June 11, 1997

CONGRESS'S EXTRATERRITORIAL INVESTIGATIVE POWERS

The discussion draft of the proposed House resolution authorizing the Government Reform Committee to take depositions abroad and to seek other means of international assistance in gathering information in foreign countries is consistent in form and intent with that of the eight major congressional committee investigations that have been vested with such authority since 1975 [Church Committee (1975); Kennedy-King Assassination Investigation (1977); Koreagate (1977); Abscam (1977); Iran-Contra (Senate)(1987); October Surprise (1991); Senate Whitewater (1994); and Senate Whitewater (1995)]. All but the Whitewater proceedings had clear potential for needing evidentiary information from abroad. Thus the Committee's request is well within prior precedents granting such authority.

It is important to understand what is and what is not being granted here. The Committee and its staff are not going to be able to barge into Jakarta or Beijing, set up shop and start subpoenaing foreign nationals or foreign government officials to testify under oath. Rather, the Committee will be given the opportunity to use the various international channels of access to foreign-held information. In the end, the degree of legal formality and difficulty encountered by the Committee if it seeks to hold hearings in a foreign country or to have depositions taken or written interrogation answered, will depend on the nature and sensitivity of the inquiry sought to be conducted which, in turn, will often determine the extent of international comity that will be accorded. In the past, for example, committee "study missions" have usually met with no difficulties where they are arranged in advance with host countries which provide for informal interviews and meetings with government officials and private citizens. See, e.g., The Middle East at the Crossroads, Report of a Study Mission to Israel, Egypt, Syria, and Jordan, July 5 to July 15, 1977, House Committee on

International Relations, November 9, 1977 (Committee Print). In such circumstances, the only major formality to be complied with may be with respect to foreign travel allowances. See, e.g., House Rules 1.8 and XI(N).

Greater difficulties have been encountered where a committee's request for testimony of foreign government officials or its private citizens is met with resistance from the host government. In such circumstances, only the acquiescent cooperation of the host will enable a committee to obtain the testimony or information it requires.

Committee's have a variety of options for getting testimony and documentary evidence.

1. With the acquiescence and cooperation of a foreign government the committee or designated members and staff could go to the country and conduct hearings or interviews, or have the cooperating government do it for the committee. In the October Surprise investigation, the Task Force received significant cooperation from a number of foreign governments, but none from one.

Government agencies in Great Britain and France from which assistance was sought generally complied with Task Force requests for documents, but many of the records sought could not be located. The government of Iran, contacted on numerous occasions through its Permanent Mission to the United Nations, denied the Task Force's request to travel to Iran to conduct interviews. Although the Task Force was able to contact several Iranian nationals while they were traveling outside of Iran, the inability to travel to Iran prevented access to many individuals who might have had knowledge relevant to the allegations.

The government of Israel also declined to allow the Task Force to travel to Israel to interview current and former government officials. The government of Israel, did, however, appoint a special investigator to act as liaison with the Task Force. The Special Investigator, an Israeli General, interviewed certain individuals on behalf of the Task Force. The Task Force also sought certain documents from Israel. The special investigator submitted the results of his investigation to the

Task Force, and the Government of Israel gave the Task Force permission to utilize these findings in its report.

The government of Germany permitted the Task Force to conduct interviews and depositions in Germany and made available its former foreign minister, Hans-Dietrich Genscher, who had played a critical role in the hostage negotiations.

The government of Algeria also provided valuable assistance to the Task Force. The government of Algeria invited the Task Force to Algiers and arranged for interviews. The Task Force noted in its Final Report that the Algerians were scrupulous in maintaining their discretion and neutrality while being generous with their time and insight. Algerian assistance was particularly useful in understanding the crucial last few months of the negotiations that ended the hostage crisis.

The Task Force, with the assistance of the FBI's Legat in Madrid, Spain, Interpool and Spanish police authorities were able to obtain important hotel records. Similar cooperation was obtained directly

from hotels in Paris; See Joint Report of October Supreme Task Force, H. Rept. No. 102-1102, 102d Cong., 2d Sess. 25-26 (1993).

