to match the President's call for a 25 percent reduction in White House staff here on the Hill have placed great scrutiny on the way the two bodies budget for their committees -- and, in my view, we have not stood up to that scrutiny very well.

First of all, at a time when the total operating costs of the Congress of the United States exceed \$2 billion annually it is absolutely mindboggling that we still use internal budgeting procedures designed for another era. In the House, for example, committees draw their funds from two separate accounts: the "statutory" account for salaries only; and the "investigative" account, used for both salaries and other expenses. The total investigative budget for 1993 for all of the House of Representatives is less than \$53 million. Yet, in a display of mindless self-flagellation we permitted the debate over the



allocation of these funds to become front-page news. Instead of focussing on the entire budget -- the cost of Members' office staff, the cost of the congressional support agencies, and what each of these committees and groups produces -- we allowed this distorted debate to proceed.

The situation becomes even more confusing when one realizes that the Senate and House use different systems for funding their committees. As was the case this year, reductions taken by one body cannot be compared with those of the other body because the accounting systems are totally different. These sorts of differences inevitably create perceptions of chicanery and manipulation of the figures, obscuring the real elements of the debate.

Let's put all of our cards on the table and level with the American people about the true cost of their Congress. I recommend that the Joint Committee consider reforms to the budgeting processes of both bodies to create an open, uniform, and consistent set of accounting rules.

#### Maintain the Presumption of a Seniority System

Before completing this portion of my testimony I would like to request that in its recommended changes regarding congressional organization the Joint Committee not stray too far from the basic tenets of the seniority system.

In a rule-based institution like the U.S. Congress it is vitally important that our processes and decisions be as transparent as possible to average Americans. Recent changes in both rules and perceptions regarding seniority -- particularly on the House side -- have created situations that, in my view, diminish the standing of this institution. I refer particularly to open contests for chairmanships of committees and subcommittees, with all the attendant campaigning, hoopla, deal-making, and even fund-raising. Most Americans can't understand why we'd engage in such behavior -- to them it's strictly "inside baseball."

The seniority system has served this institution well for more than 200 years. It's something everyone understands and it can't be tampered with without close and deserving scrutiny. The seniority system has provided and will continue to provide leadership opportunities that might not otherwise come to some very deserving Members.

I'm not suggesting that the seniority system be followed blindly, mindless of intervening events and circumstances. But I do recommend that the Joint Committee uphold the presumption that seniority be used to choose Members for leadership positions unless there is good and sufficient reason to do otherwise.

## THE BUDGET PROCESS

### The Three-Part Budget Process Doesn't Produce Good Results

Although it certainly is not without its merits, I believe that our current three-part process for formulating the congressional budget is too cumbersome and fails to produce the kinds of results we and our constituents should expect. This year things moved on an extraordinarily fast track; but let's not be lulled into complacency by the rapidity with which we passed a budget or forget the tough decisions that lie ahead in implementing its provisions.

The current budget process was conceived at a time when the Congress had no mechanisms to deal with an Executive Branch that was overstepping its powers. But times have changed, and we have become much more sophisticated in dealing with such matters. So it's appropriate that we reexamine these structures to see if they still make sense.

Clearly, the process of budget priority setting -- probably the most important thing we do as a collective body -- takes up a large part of the congressional calendar. As important as this process is, it inevitably compresses the time available for careful deliberation by committees of jurisdiction of both budget-related matters and other legislative business.

I would also observe that the priority-setting process needs to be invigorated and leavened with more substantive inputs from the committees of jurisdiction. For example, I believe that the current "Views and Estimates" process -- as well-intentioned as it is -- doesn't work. It's not timely and can't convey the fullness of committee knowledge and experience.

This is why I've been intrigued by the proposal advanced by Senator Kassebaum and others for a Committee on National Priorities, made up largely of the chairmen and ranking members of the several committees of jurisdiction. Indeed, priorities decided among those who will have to carry them out in legislation stand a much better chance of ultimate enactment.

### Change is Needed in the Budget Process

Given the problems we've encountered in the budget process it's clear that something has to change. I have no magic solution to this situation; I don't think one exists. Many ideas have been suggested, and in the end I think some combination of fixes will be required. Let me enumerate a few of the corrective actions that I believe would be most warranted.

### Change to a Two-Part Process

A great deal of headway could be made if we were to concentrate on the two essential parts of the budget process: (1) deciding on national priorities; and (2) providing effective oversight, policy direction, and an authorization/appropriation. Let me concentrate for a moment on the latter idea.

The original rationale for having both an authorization and an appropriations process -- carried out in separate committees -- is long gone. What has grown up in its place is a highly duplicative process that all too often generates multiple policy directions and differing funding levels. A single-step process -- combined with an effective oversight and policy operation -- would be much more effective.

### Adopt a Biennial Budget

A true biennial budget would relieve both branches from the overhead and expense that accompanies the preparation of annual budgets. It would permit more time for oversight and investigative activities, plus more attention to policy-driven budget strategies here on the Hill.

The Armed Services Committees of both houses have made an attempt in this direction. Several years ago we placed into law the requirement for the Department of Defense to submit a biennial budget. Although the department has complied, we have not been able to convince our friends on the appropriations committees to follow our lead and enact a biennial appropriation. All parties must subscribe to the concept to make it work.

### Distinctions Between Authorization and Appropriations

Finally, let me point out that regardless of the outcome of the budget process debate we must sharpen the jurisdictional and budgetary lines between the authorizing committees and the appropriations committee. These lines have been eroding in recent years, usually to the detriment of the authorizing committees.

I would suggest that the Joint Committee examine the rules of both bodies to prevent these kinds of crossover activities, including legislating on appropriations bills and appropriations that exceed authorized amounts.

### **CONCLUSION**

I appreciate this opportunity to express my views on some of the very important issues you face. I hope that my remarks will be helpful and constructive in your work, and I pledge to continue to assist the committee in its efforts in the future.

STATEMENT OF FORMER SENATOR JAMES ABOUREZK  
CHAIRMAN, SELECT COMMITTEE ON INDIAN AFFAIRS, 95TH CONGRESS  
CO-CHAIRMAN, THE AMERICAN INDIAN POLICY REVIEW COMMISSION,  
94TH CONGRESS

BEFORE THE  
JOINT COMMITTEE ON THE ORGANIZATION OF THE CONGRESS  
May 4, 1993

MR. CHAIRMEN AND MEMBERS OF THE JOINT COMMITTEE ON THE ORGANIZATION OF THE CONGRESS, I AM PLEASED TO SUBMIT THIS STATEMENT TO YOU REGARDING THE ORIGINS OF THE SELECT COMMITTEE ON INDIAN AFFAIRS. DURING THE 94TH CONGRESS IT WAS MY PLEASURE TO SERVE AS THE CO-CHAIRMAN OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION, AN HISTORIC STUDY OF THE CONDITIONS OF INDIAN TRIBES AUTHORIZED BY THE CONGRESS FOR PURPOSES OF DEVELOPING RECOMMENDATIONS ON THE FUTURE OF U.S. - INDIAN RELATIONS. NOT SINCE THE FAMOUS MERRIAM REPORT OF 1928 HAD THE FEDERAL GOVERNMENT UNDERTAKEN A SERIOUS EFFORT TO LOOK AT THE CONDITIONS OF INDIAN PEOPLE. THE AMERICAN INDIAN POLICY REVIEW COMMISSION WAS COMPRISED OF SIX MEMBERS OF CONGRESS AND FIVE INDIAN LEADERS. WE APPOINTED INDIAN LEADERS AND TECHNICAL EXPERTS AS STUDY GROUPS OR TASK FORCES IN ELEVEN SUBJECT AREAS. THE TASK FORCES DID SOMETHING REVOLUTIONARY, THEY CONDUCTED THEIR INVESTIGATIONS BY INVOLVING THE INDIAN PEOPLE THEMSELVES AND SOLICITED THEIR VIEWS. THEIR FINDINGS WERE CONSOLIDATED INTO A COMPREHENSIVE REPORT OFFICIALLY SUBMITTED TO THE CONGRESS IN JULY

OF 1977. THESE WIDE RANGING AND COMPREHENSIVE RECOMMENDATIONS HAVE SERVED AS A FRAMEWORK FOR THE DEVELOPMENT OF INDIAN POLICY OVER THE PAST FIFTEEN YEARS.