Nott and q Israel in Iran Contra

On the other hand, an illustration of the obstacles that may have to be overcome even with authority can be taken from the investigative experiences of the House Committee on Standards of Official Conduct into the nature of efforts by the Government of the Republic of Korea (ROK) to influence Members' official conduct "by conferring things of value on them." Key to the investigation was the role played by one witness, Kim Dong Jo, a former ROK official, who was not subject to compulsory committee process. In addition to the ROK government's reluctance to make the witness available, the Committee encountered difficulties with our Justice Department and the State Department, through which formal communications and negotiations with the ROK Government had to be channelled. Over a period of a year, the Committee, with the assistance of the House leadership, engaged in public education, Congressional pressure, negotiation, and finally Congressional reprisal. Ultimately, an agreement was reached to

submit written questions to the witness which were delivered by our ambassador to the ROK Minister of Foreign Affairs. The responses were returned by the minister to our ambassador. The Committee noted that the "procedure [was] designed to assure [the witness'] ability to falsify his answers with immunity and to preclude the Committee from having any ability to expose his lack of candor." A recounting of the Committee's effort to obtain the testimony is to be found in its final report. See H. Rept. No. 95-1817, 95th Cong., 2d Sess. 88-94 (1978).

2. A second method of obtaining evidence from an unwilling foreign witness is to proceed by a "letter of request" or "letter rogatory". The terms, which are synomous, is understood as a letter of request from a court in the United States in which an action is pending, addressed to a foreign court to perform some judicial act. Letters of request may include requests for taking evidence, or serving a summons, subpoena, or other legal notice. No showing need be made that the evidence cannot be obtained in any other manner before a letter of request is issued. In order to successfully apply to a U.S. court

for the issuance of letters of request to a court in a foreign country, the person to be examined must be subject to the foreign court's jurisdiction.

The court has inherent authority to issue letters of request. As opposed to compulsory procedures, i.e., treaty obligations, letters of request are honored on the basis of comity between the courts addressed.

Rule 28(b)(2) of the Federal Rules of Civil Procedure provides that depositions may be taken, inter alia, pursuant to a letter of request. This section permits depositions by letters of request without a showing that other methods are impractical or inconvenient.

The letter of request is directed to a named foreign court or, if the identity is not known, to "The Appropriate Authority in (name of country)". The letter of request must include a summary of the nature of the judicial proceeding for which the evidence is being sought and a description of the parties.

Even though letters of request may often be sent directly from court to court, some foreign governments require that these requests be submitted through diplomatic channels. Under 28 U.S.C.A. §1781(a)(2), the transmission of such requests through State Department (i.e., diplomatic) channels is authorized. The State Department is also authorized to receive and return letters of request after execution. The diplomatic route involves the transmission of the request from the U.S. court to the Department of State to the U.S. embassy to the Foreign Ministry which will execute the request. Letters of request executed by foreign officials are returned through the same channels by which they were transmitted. Requests which emanate from a U.S. court are returned to the court in which the action pending.

An example of one instance of an application for international judicial assistance is the paperwork prepared by the House Select Committee on assassinations to question persons in Portugal about the King assassination.

3. Obtain confidentiality waivers from participants for such things as bank records to overcome secrecy laws. A problem in this area is that in reaction to the use of U.S. antitrust laws and judicial procedures, at least 15 nations have enacted "blocking statues".

Blocking statues generally forbid foreign citizens to produce evidence abroad. For example, the French blocking statute provides: "Subject to treaties or international agreement and applicable laws and regulations, it is prohibited for any party to request, seek or disclose, in writing, orally or otherwise, economic, commercial, industrial, financial or technical documents or information leading to the constitution of evidence with a view to foreign judicial or administrative proceedings or in connection therewith." The law prohibits French nationals from disclosing information when it will be used to assist foreign discovery requests. The French statute has been interpreted as expressing hostility to United States antitrust laws and judicial procedures.