AS THE AMERICAN INDIAN POLICY REVIEW COMMISSION WAS CONCLUDING ITS WORK, THE SENATE WAS ALSO CONCLUDING A STUDY OF COMMITTEE JURISDICTION AND ORGANIZATION. THE STEVENSON COMMITTEE STRUGGLED WITH THE SUBJECT OF INDIAN AFFAIRS JURISDICTION AND DEBATED WHETHER THESE LEGISLATIVE AND OVERSIGHT RESPONSIBILITIES SHOULD BE ASSIGNED TO THE NEWLY CREATED ENERGY COMMITTEE OR TO HUMAN RESOURCES OR TO SOME OTHER COMMITTEE. IN THIS DEBATE IT WAS RECOGNIZED THAT A SERIOUS CONFLICT OF INTEREST BETWEEN THE INDIAN TRUST RESPONSIBILITY AND PUBLIC LAND AND WATER INTERESTS OF WESTERN STATES HAD EXISTED IN THE OLD INTERIOR COMMITTEE ARRANGEMENT. I WAS CHAIRMAN OF THE INDIAN AFFAIRS SUBCOMMITTEE AT THAT TIME AND REMINDED MY COLLEAGUES THAT NOT ONLY WERE THERE CONFLICTS OF INTEREST BUT THAT THE HUMAN SERVICE RESPONSIBILITIES OF THE BUREAU OF INDIAN AFFAIRS AND THE INDIAN HEALTH SERVICE WERE TRADITIONALLY GIVEN SHORT SHIFT IN THE INTERIOR COMMITTEE. HOWEVER, SIMPLY TRANSFERRING THESE DUTIES TO THE EDUCATION AND LABOR OR HUMAN RESOURCES COMMITTEE CLEARLY WOULD NOT WORK. EXPERTISE ON AND INTEREST IN THESE ISSUES WOULD NOT BE READILY AVAILABLE IN THE HUMAN RESOURCES COMMITTEE. THE FEDERAL TRUST RESPONSIBILITY RUNS TO INDIAN LANDS, WATER RIGHTS, OTHER NATURAL RESOURCES AND TO THE TRIBAL GOVERNMENTS THEMSELVES TO PROTECT THEIR EXERCISE OF SOVEREIGNTY. AT THAT TIME I RECOMMENDED THAT A SPECIAL COMMITTEE ON INDIAN AFFAIRS BE CREATED IN ORDER TO DEAL EFFECTIVELY WITH

THESE DIVERSE ISSUES THAT DID NOT FIT THE JURISDICTION OF ANY ONE COMMITTEE. IN ADDITION, I REMINDED MY COLLEAGUES IN THE SENATE THAT THE AMERICAN INDIAN POLICY REVIEW COMMISSION WOULD SOON BE SUBMITTING ITS REPORT CALLING FOR COMPREHENSIVE REFORM OF THE FEDERAL AGENCIES AND FEDERAL INDIAN LAW. THE CONGRESS HAD MADE A COMMITMENT TO RESPOND TO THE RECOMMENDATIONS OF THE COMMISSION AND THIS SHOULD BE DONE BY STARTING OFF WITH THE CREATION OF A SEPARATE COMMITTEE ORGANIZED TO TAKE ON AN AMBITIOUS AGENDA.

I HAVE SEEN A COPY OF THE TESTIMONY SUBMITTED BY MR. NORMAN ORNSTEIN TO THIS COMMITTEE ON THE ORGANIZATION OF THE CONGRESS. WITH ALL DUE RESPECT I MUST SAY THAT HE IS MISTAKEN IN HIS RECOLLECTION REGARDING ANY COMMITMENTS MADE BY ME TO THE EFFECT THAT THE SELECT COMMITTEE ON INDIAN AFFAIRS SHOULD ONLY EXIST FOR ONE SESSION OF CONGRESS IN ORDER TO DEAL WITH THE RECOMMENDATIONS OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION. THE SELECT COMMITTEE WAS CREATED AS A TEMPORARY COMMITTEE AS PART OF A TYPICAL POLITICAL COMPROMISE THAT WAS PRIMARILY CONCERNED WITH THE EXPENSE OF HAVING AN ADDITIONAL COMMITTEE. IT IS MY RECOLLECTION THAT THE STEVENSON COMMITTEE RECOGNIZED THAT INDIAN AFFAIRS DID NOT FIT WELL WITHIN ANY OF THE STANDING COMMITTEES BUT THAT IT MADE THE MOST SENSE TO ASSIGN THIS JURISDICTION TO THE HUMAN RESOURCES COMMITTEE UPON COMPLETION OF A GOOD FAITH EFFORT TO DO JUSTICE TO THE POLICY REVIEW COMMISSION RECOMMENDATIONS. THE SENSE WAS THAT IN HUMAN RESOURCES AT LEAST THE CONFLICT OF INTEREST PROBLEM WOULD BE LESSENERED. AT ANY RATE, A FINAL DECISION ON WHERE TO ASSIGN INDIAN AFFAIRS JURISDICTION WOULD BE PUT OFF FOR TWO YEARS AT LEAST WHILE

THE SELECT COMMITTEE UNDERTOOK TO IMPLEMENT THE RECOMMENDATION OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION.

THE HISTORY OF THE PERFORMANCE OF THE SELECT COMMITTEE ON INDIAN AFFAIRS OVER THE PAST FIFTEEN YEARS HAS BEEN OUTSTANDING AND I AM PROUD TO HAVE HAD A HAND IN CREATING THE SELECT COMMITTEE. IT HAS PROVED ITS WORTH TO THE SENATE AND I BELIEVE, A SEPARATE STANDING COMMITTEE OF COMPARABLE JURISDICTION SHOULD ALSO BE CREATED IN THE HOUSE. NOT ONLY WOULD THIS ALLOW THE CONGRESS TO DEAL EFFECTIVELY WITH ITS RESPONSIBILITIES FOR INDIAN AFFAIRS LEGISLATION AND OVERSIGHT OF FEDERAL AGENCIES BUT THIS IS SIMPLY THE BEST WAY TO MEET OUR TRUST AND TREATY RESPONSIBILITIES TO THE INDIAN TRIBES. ANY OTHER ARRANGEMENT WOULD SO FRAGMENT THE WORK OF THE CONGRESS AND SUBJECT THE TRUST RESPONSIBILITY TO NUMEROUS CONFLICTS OF INTEREST THAT IT WOULD BE A GROSS IRRESPONSIBILITY. UNDER THE OUTSTANDING BIPARTISAN LEADERSHIP OF THE CURRENT CHAIRMAN AND VICE-CHAIRMAN OF THE SENATE INDIAN AFFAIRS COMMITTEE CONGRESS IS FINALLY MAKING SOME PROGRESS. ON THE OTHER HAND, IT IS CLEAR THAT THE COMMITTEE ON INDIAN AFFAIRS IS NOT SIMPLY AN ADVOCATE FOR THE INDIANS. AS ALL COMMITTEES OF THE CONGRESS, IT SERVES AS A FORUM WHERE ALL PARTIES CAN COME AND ARGUE THEIR CASE WITHOUT PREJUDICE. BUT WITHOUT A SEPARATE COMMITTEE WITH LEADERSHIP AND EXPERTISE ON THESE ISSUES CONGRESS CANNOT DEVELOP EFFECTIVE COMPROMISES THAT FAIRLY BALANCE COMPETING INTERESTS. MR. CHAIRMEN, AS SOMEONE ONCE SAID, "IF IT AIN'T BROKEN, DON'T FIX IT." THE SENATE COMMITTEE ON INDIAN AFFAIRS IS DEFINITELY WORKING FOR THE BENEFIT OF THE SENATE, THE PUBLIC AND THE INDIANS, DON'T TRY TO FIX IT.

Statement of Honorable Carrie P. Meek  
Joint Committee on the Organization of Congress  
May 6, 1993

Mr. Chairman, I am pleased to be here today to lend my support to Congresswoman Schroeder's proposal to reform the congressional committee structure so that authority for children and family issues is focused. The demise of the Select Committee on Children, Youth, and Families was a disappointment, but we must turn this setback into an opportunity. If we do this right, children and families will be better off. This is the chance to establish a committee with legislative powers to focus on the wide range of issues of concern to children. At a minimum, there should be some consolidation of the current committee structure as it pertains to children.

Not long ago, my office was visited by representatives from the Children's Services Council of Dade County, Florida. They expressed frustration with the various eligibility criteria and application procedures for subsidized child care programs. They gave the examples of Head Start, the Social Services Block Grant program, the At-Risk program run by the Department of Justice, child care provided for children of parents participating in the Job Training Partnership Act program, and child care provided under the Family Support Act. Each of these is a good program, but a parent in need of child care may have a hard time navigating the system to find the appropriate kind of help, particularly if there are two or more children in need of care simultaneously.

Any attempts to provide better administrative coordination for these programs will run into jurisdictional problems as three or more House committees, and countless subcommittees, could be involved. This is but one area where fragmentation of authority works to the detriment of poor parents and children. Your joint committee has an opportunity to address this shortcoming and put an end to the piecemeal approach that has characterized children's issues. I urge you to give favorable consideration to the recommendations of Congressman Schroeder.

Thank you for giving me the opportunity to appear before you today.



THOMAS J. BLILEY, JR.  
7th DISTRICT, VIRGINIA

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Statement of Rep. Thomas J. Bliley, Jr.

Joint Committee on the Organization of Congress

May 11, 1993

It is an honor and pleasure to participate in the work of the Joint Committee on the Organization of Congress. You have been charged not merely with the formal task of seeking ways and methods to improve the organizational structure of Congress, but with the daunting task of judging Congress as an institution as well. In this regard, it is my personal hope that you do not succumb to the "inside-the-beltway" instant gratification hype that so often drives bad theories into bad practices. The mistakes and failures which led to one of the largest turnovers in Congress this year were personal, not institutional.

Gimmicks and quick fixes in politics and government are no substitute for the brilliant structure we have inherited from our 18th century leaders. We have heard much about how Americans have grown tired of gridlock in government. But far more have they lost patience with the politics of evasion and a government that too often appears unsympathetic to their problems and unresponsive to their needs. If reform is to be meaningful, it must enhance the individual responsibility and leadership role of each member of this House. Change that serves to concentrate power in fewer hands, that curtails the ability of members to fully debate or deliberate on the issues that confront the nation, or that diminish the individual responsibility of members for the decisions reached by the House will in the long run succeed only in embittering

our politics and in further alienating the American people. Tyranny was and is a greater threat to a free people than "gridlock."

Instant "reforms" are no substitute for the handiwork of the framers of our constitution. Some of these so called reforms threaten Congress' ability to perform its duties as a co-equal branch of government. Others threaten the rights of individual members to discharge their duties. Surveying the failed democracies and republics of the past, the founders sought to discover "republican remedies for the diseases most incident to republican government." Because we have thus far followed this example, the constitution that they bequeathed to us remains the oldest written charter of government still in continuous use in the world today.