4. Another avenue available to committees is the use of some degree of compulsion or to "negotiate" the surrender of the sought after documents. Under a 1988 Supreme Court ruling, *Doe v. United States*, 488 U.S. 201 (1988), a committee may now seek a court order requiring a person to sign forms consenting to disclosure of ban records relating to foreign bank accounts which a committee either knows or suspects are under the control of the person. The Court held that such a consent form is not testimonial in nature and therefore a claim of 5th Amendment privilege would not lie.

An example of a "negotiated" surrender occurred during the Iran-Contra investigation. A critical witness, Albert Hakim, who had records of business transactions that were critical to the investigation and which only he could interpret. Hakim was in Paris and refused to turn over the records at any other place and then only if he was granted limited use immunity in his Paris location. Both to establish the committee's own investigative process, and to satisfy Hakim about the

authoritativeness of his immunization, the Committees desired to cloak the chief counsel with the maximum congressional authority.

What it did was to employ a familiar device -- a commission -- and fashion it in a way to serve the peculiarities of the Hakim situation.

As described in Federal Rule of Civil Procedure 28(b), this procedure consists of an order (the "commission") from a domestic court empowering an individual (the "commissioner") to obtain evidence in another country and to bring it back. It contrasts both with letters rogatory, for which process goes to a foreign court, and with domestic deposition practice, which occurs on notice without process going to or from any court. As part of the routine nature of commissions, State Department regulations make consular officials available as commissioners. In this instance, the House Committee issued a commission, much like a subpoena in format, to further document the Chief Counsel's authority to obtain the evidence from Hakim.

Conclusion

The authority to obtain letters rogatory and to seek international assistance in obtaining evidence from foreign countries serves two important congressional purposes: It provides the Committee with necessary authority to utilize formal judicial and international treaty processes; and it gives legitimacy to less formal ventures to obtain needed information.

2. Sample Application for Orders Requesting International Judicial Assistance—Issuance of Letters Rogatory

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

In the Matter of the Application of

UNITED STATES HOUSE OF REPRESENTATIVES
SELECT COMMITTEE ON ASSASSINATIONS

Misc. No. 78-0120

FILED

APR 1 0 1978

APPLICATION FOR ORDERS REQUESTING
INTERNATIONAL JUDICIAL ASSISTANCE-
ISSUANCE OF LETTERS ROGATORY

1. I, James L. Wolf, Counsel for the United States House of Representatives Select Committee on Assassinations, have been duly authorized and directed to request of this court orders praying for international judicial assistance with respect to the issuance of letters rogatory.

2. Counsel for the Select Committee has been advised by the Director of the Portuguese office of INTERPOL that letters rogatory, issued by a United States court and approved by a Portuguese Judge of Instruction, are required before Select Committee counsel and investigators can speak to Portuguese citizens. Upon the issuance of such letters rogatory, certain witnesses who reside in Portugal and are integral to the investigation being conducted by the Select Committee will be located by the Portuguese police for the purpose of giving statements to Select Committee staff members.

3. On April 13, 1978 the Select Committee on Assassinations, by a vote of 10 - 0, passed a resolution (a copy of which is annexed as Appendix A) authorizing this request for orders involving the issuance of letters rogatory.

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During the consideration of this resolution before the Committee on Rules, we heard a great deal from the minority about the internal proceedings of the Committee on Government Reform and Oversight. In fact, when pressed, the minority admitted that they had no problem with this resolution on the floor here today.

Mr. Speaker, there has been a great reluctance on the part of the minority to address the international evidence-gathering techniques in this resolution, which are so vitally important to enable the committee to do its job.

Let me be perfectly clear, the Committee on Rules intends that if the Committee on Government Reform and Oversight seeks letters rogatory or other means of international assistance to question a recalcitrant witness through official channels, such as the State Department, then the committee is given all necessary assistance in the furtherance of such a request. We must get to the bottom of this.

The executive branch, if called upon for such a mechanism, would be very wise to cooperate with this effort to conduct worldwide discovery just as they should be cooperative in the McIntosh investigation on the data base.

Mr. Speaker, because certain witnesses have chosen to leave this country rather than cooperate, the committee needs these international evidence-gathering techniques to adequately investigate the complicated financial dealings of the Clinton administration.

Mr. Speaker, I might ask my friends in the minority who occasionally ensnare one of our rules that I bring on the floor in nongermane debate relating to campaign finance reform, I want them to come over here and vote for this resolution. If my colleagues assert that there is a problem in the manner in which campaigns are financed in this country, then here is the opportunity to give the Congress the effective tools it needs to investigate the extent of which current law has been ignored by the Clinton administration.

What I read about in the newspapers, and what my constituents in the Hudson Valley are asking me about, is not campaign financing, but rather, has the White House obeyed the law? These are the questions that need to be answered here.

Mr. Speaker, the campaign finance improprieties which have been documented in the media are serious enough, but I am truly alarmed at the flood of daily revelations which indicate that national security has been compromised by high-ranking political appointees serving in the Clinton administration.

Mr. Speaker, breaches of national security and economic espionage by people in the Clinton administration have real consequences to Americans and this country's security but, more than that, jobs back in my colleagues' districts. Mr. Speaker, these are not merely ethical violations or moral transgressions. These are crimes which have led to breaching of our security by foreign governments and it is American jobs and our economic well-being that suffers.

Let me just say, passage of this resolution is absolutely essential so we can go home and tell the American people that they can have confidence in the executive branch of this Government. Governments have an obligation to investigate our national security, whether it has been compromised by a foreign government.

Mr. Speaker, I want my colleagues to come over here and vote for this resolution. We made absolutely sure that it does not violate House rules and we will continue to see to it that it does not through our own personal oversight.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Speaker, first let me clearly state that I fully support an investigative look and review of any wrongdoing. I think we ought to do that. But let me tell my colleagues, when we were in committee a couple of days ago, it sounded sort of like this:

"Last year you did this, so that means we do this."

"Two years ago they did that, so we do this."

"Twenty years ago, you did it that way, so we ought to do it this way."

"Twenty-five years ago that's the way it was."

Mr. Speaker, we have been there, we have done that, and we ought to be wiser for the fact that we have been through this many, many times.

Investigations ought not to be about drama and theater. It ought not to be a search and destroy mission. It ought to be about trying to find the truth in an efficient and effective way. We have urged this committee, we have urged and pleaded with the committee not to duplicate what the Senate is doing. We have asked them to work with Senator THOMPSON, to try to figure out, not to call all these people up here to be witnesses and be subpoenaed and be deposed two times. It is a tremendous cost to the committee and to the taxpayers of this country, and they are confused why we cannot work together. They cannot figure that out. Neighbors can share a lawn mower, but we cannot share information. How silly. They think we are silly because we cannot share information.

That is what is wrong with this resolution. That is what is wrong with the investigative process, is that we do not want to share information. We do not want to save money for the taxpayers. We can do that if we force ourselves to do it.

Mr. Speaker, we ought to be against this resolution. We will have a recommit motion later today. The recommit motion will have that language in there. We will not have duplication. I ask my colleagues to vote against this resolution and for the motion to recommit.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. HORN].

Mr. HORN. I thank the gentlewoman for yielding me this time. As was noted, she is a former judge and she correctly cited the precedents of this House. I am a former professor of political science and primarily a historian with some expertise on Congress, and obviously when I get into a situation like this, I like to look at what various Members of the House said.

One of the people in this House for whom I have the highest regard and whom I regularly showed my students on videotapes, one of the most respected Members for the last several decades, I want to quote from what he had to say. He is a leading Democrat. During the October surprise resolution, when a similar situation was on the floor, he said:

"My final reason for urging Members to oppose the substitute, and the substitute is in essence what the minority wants to do here, is because it provides for rules and procedures that would severely hamstring the investigation. The procedures proposed in the substitute are a recipe for an ineffective investigation. The substitute would in fact deprive the task force of the same tools that have been given other congressional investigative bodies. First, requiring a majority vote for each subpoena would be extremely time consuming and difficult to arrange. It would be impractical. It has been common practice in special congressional investigations to give the chairman responsibility for issuing subpoenas."

Now, who said that? Was it some conservative? No, it was the gentleman from Indiana [Mr. HAMILTON], speaking on the October surprise resolution, one of the most respected Members of this House, a leading member of the Democratic Party. Follow his advice.