James Madison, one of the truly great and distinguished theorists of Western political thought, believed that the new nation could best protect individual liberty and promote the national interest by constructing a balance of competing powers. His famous quotation in *Federalist 51*, "If men were angels, no government would be necessary" is preceded by his dictum that "Ambition must be made to counteract ambition." The fact that his political theory is tested every day in this great institution is nothing to apologize for.

How power is divided among the members of Congress is not a trivial matter. Quite the contrary, the limitations placed on the exercise of power within the Congress is directly related to the limitation of governmental power over the individual citizen and society at large. Abuses of power, both by individuals and by the institution as a whole, are hurting this body, but past abuses cannot be overcome nor future abuses prevented by merely changing the boxes on our organizational chart.

With respect to correcting abuses within the Congress, it is well to remember this

sobering thought with which Thomas Jefferson opens his classic manual on parliamentary practice:

Nothing tend[s] more to throw power into the hands of administration, and those who acted with the majority in the House of Commons, than a neglect of, or departure from, the rules of proceeding; [those] forms [of procedure], as instituted by our ancestors, operate as a check and control on the actions of the majority, and ... were, in many instances, a shelter and protection to the minority, against the attempts of power.

Jefferson's concern for the rights of the minority within the institution of Congress is the mirror image of the Founders' concern for the rights of the minority in society at large. Indeed, Madison's description of the problem in his famous *Federalist No. 10* sounds as contemporary as today's newspaper:

Complaints are everywhere heard from our most considerate and virtuous citizens, equally the friends of public and private faith, and of public and personal liberty, that our governments are too unstable, that the public good is disregarded in the conflicts of rival parties, and that measures are too often decided, not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and overbearing majority.

Proposals for the reform of Congress should be assessed in both historical and comparative terms. For example, despite the massive growth of the federal government since World War II, the House has less than half the number of standing committees today than there were in the early 1940s. There are fewer subcommittees in the House today than there were twenty years ago. The Legislative Branch appropriation this year is \$2.7 billion. I happen to agree that in this tight economy, Congress needs to lead by example and cut its budget. But let's also keep this in perspective. The Department of Health and Human Services spends this much money in a day and a half. It costs approximately \$180 million for the Committee staffs in the House. DHHS spends this much every three hours of every day. The greater the

emphasis we place on changing the names of committees and re-arranging jurisdictions will more likely mean that changes will be purely cosmetic, or worse, counterproductive.

With these principles in mind, I offer the following comments and recommendations concerning the role of committees generally; the Committee on the District of Columbia, on which I serve as ranking member; and committee budgets.

### **Realigning the Power of Committees**

The power of congressional committees is undisputed. More than 100 years ago, Woodrow Wilson observed:

It is evident that there is one principle which runs through every stage of procedure, and which is never disallowed or abrogated--the principle that the Committee shall rule without let or hinderance. And this is a principle of extraordinary formative power. It is the mould of all legislation.<sup>1</sup>

The inherent fact that committees wield power is not the problem which needs to be addressed. Committees, like Congress as a whole, and each individual member, exercise two principle functions: representation and decision-making. The diffusion of power through the formal structures of the organization is a positive force in Congress because it provides greater opportunity to exercise these functions. Diffusing power necessarily enhances the individual responsibility and leadership role of each member of the House. Moreover, as more members of the House are elected from states with term-limit legislation, it will become a necessity to provide more members with a greater, not a lesser, share of legislative power than they currently possess.

By contrast, reducing the number of committees means concentrating power in the hands

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<sup>1</sup>David J. Volger. Politics of Congress. 2nd ed. Allyn and Bacon. (Boston: 1977). p. 156.

of fewer people. The individual responsibility and leadership roles of most members are further diminished. In fact, it can become a virtual necessity for members to practice the politics of evasion over issues concerning which they lack power to affect while the true centers of Congressional power become evermore obscure to and remote from most voters.

Realigning Committees to provide a form of "one-stop-shopping" for authorization, appropriation and revenue raising is exactly the type of concentration of power that Madison and Jefferson fought to protect us from 200 years ago. Allowing the Appropriations Committee and the Rules Committee to exert ever increasing control and power is also fraught with similar dangers. Restrictive rules can effectively prevent the House from exercising its will in lieu of decisions made in standing committees. Instead, floor deliberations become a plebescite on the work of the committee rather than a forum where the House, as a whole, can exercise its independent judgement using the Committee's workproduct as a starting point. Similarly, maintaining the separation of substantive legislation and oversight from appropriations provides an appropriate set of internal checks and balances to our internal procedures.

Concentrating power, either through combining authorization, appropriations and revenues, or by concentrating functional jurisdictions, would seriously reduce the effective input of more and more Members and the people they represent. Layering such proposals on top of existing state laws limiting Congressional terms and our own rules extending the right to vote in committee and on the floor to non-members can only serve to further diminish the individual responsibility and leadership role of the vast majority of members at the expense of their constituents and of the American people as a whole.

I encourage the Joint Committee to focus on congressional reforms which reflect

Madison's theories on the diffusion of power and the balancing of competing interests and Jefferson's calls for the protection of minority rights under Congressional rules. With that goal in mind, I put forward the following recommendations.

**Recommendation 1**--There must be a strict limitation placed upon the number of committees and subcommittees on which a member can serve. No member should be able to serve as a chairman or ranking member of more than one committee or subcommittee.

A member who possesses a vote on each of several committees obviously has multiplied his or her power. The ability of a member to trade votes on several committees undermines what Madison called a "just partition of power."

**Recommendation 2**--The Appropriations Committee should not be allowed to appropriate funds that have not been authorized.

The current practice of the Appropriations Committee to appropriate sums that have not been authorized or in greater amounts than have been authorized is an internal threat to the work of the authorizing committees. Consider as an example, the Federal Payment to the District of Columbia as set by a formula under P.L. 102-102. One of the reasons for establishing the formula was to eliminate special "add-ons" to D. C. appropriation bills which had not been authorized. In the last Congress and again earlier this year, the Appropriations Committee attempted to increase federal funding to the District beyond authorized levels. The difference between the Federal Payment based on the formula and the District's request was \$30 million last year and \$38 million this year. Appropriations should not be allowed to provide this additional funding without authorization. It is the District Committee which is charged with the responsibility of holding the local government accountable. The Committee's power is diluted

if the Mayor and the Council know they can bypass the authorizing committee. In turn, the local officials can escape that accountability. If the District deserves additional funding, either in general or for specific programs then the authorizing committee is the appropriate place to make that case.

So too, if a program cannot gain the support of the authorizing committee and survive the scrutiny of floor proceedings, then the Appropriations Committee should not be able fund it. If proponents cannot win a majority to reauthorize a program, they should not get a second chance to hide funding for that program in a larger Appropriations bill. Restoring the appropriations process to its rightful position as a sword of Damocles over the heads of the authorizing committee will reinstitute the truism that politics is the art of compromise. The appropriations process should serve as a check upon the substantive lawmaking and oversight powers of the Congress. Legislators exercising those latter powers should know that their power faces limitations in the form of the taxpayer's willingness to pay. By the same token, however, the power to appropriate must be channelled by the work of the substantive authorizing committees.

**Recommendation 3**--Rescind the Delegates' voting privileges in the Committee of the Whole and in Standing Committees.

Under the rules of the House, territorial delegates, the delegate from the District of Columbia, and the Resident Commissioner from Puerto Rico are given the right to vote in the Committee of the Whole and in standing committees on which they serve. Where the votes of the non-members in the Committee of the Whole is determinative, a re-vote is automatically taken in the House. No such rule exists, however, for votes in standing committees where non-

members may cast the deciding ballot.

Allowing non-members to vote dilutes the power of every member of the House and violates both the spirit and the letter of Article I of the Constitution. As Judge Harold H. Greene wrote in his decision in Michel v. Anderson, No. 93-0039 (D.D.C. March 8, 1993):

One principle is basic and beyond dispute. Since the delegates do not represent States but only various territorial entities, they may not, consistently with the Constitution, exercise legislative power (in tandem with the United States Senate), for such power is constitutionally limited to "Members chosen ... by the People of the several States." U.S. Const. art. I, sec. 8, cl.1.

It is not necessary here to consider an exhaustive list of the actions that might constitute the exercise of legislative power; what is clear is that the casting of votes on the floor of the House of Representatives does constitute such an exercise.

In my view, the practice of allowing voting by the delegates and the Resident Commissioner, whether in the Committee of the Whole or in standing committees, violates the Constitution and should be discontinued. It is true that Judge Greene declined to enjoin delegate voting in the Committee of the Whole because he viewed the "savings clause" of Rule XXIII (which provides that where the outcome in the Committee of the Whole is determined by the votes of non-members, a vote will automatically occur in the House) as depriving the delegates of a meaningful share of legislative power. That issue is currently on appeal.

With respect to delegate voting on standing committees, the Judge noted that a serious issue exists, but did not reach the merits because he did not believe that he needed to address the issue to rule on the case before him. There seems little questions, however, that the ability to vote in committee -- and, indeed, to serve as committee and subcommittee chair -- effectively clothes delegates with legislative power. As voting members of standing committees, the Delegates can use their privilege of voting, and potentially as serving as chair, to shape



legislation which is reported to the full House. Although not final, committee action on legislation reported to the House may substantially set the terms of the debate and in practical terms set parameters to action by the full House -- particularly for legislation being considered under a restrictive or quasi-restrictive rule. More fundamentally, by refusing to report measures at all, either through casting negative votes or by exercising their potential discretion as committee chair, non-members wield substantial legislative power that can only be overcome through the cumbersome discharge mechanism. Indeed, from 1931 to 1988, only 23 bills have ever been discharged from committee, and only 3 of these bills became law.