Mr. MOAKLEY. Mr. Speaker, I would just like to correct a statement that the gentleman from California [Mr. CONDIT] said. He talked about the vote on the motion to recommit. There is no motion to recommit. His amendment will be in the previous question. The gentleman is asking to defeat the previous question.

Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Ms. SLAUGHTER].

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I in no way want to impede this hearing process. Like everybody else in the country, I want to make sure that the political process in the United States is as good as it can be, but I want to speak to the committee process, if I may.

Protecting the civil liberties and the civil rights of the citizens of the United States is our job. We write the laws here that people count on to do just

that. Also, the importance of the committee hearing is almost a religious belief in the United States. A congressional hearing carries the weight of truth and honor with it.

I served on this Committee on Government Reform and Oversight in the last term of Congress when we had the Waco hearings, and to our great surprise when we had those hearings, we found that persons who identified themselves as being with the committee were instead with the National Rifle Association, having no connection whatever with Congress. Yet they felt free and were allowed to call witnesses and ask them questions about the hearing before they came to testify. This was a terrible breach of Congressional process. Was the committee chair disturbed? Not at all. Did the Justice Dept. care. Not at all. It is only the protection of minority and majority working in concert that keeps the process honest. For the first time in the history of the House, that consultation and concurrence of the majority and minority has been breached. This is a perilous step to take. As long as outside sources or special interest groups are allowed to pose as Government officials, we abrogate our authority as Members. We are not entitled to do that.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, why do we need this deposition authority? First, the scope of this scandal, I submit, is unprecedented in the history of this Congress or any administration, Republican or Democrat. Second, nearly every individual subpoenaed has fled the country or pled the fifth amendment. Third, in an unprecedented fashion, everything possible has been done to block, intimidate, destroy, obstruct, and block this investigation and get to the truth of this matter.

The investigative authority sought here today is no different than what the Democrats had under Iran Contra and October Surprise. Congress, the American people and responsible media should be outraged that this administration and certain members of the other party are trying to close down this investigation and this outrageous corruption of our political process. What every American should be asking is, why are they trying to block this investigation? Why are they trying to keep us from talking to foreign nationals who fled the country and corrupted this process? Why are they trying to keep us from questioning those who have corrupted our elections process on a scale unprecedented in American history?

This week brings the latest threat to disrupt and destroy this process. The Democrats have said they will block attempts to grant immunity with those who hope to cooperate.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Maine [Mr. ALLEN].

Mr. ALLEN. I thank the gentleman for yielding me this time.

Mr. Speaker, I want to begin by saying that this is not about our effort to prevent an investigation. We believe in this investigation. It must go forward. We believe in staff depositions. They must be taken. We believe that this investigation should be pursued as far as it can go. That is not the issue in front of this Congress today.

The gentlewoman from Ohio began this debate by talking about the importance of precedent. Several Members on the other side have stood up and talked about the importance of precedent. Mr. Speaker, there is precedent. There is absolutely solid precedent on the issue that we are confronted with today. I would simply read from the CONGRESSIONAL RECORD. The rule adopted by the Committee on Government Reform and Oversight last year concerning subpoenas for depositions, the rule approved by this House said simply:

"The chairman shall not authorize and issue a subpoena for a deposition without the concurrence of the ranking minority member or the committee."

That was the rule that applied in the White House Travel Office case. That is the rule that the Republicans proposed and this House adopted. It was good enough last year. It is good enough for this year.

Mr. Speaker, I would also point out that last year, March 6, 1996, the chairman of the Committee on Government Reform and Oversight, Bill Clinger, wrote to Cardiss Collins, the ranking minority member, and described the precedent for issuing subpoenas for deposition. He said:

"The proposed rule requires that if a subpoena is required in the case of an affidavit or a deposition in the Travel Office matter, I shall not authorize such subpoena without your concurrence or the vote of the committee. I believe that this new rule memorializes the longstanding practice of this committee to seek a consensus on the issuance of subpoenas."

Mr. Speaker, we have precedent, it is directly relevant, and we should follow it. That is what the minority is asking for.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, of course this investigation should be getting at the truth. We should be investigating allegations against both Democrats and Republicans of campaign finance misuse. The current system is wrong. It is a disgrace. But there should not be a person in this room who is going to leave this room today who think that the Democrats have done something wrong and the Republicans have raised all their money from widows and altar boys. That is not the case. But we should have and what we do not have is a fair investigation. There is nothing fair about this investigation at all. Look at this graph.

□ 1030

Ever since we started having investigations there has not been a single chairman, either a Democrat or a Republican, who has not failed to get concurrence from the minority members, not a single one until the current chairman of this committee; and in the last 4 months we have had 156 subpoenas without any input from the Democrats, without any input at all.

Why is input important? The reason it is important is we cannot have a committee chairman who attempts to intimidate witnesses simply for giving money to Democrats, and that is what this is. This is campaign finance reform, Republican style.

What they are going to do is try to intimidate anybody who has ever given money to Democrats, and they are not just going to do it once. They will hit them over in the Senate, and they will make them hire an attorney here in the House as well. They are going to waste taxpayers' dollars by having these people who have been forced not only to be interrogated by the Senate committee, but also to be interrogated here.

Mr. Speaker, that is wrong; that is something that has never occurred in the history of this country. There has never been a chairman in the history of this country who has issued these subpoenas without either concurrence of the minority Members or by having the approval by the House.

We should not be taking a step off this cliff. It is dangerous not because Republicans are in control, not because the Democrats are in control, but because of the need for checks and balance in this system. We have to have checks and balances in the system. There should not be one man who has this power.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. BLAGOJEVICH].

Mr. BLAGOJEVICH. Mr. Speaker, let me just reiterate briefly the issue which we have to decide today, and that is very simply whether or not this committee, the Committee on Government Reform and Oversight, and whether or not this Congress will give to a committee chairman of an investigative committee the right to unilaterally issue subpoenas for people to appear for depositions.

Will we decide to do something that has never ever been done before in the history of Congress? And I would like to, if I can, piggyback briefly on what the previous speaker from Wisconsin said.

The issue fundamentally is one of fairness and the credibility and the integrity of this investigation. If this investigation does not have the fundamental fairness and integrity, then the fruits of the investigation will not be believed; and they will not be credible and, therefore, they will be tainted. These are serious allegations.

I love my country more than I love my political party, and I am as outraged by some of these allegations as

most Americans ought to be. But before we decide whether these allegations are in fact true, let us make sure that we find and have a factfinding committee that is going to do this in a fair way that includes all Members.

This ought to be a joint undertaking to find the truth, not a partisan effort to find dirt.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. TIERNEY], a member of the committee.

Mr. TIERNEY. Mr. Speaker, let me just say that as a member of the committee, I think that it is important to note that everybody on the Democratic side of this committee is perfectly willing to step forward and investigate any alleged abuses of our campaign finance reform system, whether they be Democratic or Republican. What we are not willing to do is to proceed with an investigation that is overly partisan, which lacks any credibility and which is not inclusive. Whether my colleagues are a prior judge or a prior professor or whatever their background is, I think everybody can recognize that there is no value to the outcome of any investigation that does not have integrity, that is not credible and that was not inclusive of the entire committee that was charged with the investigation.

Mr. Speaker, from the first time we sat down in this committee, we suggested that we not duplicate the efforts of the Senate, that we work with them, that we not spend twice as much money. A strictly partisan vote defeated that idea, and it has been that way every day in that committee since then. I should think that if my colleagues want to have an investigation that means anything, they want to have an investigation that the people can have confidence in, they will get off the partisanship and move toward the credibility; and we ask that the committee do that.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. TOWNS].

Mr. TOWNS. Mr. Speaker, let me begin by saying that I was hoping that when we got involved in this process that maybe something positive would come out of it. But we are starting out in a way that we have no credibility right from the outset, that we are just starting out, chairman subpoenaed everybody, people that really had nothing to do. The only thing they did was make a contribution to the Democratic Party. He subpoenaed them. And the fact is that we are wasting money.