In my view, although Judge Greene is surely right in his understanding of the dictates of Article I, he was needlessly narrow in his assessment of how delegate voting under Rules XII and XXIII affects the functioning of the House and deflects real power from members to non-members and in his authority to rule on the full range of issues raised by delegate voting both in committee and on the floor. For the Committee's benefit, I submit for the record along with this testimony, a copy of the brief submitted in Michel v. Anderson by Congressional Amici Curiae.

As noted above, Michel is now on appeal. This Committee, however, need not feel constrained from recommending that the House conform its rules to both the spirit and the letter of the Constitution by discontinuing the practice of delegate voting both in committee and on the floor.

**Congressional Reform Touching the D.C. Committee and Congress' Constitutional Responsibility for the Nation's Capital**

The Committee on the District of Columbia is the third oldest committee in the House, established by the 10th Congress in 1808. The creation of the Committee is traced to Article

I, section 8, clause 17 which provides that Congress shall have the power "to exercise exclusive legislation, in all cases whatsoever, over such district ... as may ... become the seat of government of the United States." In the 94th Congress (1975-1976), the Committee had 25 members, the same number it had in 1947, and six subcommittees. Since the District of Columbia has assumed its full under the Home Rule Act, these figures have been cut in half.

The District of Columbia Self-Government and Governmental Reorganization Act of 1973, the "Home Rule Act," redefined the relationship between Congress and our nation's capital, the District of Columbia. As a result of that legislation, the municipal government of the District of Columbia exercises more governmental powers than any other single unit of government in the United States. The fact is that the District government, consisting of only 14 elected officials (13 Council members and the Mayor), operates a broad range of powers normally divided between city, county and state governments. The limitations and restrictions placed on the District government by Congress in the Home Rule Act are neither onerous nor unusual when considering the unique nature and status of the District of Columbia.

Since the initial debate on the Home Rule Act there have been debates over the type and level of authority granted to the District government. Constant demands for more autonomy and less oversight are accompanied by arguments that the restrictions and oversight incorporated by the Home Rule Act are both unique and unfair. Neither is true. All cities operate under the total authority of their state legislature and are subject to substantial limitations on their autonomy and oversight. In both instances, the legislative power in question is a delegated power which, by definition, means power subject to limitation.

The argument that Congress has not imposed similar restrictions on any other city is

misplaced. Congress stands in relation to the District as a state legislature stands to a municipality. As creatures of the states, municipalities are subject to manifold limitations on their autonomy. Limitations such as those borne by the District are the rule, not the exception. The Home Rule Act does provide a broad, if nevertheless limited, delegation of power to legislate "upon essentially local District matters." The limitations imposed to protect the federal interest at the seat of government are directly related to the unique nature of the District of Columbia and have provided a workable mechanism for balancing local and national concerns as they relate to the Nation's capital.

There have been a number of recommendations in regards to the Committee on the District of Columbia. The city, of course, would like to abolish it all together. Despite the constitutional, practical, and other legal obligations on Congress, the city simply does not want to be held accountable by Congress. Other recommendations include the creation of a joint committee with the Senate or alternatively the reduction of the House committee to a subcommittee. Article I of the Constitution, as noted above, gives to Congress the power and the responsibility to "exercise exclusive legislation, in all cases whatsoever" over the Nation's capital. Any change in the D.C. Committee considered by this Joint Committee should be designed to better enable each member of the House to fulfill his Constitutionally assigned duty to oversee the capital city.

With respect to the Congress' constitutional duty to oversee the District, it is important to keep in mind that the D.C. Committee has jurisdiction not only for legislation generated by members of Congress, but for approximately 250 acts passed yearly by the District Council as well. Under the unique legislative procedures in regards to these local acts spelled out by the

Home Rule charter, all acts (except emergency acts, budget acts, and charter amendments) are transmitted to the Speaker of the House and the President of the Senate for a 30-day congressional review period. In the case of legislation amending the city's criminal code, the review period is extended to 60-days, and the procedures for discharging the Committee are relaxed. As explained by the former Chairman of the House Committee on the District of Columbia Charles Diggs, the Congress retains the right under the Home Rule Act to prevent "misactions" on the part of the local legislative body before an act becomes law. During this review period, any member of Congress may introduce a joint resolution of disapproval which, if passed by both houses and signed by the President, would prevent the act from becoming law.

For reasons that will become clear in due course, I believe that the biggest problem which needs to be addressed is the D.C. Committee's apparent unwillingness to aggressively review and, where necessary, disapprove just such "misactions" by the local government.

In consideration of resolutions of disapproval, the Committee applies three criteria to a council act: 1) whether the act violates the constitution; 2) whether the act violates the Home Rule Act; 3) and, whether the act violates a federal interest.

Four resolutions of disapproval were introduced in the 102nd Congress. H. J. Res 158, (regarding the schedule of building heights) introduced by Representative Combest, was reported to the House and passed as law. Representative Moran withdrew a second resolution, H. J. Res. 510, (regarding the District's tax package) from Committee consideration. Representative Holloway introduced H. J. Res. 480, which would have nullified the domestic partner act, was defeated in Committee. The fourth resolution of disapproval, H. J. Res. 79, (regarding the assault weapons liability act) introduced by myself, is still under the cloud of litigation.

Let me observe that the District government apparently does not feel constrained by these criteria. In the case of Mr. Combest's resolution against the building height act, the Council blatantly attempted to rewrite federal law and knowingly put Congress to the test. After all, the Council had gotten away with a previous violation and local developers are anxious to push through additional projects. In the case of Mr. Moran's resolution, we do not know how the Committee would have resolved the obvious conflict because the resolution was withdrawn from consideration. We do know that certain District officials are considering additional methods of extending taxes beyond its borders.

Because H. J. Res. 480 and H. J. Res. 79 were not reported to the full House, there are no committee reports to explain the Committee's application of the three part criteria to the House. But I am gravely concerned about the application of the Committee's criteria in regards to these resolutions. The mere fact that the Council passes an act seems to have become the most important criterion. The delicate balance of the Home Rule Act should not be tipped in favor of the local measure simply because the Council acted or even if the residents voted on a measure using the referendum process. The Committee test is burdensome enough without requiring a member who has introduced a resolution of disapproval to overcome additional false-choice tests about "allegiance to Home Rule" or "a belief in democracy."

The Committee's inconsistent application of its criteria in the 102nd Congress is itself troublesome. For example, I believe the Committee substantially ignored its own criteria in its consideration of legislation to repeal the District of Columbia Assault Weapons Manufacturers Strict Liability Act of 1990. Substantial questions were raised in the hearing held by this Committee concerning the extraterritorial impact of the D. C. liability statute and whether it

involved an effort to regulate commerce in other jurisdictions in violation of the Commerce and Due Process Clauses of the Constitution and the Home Rule Act. In sum, the Committee simply refused to resolve any of the constitutional and legal issues raised against the Council act, instead preferring to leave such issues "for the courts to decide." In the end, the Committee's test became no test at all.

The same fate in Committee awaited the resolution of disapproval against the District's Health Care Benefits Expansion Act. The Act, among other things, provided for new health benefits for certain D. C. government employees, provided tax benefits for private employers to offer the same benefits to their employees, and placed limitations upon the ability of employers to withdraw benefits which have been provided pursuant to the act.

The Committee was apprised of a recent decision by the D. C. Circuit Court of Appeals, Greater Washington Board of Trade v. District of Columbia, 948 F.2d 1317 (1991), which held that ERISA pre-empts all state and D. C. laws that relate to a covered health benefits plan and do not fall under one of ERISA's specific exemptions. It was therefore argued in Committee that under the current law of the D. C. Circuit, the health benefits act was pre-empted by federal law, was thereby not a proper exercise of the Council's power under the Home Rule Act, and, under the Supremacy Clause of the U. S. Constitution, could not be enforced. The response of the D. C. Corporation Counsel was that the D. C. Circuit's opinion did not properly reflect the state of the law and that, in any event, the case was being appealed to the Supreme Court.

The Committee also received testimony from Professor Charles Rice, a nationally known constitutional scholar at the University of Notre Dame school of law, that the health benefits act raised "serious doubts as to whether it is 'rationally related to a legitimate governmental

interest." Rice found that the D. C. act erects "unaccountable discrimination against members of traditional families" and is otherwise rife with "detailed incoherences" and "so vague and ambiguous in some respects that one of its major impacts would be to provide economic relief for the District's abundant population of lawyers."

Once again, the Committee ignored its own standards of judgment and failed to take action. Since that time, the Supreme Court has upheld, in an eight to one decision, the position of the D.C. Circuit in the Greater Washington Board of Trade case. See, District of Columbia v. Greater Washington Board of Trade, 1992 U.S. LEXIS 7847 (December 14, 1992). It is, of course, far too late for the Committee to revisit this issue and disapprove a local statute which exceeds the Council's powers under the Home Rule Act, infringes on the Federal interest in regulating health benefit plans, and, if enforced, would violate the Supremacy Clause of the Constitution.

In the case of both resolutions of disapproval, serious arguments were raised that the local act violated the Constitution, impaired a federal interest, or fell outside the authority granted to the District under the Home Rule Act. These arguments deserved to be considered by the full House in the exercise of a specifically assigned constitutional duty. In both cases, however, the Committee acted to impair, rather than facilitate, Congressional deliberation. My hope would be that the Chairman of the District Committee would report resolutions of disapproval with the findings of the Committee even if he/she opposed the resolution. But in the absence of the informal means which are available, then the following recommendation is necessary.

Recommendation 4--Extend the special discharge procedures for resolutions of

disapproval of local criminal statutes to all council enactments.

Section 604 of the Home Rule Act provides that a resolution of disapproval of a criminal enactment of the D.C. Council may be subject to discharge twenty days after it was introduced. The "motion to discharge may be made only by an individual favoring the resolution, is highly privileged ... and debate thereon shall be limited to not more than one hour to be divided equally between those favoring and those opposing the resolution." This expedited procedure should be available to all resolutions of disapproval that come before the Committee.

It is commonplace for a committee to take legislation to the full House so that the House can "work its will." The Committee on the District of Columbia should not be an exception when there is substantial evidence against a Council act. And, in fact, when the D.C. Health Benefits Expansion Act was presented to the House via the District's appropriations bill, the House overwhelmingly prohibited its implementation. Twenty years of history have demonstrated that these resolutions are few and that members do not introduce trivial resolutions. Moreover, even under the expedited procedures of section 604, a majority vote is necessary to in fact discharge the Committee. The Committee must uphold its responsibility to all members and not frustrate their right to review defective Council acts.

#### **Committee Budget**

The rules on committee budgets are clearly antiquated and should be changed.

**Recommendations 5 and 6**--Committees should have a single budget authority and the ranking minority member should have no less control over at least one-third of the total resources as the Chairman exercises over the majority portion.

The Committee on the District of Columbia is an example of why the present practices



in these two areas should be changed.

The distinction between statutory budget and the investigative budget makes no sense. It simply forces committees to juggle personnel and non-personnel expenditures which yield artificial indicators. For example, the minority staff received 32 percent of the investigative budget for salaries. Minority staff accounted for 33 percent of the positions paid for by the investigative budget. But this is true only because the minority used only 7 of 10 positions on the statutory side and higher-paid majority staff were shifted to the statutory budget. Overall, the minority received only 21 percent of committee funding for salaries.

The need for minority control over its own resources is demonstrated in the Committee's arrangement to include 23 majority staff members in the statutory budget (instead of 20 slots allocated to the majority under House rules). This was agreeable to the minority last year because - according to the way the rules work - it made more of the discretionary investigative budget available for non-personnel expenditures. The minority had a strong need to continue to update its computer equipment. The scheme to allow the majority to "take" three of the minority statutory positions in exchange for more equipment funds should not have been necessary in the "people's house".

But even this arrangement does not assure that the minority will receive the resources it needs. In July 1992, the minority submitted a written request for two new computers, one of which was to be a replacement. And although projections of the committee budget for the remainder of the year clearly showed that the cost of the computers were well within the budget, the majority informed my staff that money was not available for two computers. The minority staff was told that it would have to wait until later in the year to obtain the one new computer

which would be allowed. In January 1993, just prior to the investigative budget submission to House Administration, the minority staff was told that its computer equipment request was being processed. Despite those assurances and although the Committee spent \$75,000 less than its investigative budget provided last year, we are still waiting for that computer.

Countless examples can be given to demonstrate the obvious need for the ranking member to possess the same authority as the Chairman in managing the resources for his staff. Without that authority, the minority will always be at a disadvantage and there will continue to be a loss of productivity.

#### Conclusion

One hundred and ninety-two years ago, shortly after taking the oath of office for the first time, President Thomas Jefferson reminded his listeners of a vital principle which lies at the core of our political institutions:

All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; that the minority possess their equal rights, which equal law must protect, and to violate would be oppression.

This Committee, as it surveys the possibility for Congressional reform, should reflect the principles of a diffusion of power and the rights of the minority. It is well to keep in mind another maxim from Jefferson, that "every difference of opinion is not necessarily a difference of principle." The 103rd Congress must not squander its inheritance to please the pundits or to merely capture headlines. A view of Congressional reform that views the answer to "gridlock" to be ever increasing concentrations of power will simply exacerbate our institutional woes and further alienate the American people.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROBERT H. MICHEL, et al.

Plaintiffs,

v.

DONNARD K. ANDERSON, et al.,

Defendants.

Civil Action  
No. 93-0039 (HHG)

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MEMORANDUM OF CONGRESSIONAL AMICI CURIAE  
IN SUPPORT OF PLAINTIFFS

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of Columbia  
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Dated: February 5, 1993

Counsel for Amici Curiae



District of California; Representative Cass Ballenger of the 10th District of North Carolina; Representative Doug Bereuter of the 1st District of Nebraska; Representative Jim Bunning of the 4th District of Kentucky; Representative Ken Calvert of the 43rd District of California; Representative Charles T. Canady of the 12th District of Florida; Representative Tom Delay of the 22nd District of Texas; Representative Robert K. Dornan of the 46th District of California; Representative Terry Everett of the 2nd District of Alabama; Representative Tillie K. Fowler of the 4th District of Florida; Representative Peter Hoekstra of the 2nd District of Michigan; Representative Martin Hoke of the 10th District of Ohio; Representative Bob Inglis of the 4th District of South Carolina; Representative James K. Inhofe of the 1st District of Oklahoma; Representative Sam Johnson of the 3rd District of Texas; Representative Peter T. King of the 3rd District of New York; Representative Jim Kolbe of the 5th District of Arizona; Representative Tom Lewis of the 16th District of Florida; Representative Howard P. "Buck" McKeon of the 25th District of California; Representative Dan Miller of the 13th District of Florida; Representative Richard W. Pombo of the 11th District of California; Representative John Porter of the 10th District of Illinois; Representative Dana Rohrabacher of the 45th District of California; Representative Steven Schiff of the 1st District of New Mexico; Representative Lamar Smith of the 21st District of Texas; Representative Cliff Stensens of the 6th

District of Florida; and Representative Curt Weldon of the 7th District of Pennsylvania.

The amici have an interest in this case because the amendments to the Rules of the House of Representatives at issue in this litigation impair their rights as citizens to equal representation in the House. The amendments equally impair amici's rights to serve as Representatives by exercising the legislative power vested in them by their constituents under the Constitution. By their participation here, amici seek to assist the Court with additional information and emphasis on selected issues in the case.

STATEMENT OF FACTS

On January 5, 1993, the House of Representatives amended its rules to allow delegates from the District of Columbia, American Samoa, the Virgin Islands, and Guam and the Resident Commissioner from Puerto Rico (collectively, "the Delegates") to vote in the Committee of the Whole on the State of the Union. Specifically, Rule XII of the House Rules has been amended by adding the following new paragraph:

In the Committee of the Whole House on the state of the Union, the Resident Commissioner to the United States from Puerto Rico and each Delegate to the House shall possess the same powers and privileges as Members of the House.

Reprinted in 139 Cong. Rec. H6 (January 5, 1993). Additionally, Rule XXIII was amended to provide that a Delegate may sit as chairman of the Committee of the Whole. Id. Further, Rule XXIII was also amended to include a savings clause providing for an

automatic vote in the full House of Representatives whenever, following a recorded vote in the Committee of the Whole, such vote was resolved by a margin in which the votes of the Delegates were decisive.<sup>1/</sup>

Both the history of the offices occupied by the Delegates and gradual steps by which each of the Delegates has assumed legislative power is recounted in the Plaintiffs' Memorandum in Support of Application for Preliminary Injunction ("Plaintiffs' Memorandum"). This history reveals an unconstitutional progression -- from an initial improper grant of legislative power to the Resident Commissioner from Puerto Rico to vote on standing committees, to the situation today, in which the majority party has essentially given five floor votes to nonmembers by fiat. Amici will expand on the history recounted by the Plaintiffs in order to further demonstrate the utter lack of historical and constitutional authority for nonmember voting.

#### SUMMARY OF THE ARGUMENT

If the Delegates are allowed by the recent amendments to Rules of the House to exercise "legislative power," then those

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<sup>1/</sup> The pertinent provisions of amended Rule XIII are as follows:

(d) Whenever a recorded vote on any question has been decided by a margin within which the votes cast by the Delegates and the Resident Commissioner have been decisive, the Committee of the Whole shall automatically rise and the Speaker shall put that question de novo without intervening debate or other business. Upon the announcement of the vote on that question, the Committee of the Whole shall resume its sitting without intervening motion.

Reprinted in 139 Cong. Rec. H6 (January 5, 1993).

amendments violate the Constitution. They violate Article I of the Constitution, which assigns "all" legislative power to the House and Senate, and which defines membership in the House in terms that the Delegates and Resident Commissioner undeniably do not meet. They similarly violate the guarantee of Article I and the Fourteenth Amendment to equal representation for all citizens by assigning votes to nonmembers who represent as little as a tenth of the number of constituents who must share each member's vote.

The critical question that this Court must therefore address is whether the amendments to the House Rules vest "legislative power" in the Delegates. Both the history of the House and the practical realities of its operations demonstrate that they do. Indeed, the exercise of any voting authority by nonmembers, including the initial grant of standing committee votes to the Resident Commissioner from Puerto Rico in 1970, and each incremental expansion of nonmember voting since, violates the Constitution. The Plaintiffs' request in this suit is a modest one, seeking to prevent only the most radical extension of an unconstitutional practice that has been wrong from its inception.