The Senate side is doing the same thing that we are doing, that if somebody lives in Alaska, they would come here because they are being subpoenaed by the Senate, and as soon as they get back home, within 24 hours they could be subpoenaed to come back by our committee.

Mr. Speaker, that is a very obvious waste of money, waste of time, and also the fact that we are not really accomplishing anything.

The other part which I think that, if we are going to do something, we should at least have credibility. It is very obvious that this is a situation where the Republican Party is trying to gain advantage over the Democratic Party. I am not interested in any kind of campaign reform, so I urge my colleagues to vote "no".

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. DAVIS].

Mr. DAVIS of Illinois. Mr. Speaker, I have been told that there is a principle which states that power corrupts and absolute power corrupts absolutely.

It seems to me that we ought to be trying to find corruption and ferret it out, not create an opportunity to further it.

And so it is clear, Mr. Speaker, that if we are looking for corruption, then we ought to have an open and fair investigation, not give all of the power to one person. Let us vote down this resolution and give the American people a fair process, an honest process, an open process. Let us give them fairness.

Ms. PRYCE of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, when Oliver North was called in front of the Iran Contra Committee, he complained that he would not be a potted plant. When we pass these rules, we are going to make the Democratic side an entire garden because that is what these rules are designed to do.

I want to talk about the precedent of practice. I have heard a lot about what the rules were in the past. Let us look at the precedent of practice.

The precedent of practice says that from 1971 to 1994 no Democratic chairman issued a unilateral subpoena; they went and they got the concurrence of the minority, the other side, as well.

In this year alone, February to June of 1997, our chairman has issued 155 unilateral subpoenas. "Unilateral" means one person.

Nobody argues about issuing subpoenas. I want subpoenas issued when it is valid, too. But I think in order to have a credible investigation, a bipartisan investigation, both sides have to be involved in which we bring it to the minority member for concurrence, and if we do not get that, then we bring it to the full committee for a vote.

As a Democrat, I am very concerned about the allegations and the possible cloud that may hang over fund-raising practices of my party. As a Republican, I would be even more concerned, being in the majority, that their significant allegations are not even going to be looked at.

Ms. PRYCE of Ohio. Mr. Speaker, I would like to let the gentleman to know it was not Oliver North; it was his attorney who stated he was not a potted plant.

Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. BURTON] chairman of the Committee on Government Reform and Oversight who has a great job ahead of him to conduct this investigation.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentlewoman from Ohio for yielding this time to me.

I would just like to say to my colleagues on the other side of the aisle, we are not going to try to intimidate anybody. That is first; and second, we are going to be working with the Senate wherever possible. I am going to be meeting with Senator THOMPSON next week and his staff to coordinate our activities.

Mr. Speaker, let me tell my colleagues a few of the things about which this committee is going to be investigating and why.

We are investigating a possible massive scheme, massive scheme of funneling millions of dollars in foreign money into the U.S. electoral system. We are investigating allegations that the Chinese Government at the highest levels decided to infiltrate our political system. We are investigating allegations of gross misuse of our national security structure including the national security council and the CIA. We are investigating the White House that became a frequent stop, a frequent stop for major donors with foreign ties who have now fled the country or taken the fifth amendment.

Here are some key facts to prove the critical importance of this investigation, and I hope my colleagues will look at this chart.

Charlie Trie, a friend of the President for 20 years, has reportedly fled the country and is in the People's Republic of China, Communist China, to avoid being questioned about wire transfers of over $1 million from Asian banks to him at the same time that he was giving in excess of $200,000 to the Democrat National Committee and more than $600,000 to the President's legal defense fund. All of that money has been returned, the $600,000.

John Huang, a friend of the President's who is pleading the fifth amendment raised between $3 and $4 million for the Democrat National Committee. The DNC is currently pledged to return almost half of that money. Huang is also under investigation for allegedly disclosing secret information to his former employer the Lippo Bank that has ties with the Chinese Communist Government and possibly the Chinese Government itself, and he did this while he was at the Commerce Department and the Democrat National Committee.