The majority party's attempt to mask the reality of the recent amendments with a "savings clause" -- requiring a recount in the Whole House following votes decided in the Committee of the Whole by a margin less than the number of nonmembers voting - - does not change the constitutional analysis. If the casting of a vote in the Committee of the Whole is an exercise of



"legislative power," that fact is not altered by the addition of a recount mechanism. Moreover, the well-accepted practical realities of the House, including "vote trading" on legislation, ensure that the savings clause does little to diminish the unprecedented grant to nonmembers of voting power over virtually every piece of significant legislation to come before the House.

Doctrines of justiciability and equitable discretion do not diminish this Court's duty to prevent a constitutional violation. This is no mere rehash of a squabble over internal privileges of legislators or the merits of controversial legislation. Rather, the amendments at issue here directly dilute and diminish the rights of voters to equal representation, and contradict the clear textual qualifications governing the exercise of legislative authority.

#### ARGUMENT

Article 1 of the Constitution provides in relevant part:

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which

may be included within this Union, according to their respective Numbers....

Plaintiffs' Memorandum amply demonstrates the noncontroversial proposition that the Delegates cannot qualify as "members." Pl. Mem. 28-29. The question this Court must address, therefore, is whether voting in the Committee of the Whole is "legislative power." If so, it is power that the nonmember Delegates may not wield.

The Constitution also commands that legislative power is power that the People, through their elected representatives, are to share equally. Wesberry v. Sanders, 376 U.S. 1 (1976). Yet the amendments at issue here grant votes to Delegates who represent a mere fraction of the number of voters in a congressional district. The voters who elect these delegates are accordingly granted a voice in the House that grossly exceeds their numerical fair share. Again, if the casting of a vote in the Committee of the Whole is an exercise of "legislative power," the grant of the power to the Delegates is unconstitutional.

Amici urge this Court squarely to address the fundamental question whether the voting power granted to nonmembers is legislative power. Both the historical record and practical realities demonstrate that it is. This Court must not be sidetracked from this central question, either by the attempt to mask the import of the amendments through a "savings clause," or by invitations to avoid judicial review altogether by invoking doctrines of justiciability and equitable discretion that do not apply.

I. THE CASTING OF VOTES BY NONMEMBERS -- WHETHER IN STANDING COMMITTEES OR IN THE COMMITTEE OF THE WHOLE -- IS AN UNCONSTITUTIONAL USURPATION OF LEGISLATIVE POWER

The legislative office of Delegate dates from the Northwest Ordinance, prior to the ratification of the Constitution. Yet from that time to the present, the House of Representatives has never purported to invest either Delegates, the Resident Commissioner, nor any other legislative officer, agent, or employee with legislative power. From the First Congress until 1970, with the possible (and questionable) exception of a brief period in the mid-Nineteenth Century, Congress maintained the boundary between advisory activities, in which nonmembers may participate, and legislative activities, in which they may not. The exercise of voting power by the Delegates breaches that boundary, and violates the Constitution.

The Office of Delegate was first created by the Continental Congress. Thomas Jefferson submitted to that Congress a "plan for the temporary government for the western territory," which was enacted as the Ordinance of 1784. Though that ordinance never became effective, it provided that territories would "keep a member in Congress, with a right debating, but not of voting." Sheridan, The Evolution of Functions of Nonvoting Delegates in the House of Representatives: A Brief History, Congressional Research Service (May 11, 1982). The principle contained in Jefferson's legislation, that territorial delegates should have the right to debate, but not vote, has been the linchpin of all subsequent Congressional action. Indeed, this understanding of

existing law and precedent are clearly reflected in the Parliamentarian's notes to the House Rules published as recently as the 102d Congress:

The law provides that on the floor of the House a Delegate may debate, and he may in debate call a Member to order. He may make any motion which a Member may make except the motion to reconsider. A Delegate may make a point of order. A Delegate has even moved an impeachment. He may be appointed a teller; but the law forbids him to vote.

Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United States, One Hundred Second Congress, 101st Cong., 2d Sess., H. Doc. No. 101-256, [hereinafter "Rules" or "House Rules"] Rule XII (1991) (Parliamentarian's Note) (emphasis added) (citations omitted).

The first effective statute to establish the office of delegate was the Northwest Ordinance of 1787. 1 Hinds' Precedents and Procedures [hereinafter "Hinds'"] 400. Following the ratification of the Constitution, the first Congress confirmed the act of the Continental Congress in an August 7, 1789 ordinance which provided that the Northwest Territory shall "elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting." 1 Stat. 50 (August 7, 1789). In 1790, Congress enacted two statutes extending the same privilege to the Ohio territories. See, Sheridan, supra.

The House of Representatives admitted its first delegate in 1794, five years after the ratification of the Constitution, when James White presented his credentials to be seated as a delegate from the territory South of the River Ohio. Hinds' at 400.

White's arrival sparked a debate that produced the rationale under which delegates have been admitted to the House ever since. Representative Swift argued against the admission of White on the grounds that "the Constitution has made no provision for such a Member as this person is intended to be." 3 Annals of Congress 884 (November 17, 1794). Swift continued:

If we can admit a Delegate to Congress or Member of the House of Representatives, we may with equal propriety admit a stranger from any quarter of the world. We may as well admit the gallery, or a foreign minister, as this person from the Territory Southwest of the River Ohio. At this rate we may very soon overturn the Constitution. Id.

Representative Smith of South Carolina argued on behalf of the admission of White. Arguing that the Delegate "does not claim a right of voting, but of speaking only," Smith asserted the right of the House "to admit those whom they regard as lawfully entitled to a seat in the House, for the purpose of debating." 3 Annals of Congress, supra, at 885. Representative Giles, also defending the admission of White, took the view that admitting a territorial delegate for the purposes of debate was an exercise of the House's authority, ancillary to its law making power, to gather information:

If the House chose to consult the gallery -- a resource for information that he should never wish to see adopted -- they had a right to consult it, or to ask advice from any other quarter[.] Id.

So too, Representative Dexter, another defender of the admission of White, viewed the Office of delegate, not as a law making, but purely as advisory.

He was clear that the House had a right to consult, or admit to the privilege of debating, any individual whom they thought proper. They might, for instance, admit an advocate to plead, in a particular case; but that was entirely a different matter from allowing him to give a vote on the question before the House.

Id. Representative Dayton was more blunt:

Call him what you will, a Member, a Delegate, or if you please a nondescript ... He is not a Member. He can not vote, which is the essential part. It is said that he can argue and by that means influence the votes of the House. But so also a printer may be said to argue and influence, when he comes to this House, takes notes, and prints them in the newspapers.

Id. at 898 (emphasis added).

The debate demonstrates that this early Congress, composed of the founding generation and their immediate successors, understood the Constitution to constrain them from allowing nonmembers to exercise legislative power. And they clearly understood that the very essence of legislative power is the casting of a vote. This view of the boundaries of legislative power is well-documented in congressional history.

In 1817, for example, Congress by statute made the principle articulated in the admission of White applicable to delegates from all federal territories. An "Act to Further Regulate the Territories of the United States and their Delegates to Congress" provided that "every such Delegate shall have a seat in the House of Representatives with the right of debating but not of voting." 3 Stat. 363 (1817).

There is some evidence, though it is inconclusive at best, that for a short period in the mid-nineteenth century delegates were entitled to sit on standing committees and vote on measures

brought before those committees. In 1841, in a report on the qualification of David Levy to be admitted as the delegate from the Florida territory, the Committee on Elections described the functions of the office of delegate in the following terms:

With the exception of voting the delegate enjoys every other privilege and exercises every other right of a Representative. He can act as a member of a standing or special committee and vote on the business before said committees, and he may thus exercise an important influence on those initiatory proceedings by which business is prepared for the action of the House.

Hinds' at 1301.

This precedent, however, is at best uncertain. Before 1871, there was simply no House rule or resolution governing the rights and privileges of delegates in committee. If delegates ever did vote in committee, they the did so without the express approval of the House. There is, in fact, no direct evidence that the delegates did vote in committee. Before the enactment of the Legislative Reform Act of 1946, votes in committee were not included as part of a committee report. See House Rule XI, cl. 2(b) (Parliamentarian's Note).

When, in 1871, the House did take up the question of the appropriate role that delegates should play in committee, it deliberately chose not to include the right to vote. The rule adopted by the House in 1871 provided that delegates would have "the same privileges [in committee] only as in the House." 44 Cong. Globe 117 (December 13, 1871). When the question of delegate voting in committee was raised during the 1871 floor

debate, Congressman Randall, who was the movant of the resolution being debated, responded:

{T}he resolution expressly requires that the rights acquired by these Delegates in committee under this proposed rule shall be only such as they have in the House. Their rights in the House are limited to discussion and the making of motions.

Id. (emphasis added).

Far better documented is the predominant understanding, that voting is beyond the proper role of Delegates. In 1932, for example, the Indian Affairs Committee of the House of Representatives issued a report on the propriety of Delegate voting on standing committees. It reviewed the precedents and concluded:

From the foregoing it is apparent that a Delegate to Congress from a Territory is not Member of the House of Representatives. Nowhere in the Constitution nor in the statutes can the intention be found to clothe the Delegate with legislative power.

Reprinted in 75 Cong. Rec. 2163-2164 (January 18, 1932) (emphasis added).

As described at length in Plaintiffs' Memorandum, Congress began a break with this established understanding in the Legislative Reorganization Act of 1970, which granted the Resident Commissioner from Puerto Rico voting privileges on standing committees. While this move was justified by its proponents as the creation of an "advisory" role, the powers of committee voting are far more than advisory. In practical fact,



these legislative powers include the ability to shape legislation or to block its passage altogether.

There are 22 standing committees in the House of Representatives with varying subject matter jurisdiction.<sup>2/</sup> Rule X. Each committee receives "all bills, resolutions, and other matters relating to subjects within [their] jurisdiction." Rule X(5). Once a quorum is present, measures which receive the affirmative vote of a majority of those present may be brought to the floor for action. Generally, however, measures which do not receive an affirmative vote in Committee are not considered on the floor unless they are first discharged from Committee.

If, after 30 days, a Committee has not reported a measure which had been referred to it, the measure may be discharged upon a motion presented in writing to the Clerk of the House. Rule XXVII(3). Discharging a measure from the committee to which it has been referred is burdensome. Before the motion to discharge can be brought to the floor for a vote, the motion is placed by the Clerk in "some convenient place," usually the well of the House, to be signed by the Members. Id. Only after "a majority of the total membership of the House shall have signed" the

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<sup>2/</sup> The standing committees of the House of Representatives for the 102d Congress were as follows: Agriculture; Appropriations; Armed Services; Banking, Finance and Urban Affairs; Budget; District of Columbia; Education and Labor; Energy and Commerce; Foreign Affairs; Government Operations; House Administration; Interior and Insular Affairs; Judiciary; Merchant Marine and Fisheries; Post Office and Civil Service; Public Works and Transportation; Rules; Science, Space, and Technology; Small Business; Standards of Official Conduct; Veterans' Affairs; and Ways and Means.

motion, may the motion then be brought to the floor for a vote. Id. If the motion to discharge is approved, it is then in order for a Member who signed the motion to discharge to make a motion for the immediate consideration of the discharged measure. Id. If that motion for immediate consideration is adopted, the measure, "shall be immediately considered under the general rules of the House." Id. If the motion for immediate consideration is rejected, then the discharged measure "shall be referred to its proper calendar." Id.

As voting members of standing committees, the Delegates can use their privilege of voting, and potentially of serving as chair, to shape legislation which is reported to the full House. Although not final, committee action on legislation reported to the House may substantially set the terms of the debate and in practical terms set parameters to action by the full House. More fundamentally, by refusing to report measures at all, either through casting negative votes or by exercising their potential discretion as committee chair, Delegates and the Resident Commissioner wield substantial legislative power that can only be overcome through the "cumbersome and rarely successful" discharge mechanism. See R. Ripley, Congress: Process and Policy 75 (1975). Indeed, from 1931 to 1988, only 23 bills have ever been discharged from committees, and only 3 of these bills became law. Congressional Research Service Report for Congress, The Discharge Rule in the House of Representatives: Procedure, History, and Statistics 74 (1990).

Voting in committee and serving as the chair of a committee, notwithstanding statements made by the proponents of the Legislative Reorganization Act of 1970, reflect the exercise of legislative power. It blinks reality to suggest that the power to shape important legislation before it reaches the floor, or to keep it from reaching the floor altogether for all practical purposes, does not involve the exercise of legislative power. Any role of the Delegates that is truly "advisory," as described in the debates approving standing committee voting privileges, could be achieved by allowing participation and debate.

Now the Delegates would claim the power to vote in the Committee of the Whole. The Committee of the Whole is the procedural device by which the House undertakes and effectively resolves "business ... thought to be so important to the country as to warrant the full participation of all duly elected Representatives in their deliberations and decisions," Wolfensberger, Committees of the Whole: Their Evolution and Functions, reprinted in 139 Cong. Rec. H27 (January 5, 1993). As Plaintiffs' Memorandum demonstrates, the Committee of the Whole is the forum where the most vital exercise of law making power occurs; it is where, in the words of D.C. Delegate Eleanor Holmes Norton, "99 percent of the business of the House" is acted upon. Washington Post, January 6, 1993, at A1.<sup>3/</sup>

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<sup>3/</sup> During the 1970 debates, Speaker O'Neill captured the true nature of the Committee of the Whole:

(continued...)

Congressman Thomas J. Foley, today Speaker of the House, recognized even while speaking in support of standing committee votes for Delegates, that voting in the Committee of the Whole was something else again:

Now it is very clear, as the Resident Commissioner has said, that a constitutional amendment would be required to give the Resident Commissioner a vote in the Committee of the Whole or the full House...The point is that the constitutional issue does not touch preliminary advisory votes which is what standing committee votes are, but only the votes which are cast in the Committee of the Whole or the full House. These votes can only be cast by Members.

116 Cong. Rec. 31849 (September 15, 1970) (emphasis added).

Any delegate voting is an exercise of legislative power in violation of the Constitution. The assertion of Delegate power to vote in the Committee of the Whole merely highlights the point. A vote in the Committee of the Whole, a parliamentary entity composed of every Member of the House, can hardly be described as advisory. It makes little sense, after all, for the full membership of the House of Representatives, in the parliamentary guise of the Committee of the Whole, to "advise" the full membership of the House, as the House per se, to approve legislation. The relief sought by Plaintiffs is modest; they seek only to enjoin an extension of power that makes the

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<sup>3/</sup> (...continued)

Mr. Chairman, the real crux of the matter, to be honest with your constituency and to yourself, is to vote on the issues. And that is done in the Committee of the Whole.

116 Cong. Rec. H25798 (July 27, 1970).

Delegates members in all but name, in flagrant disregard of the qualifications and limitations in the Constitution.

**II. THE RECOUNT CLAUSE OF AMENDED RULE XXIII DOES NOT DIMINISH THE FACT THAT DELEGATE VOTING IN THE COMMITTEE OF THE WHOLE IS THE EXERCISE OF LEGISLATIVE POWER**

Recognizing the extraordinary nature of their break with precedent and the force of arguments that the amendments conveyed "legislative power," the proponents of delegate voting sought to mask their true nature with a "savings" provision. It mandates a recount in the Whole House when the margin of decision in a vote of the Committee of the Whole is within the number of votes cast by Delegates. House Rule XXIII, cl. 2(d). The debate on the amendments leaves no doubt that the aim of this clause was to grant as much legislative power as possible to the Delegates, yet to divert attention from the serious constitutional questions -- unstudied by any committee or in any hearings prior to passage of the amendments -- that they raised.

Representative Bonior, for example, stated:

[I]f Denmark can do it for their territories, if France can do it, if Mexico can do it, if Spain can do it, we can do it. They do not stop in the Committee of the Whole. They grant the privilege of voting for all.

All we are asking here today is that you provide them a small step forward. My district borders on Canada. I can pick up a paper and see that the Yukon Territory is represented in Ottawa and is voting; not in committee, but voting on law. Nobody objects.

139 Cong. Rec. H51 (January 5, 1993). This argument clearly reveals the nature of the power sought to be conveyed to the Delegates. The problem, of course, is that the governments of

France, Mexico, Spain, and Canada are not subject to the Constitution of the United States. Spain has a King.

The savings provision seeks to obscure the real power granted to Delegates by the amendments through resort to parliamentary formalism. This elevation of form over substance ignores the practical reality of the legislative role played by "informal rules, frequently unspoken because they need not be spoken, which may govern conduct more effectively than any written rule. They prescribe 'how things are done around here.'" R. Ripley, supra, at 61. The affidavits introduced by Plaintiffs demonstrate that the so-called "recount" mechanism fails to account for the fact that the grant of votes to Delegates will inevitably result in altering the outcome of votes by margins beyond what will trigger the savings clause. A primary reason for this is the pervasive reality vote trading on matters of parochial interest.

This practice is hardly open to dispute; political scientists regard it as an uncontroversial axiom of legislative action. See, e.g., E. Griffith & R. Valeo, Congress, Its Contemporary Role 25 (1975) ("Requests for help from a fellow-member are often very difficult to refuse.... Trades are in order as between commodity spokesmen or even with larger and implicitly alien groups such as labor or mining."); S. Kelman, Making Public Policy: A Hopeful View of American Government 1987 ("Therefore individual political decisions should not be regarded as discrete, unconnected events. [P]eople who share power may

agree to make a trade whereby one participant uses his or her power to support another on one issue in exchange for a similar commitment by the other participant on a different issue.").

The Chicago Tribune -- in the course of an editorial which ironically supports the efforts of the majority party further to alter the legislative balance of power by admitting the District of Columbia as a state -- put it well:

[The savings mechanism] is a silly, convoluted, and wholly unnecessary procedure. The Democrats' alternative plan, in effect, would subvert the Constitution to give the territorial delegates the power to vote, but guarantee that any time their votes really count \*\*\* they won't be counted.

Chicago Tribune, Dec. 30, 1992, § 1 at 10.

Given the practical realities of Congress, the new voting power granted to Delegates -- not to mention the substantial power that may be wielded from the Chair of the Committee of the Whole through recognizing (or declining to recognize) speakers, ruling on points of order, and the like -- is no less "legislative power" by virtue of the savings provision. Representative Gephardt described the grant of Delegate voting power with a recount provision as "half a loaf." 139 Cong. Rec. H46 (January 5, 1993). Yet when the loaf is legislative power, cutting it in half makes no constitutional difference. All legislative power must be vested in Members who meet constitutional qualifications. The Delegates do not.

III. DOCTRINES OF JUSTICIABILITY AND EQUITABLE DISCRETION DO NOT PREVENT THE COURT FROM REMEDYING THIS CONSTITUTIONAL VIOLATION

This Court should not be sidetracked by the doctrine of equitable discretion, which the D.C. Circuit has employed to refuse to address the merits of certain suits brought by Members of Congress. The critical question in this case is whether the right to cast a vote in the Committee of the Whole, or even to chair the Committee, is an exercise of legislative power. If so, the constitutional violation is plain. This central question of legislative power has been presented to the Court not only by Members of Congress in their capacity as Members, but also by the Members in defense the voting rights they share with all citizens, and by nonmember citizens, whose votes are diluted by the arrogation of legislative power to the delegates. Even if this were an appropriate case in which to apply the equitable discretion doctrine to the claims of the Members -- which it is not -- this Court must address the merits of the fundamental constitutional question presented.

As an initial matter, there can be no question that the claims presented by Plaintiffs are justiciable. They are squarely within the two seminal holdings in this area of the law of federal courts. The challenge to the unconstitutional alteration of membership requirements by the House is justiciable under Powell v. McCormack, 395 U.S. 486, 518-50 (1969), a precedent recently reaffirmed in Nixon v. United States, 61 U.S.L.W. 4069, 4073 (1993). Similarly, Baker v. Carr, 369 U.S.



186, 234-37 (1962), establishes that a challenge to violations of the constitutional one person, one vote requirement are "well within the competence of the Judiciary." U.S. Department of Commerce v. Montana, 112 S. Ct. 1415, 1426 (1992).<sup>4/</sup> Plaintiffs' Memorandum amply demonstrates that each of them has standing to bring this action, whether to assert their rights as legislators or as voters. Pl. Mem. 44-46; see e.g., Vander Jagt v. O'Neill, 699 F.2d 1166 (D.C. Cir. 1983).

This leaves the issue of "equitable discretion." While the D.C. Circuit's doctrine of equitable discretion has been described as troubling and questionable even by panels that have enforced it, see, e.g., Humphrey v. Baker, 848 F.2d 211, 214 (D.C. Cir. 1988), the doctrine need not detain the Court here. The Plaintiffs in this case include private citizens to whom the doctrine has no application. See Gregg v. Barrett, 771 F.2d 539 (D.C. Cir. 1985). Moreover, the congressional Plaintiffs have

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<sup>4/</sup> In Nixon, the Court found nonjusticiable a controversy over the meaning of the word "try" in the Constitution's impeachment provisions. See 61 U.S.L.W. at 4071. The claims asserted by Plaintiffs here, in contrast, are not only squarely within the justiciability holdings of Baker and Powell, but are also based on the constitutional assignment of "all legislative power" to the Congress and the provisions governing the exercise of that power. Any suggestion that these constitutional terms are nonjusticiable would be untenable at best in light of the substantial body of separation of powers and nondelegation jurisprudence.

advanced their claims not only in their capacity as Members, but in their capacity as voters whose votes have been diluted.<sup>2</sup>

Whether the equitable discretion doctrine bars the Members' claims or not, the key issue of whether the delegates exercise legislative power will remain for decision. In the analogous situation under the law of standing, the D.C. Circuit has held that where at least one party in the suit has the capacity to assert a claim, the Court need not address the capacity of the other parties to do so. See, e.g., Environmental Action v. FERC, 939 F.2d 1057, 1061 n. \* (D.C. Cir. 1991); City of Los Angeles v. NHTSA, 912 F.2d 478, 485 (D.C. Cir. 1990). Given the application of this principle to the constitutionally based doctrine of standing, it should apply a fortiori where the doctrine at issue is one of the court's own equitable discretion.

Even if this Court determines that it should address the equitable discretion doctrine, it should have no application here. The equitable discretion doctrine was developed to deal with the potentially limitless number of suits that could arise if legislators could refight in Court legislative battles lost in Congress. See Helms v. Secretary of the Treasury, 721 F. Supp. 1354, 1358 (D.D.C. 1989); Pl. Mem. 52-53. Here, however, the Plaintiffs challenge a subversion of the very process by which

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<sup>2</sup> In Vander Jagt, the court held that the legislators' suit should be dismissed even though they asserted claims in their capacity as voters and citizens as well as legislators. See 699 F.2d at 1167. The soundness of this approach is questionable in the absence of authority for the proposition that legislators lose the basic rights they share with all citizens by virtue of their service.

legislative battles are to be fought. This type of suit does not present the potential for "proliferation" with which equitable discretion was intended to deal. Plaintiffs ask this Court to adjudicate neither a legislative result, cf. Melcher v. Federal Open Market Committee, 836 F.2d 561 (D.C. Cir. 1987), nor a purely internal assignment process that would embroil the judiciary in day-to-day legislative operations, cf. Vander Jagt, 699 F.2d at 1176-77. Instead they seek a single order providing a clean remedy for a clear textual violation of the Constitution. The "equitable discretion" doctrine has no proper application here.

#### CONCLUSION

In Powell v. McCormack, the Supreme Court established that the House of Representatives may not increase the number of qualifications necessary to serve as a Member of the House of Representatives. In reaching that conclusion, the Court cited with approval James Madison's argument in the constitutional convention that providing Congress with the power to establish the qualifications for its own members would vest

an improper & dangerous power in the Legislature. The qualifications of electors and elected were fundamental articles in a Republican Govt. and ought to be fixed by the Constitution. If the Legislature could regulate those of either, it can by degrees subvert the Constitution. A Republic may be converted into an aristocracy or oligarchy as well by limiting the number capable of being elected, as the number authorized to elect...It was a power also, which might be made subservient to the views of one faction agst. another. Qualifications founded on artificial distinctions may be devised, by the stronger in order to keep out partizans of [a weaker] faction.

395 U.S. at 353-354 (emphasis added). Lest the full force of Madison's argument be missed, Chief Justice Warren emphasized that, "Significantly, Madison's argument was not aimed at the imposition of a property qualification as such, but rather at the delegation to the Congress of the discretionary power to establish any qualifications." *Id.* (emphasis added).

The right asserted here -- to be free from the unilateral addition by the House of voting members who lack the constitutionally established qualifications -- is not only a necessary logical implication of the one established in Powell, but also the subject of its own independent constitutional protection. In Wesberry v. Sanders, 376 U.S. 1 (1964), the Court emphasized the importance of the specific qualification that Members "be chosen by the People of the several States." In its "historical context," the command of Article I, section 2 "means that as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's." *Id.* at 8. The principle at stake goes to the heart of our structure of government:

[The Great Compromise] provided on the one hand that each State, including little Delaware and Rhode Island, was to have two Senators.... The other side of the compromise was that, as provided in Art. I, s2, members of the House of Representatives should be chosen "by the People of the several States" and should be "apportioned among the several States...according to their respective Numbers".... The debates at the Convention make at least one fact abundantly clear: that when the delegates agreed that the House should represent "people" they intended that in allocating Congressmen the

number assigned to each State should be determined solely by the number of the State's inhabitants. Id. at 13.

This case presents precisely the same concerns raised by Madison at our Nation's founding. The amendments to the House Rules would cloak the Delegates with legislative power reserved under the Constitution to members. They create precisely the harm addressed in Wesberry by effectively diluting the votes that Plaintiffs cast both on the floor of the House and in the voting booths. Just as congressional power to alter the qualifications for attaining membership may be used "in order to keep out partizans of [a weaker] faction," so too the power to invest persons who are not members of the House of Representatives with legislative power may be used to perpetually sustain the minority status of certain members, whether according to political party, ideology, or geographical region. This Court has a duty to uphold the structure of the Constitution, and should remedy the violation without delay.

Respectfully submitted,  
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May 12, 1993

Statement of the Honorable George W. Gekas  
for the Record of the Joint Committee on the Organization of Congress

Chairmen and distinguished members of the Joint Committee, I applaud your efforts and work in addressing the important issue of organizing a more efficient body of government for the integrity of the Congress.

As a member of the House Permanent Select Committee on Intelligence and Ranking Member of the Subcommittee on Legislation, I am very concerned and have worked in the past to prevent security leaks of classified information. The original purpose of the House Permanent Select Committee on Intelligence was to establish a channel of communication between the Central Intelligence Agency (CIA) and the Congress. However, in the past decade, we have witnessed the purposeful leaking of classified information for political gain. While the committee has served as a useful conduit between the two entities it is clear that improvements need to be made to repair the leaks and the principle of the committee.

Unfortunately, the primary instincts of the Congress is in most cases politically motivated. This is contrary to the fundamental design of the CIA, which is to gather information for the sake of national security. In the past, the nature of these two bodies have clashed resulting in the improper handling of classified information.

I understand that some members in the Congress feel the need for classified information is obsolete in light of the end the Cold War between the Soviet Union and our nation. However, let me remind those members who believe the world is a docile environment, free of hostility and danger, of the emergence of nuclear technology in Korea and the Middle East. In my judgment we are dealing with a far greater risk than in the past because of the extremist temper of many of the leaders in those countries, such as Saddam Hussein. There is no doubt this is a crucial time for our national security and we must not let down our guard.

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I present this statement to bring to the attention of the Joint Committee on the Organization of Congress a problem which exists and a piece of legislation which I have offered to remedy that problem. I propose that the House and Senate Select Committees on Intelligence be consolidated into a single Joint Committee on Intelligence. The joining of these two committees would greatly reduce the likelihood of leaks which threaten our national security. It is a certainty that if the same staff provided one set of documents, to one committee, at the same time, leaks would diminish. This would in no way obstruct the content or timeliness of the information now provided. Further, we could reduce the amount of staff, money, and time that is spent on what is now a redundant responsibility. This concept has the support of many of our colleagues and to date no reasonable argument has been made against moving forth with this refinement.

Mr. Chairman, it is time we act to prevent the leaks which have become a common occurrence and agree to end the use of classified information for political purposes. We owe this to the intelligence community, the Congress, and the people of this nation for whom we serve.

In closing, I would simply like to thank the Joint Committee on the Organization of Congress for allowing me to present my idea and ask that you act expeditiously to patch these leaks before serious harm is done.













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