Roger Tamraz, who was recently detained by the Government of Georgia because there was an international arrest warrant for him issued by Lebanon, received repeated meetings with President Clinton at a time when he was trying to get the administration support to build a pipeline in Asia despite objections by the National Security Council. A NSC staffer was recently reported as saying that she felt

pressured to cooperate with Mr. Tamraz because of $200,000 in democrat contributions.

Former DNC chairman, the chairman of the DNC, Don Fowler reportedly tried to manipulate the CIA to provide favorable information about Roger Tamraz so that the National Security Council would back off their objections to his going to the White House to meet with the President. The NSC lost that battle, and so did our national security because he did go to the White House and he did meet with the President.

Another example of national security concerns being brushed aside in favor of campaign cash is a case of Johnny Chung. He raised $366,000 in contributions returned by the DNC. He visited the White House 49 times despite warnings by the National Security Council that he was a hustler and should not be there.

Yogesh Gandhi was barred from giving money to President Clinton at the White House because of his dubious background, but that did not stop the White House. Craig Livingston and John Huang arranged a meeting two blocks away from the White House at a hotel where the President did meet with him and $325,000 was subsequently given to the DNC.

Former third ranking Justice Department official and convicted felon, Webster Hubbell, between June 21, 1994, and June 25, 1994, there were 10 meetings at the White House, some involving the President regarding whether or not what he was going to be doing between the time he left the Justice Department and was indicted, and after the tenth meeting, 2 days later the Lippo Group the Riadys gave him $100,000 in legal fees, and many people believed, myself included, that that might have been hush money. In fact Abe Rosenthal, a supporter of the President, said in a New York Times column it would not take a particularly suspicious mind let alone a prosecutor's to see high paying jobs as hush money to keep a defendant silent.

Pauline Kanchanalak, the mysterious contributor from Thailand, was one of John Huang's associates. She visited the White House 30 times, raised money for the DNC, and she fled the country. We cannot get her even with a subpoena.

Ted Sioeng, yet another dubious DNC contributor, is reportedly in Hong Kong now. He has avoided any questions about his contributions totaling $355,000 to the DNC.

□ 1145

He is under investigation right now, but we cannot get to him. He also worked with the Chinese Government, we believe, trying to acquire influence for China.

Let me just say in closing, there is substantial reasons why this investigation must go forward. We must depose these witnesses and we need the help of this body to get that job done.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Speaker, my intentions were to reiterate some of the arguments made by myself and other members of the committee, but actually, after having heard the 5 minutes from the chairman of this committee, the question comes to my mind, why do we need an investigation? The chairman has just written the conclusions and the facts that he intends to find in his opening statement here trying to justify why we need an investigation.

We could save an awful lot of money if the chairman of the committee just writes the report up, as the chairman has said it now. Obviously, his facts are found, his conclusions are made, and the purposes for this investigation are for no other purpose but for political purpose.

The majority has an opportunity today, a simple opportunity. If it wants any credibility in this investigation, if it wants any appearance of fairness, it could adopt the rule that Mr. Clinger and past examinations of this Congress have always honored; that is, the majority chairman and the ranking member, with concurrence, would issue subpoenas. That is the only process that should be used. I urge that this is not going to be an investigation to find fact. This is a political witch-hunt.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. CUMMINGS].

Mr. CUMMINGS. Mr. Speaker, the resolution that we are considering today gives the Chairman of the Committee on Government Reform and Oversight broad and unprecedented powers. This resolution does not have an underlying premise of uncovering the truth in a bipartisan manner; but rather, its goal is to arm its bearers with overreaching congressional authority.

My colleagues, if we vote to approve this resolution, we are creating a dangerous precedent. There has never been a single instance in which a chairman of any House or Senate committee has ever unilaterally issued subpoenas for depositions.

Common Cause stated, "Fairness will be ensured only if the committee follows congressional precedents for investigative procedures and gives the minority Members a voice in the investigation."

The League of Women Voters stated, "The House is headed towards a partisan sideshow. These are the kind of political games that disgust the American people."

Let us return comity to this committee and resurrect what is left of this investigation. Let us work in a legitimate fact-finding manner. I urge my colleagues to reject this resolution.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. FATTAH].

Mr. FATTAH. Mr. Speaker, I think that what we have here is maybe not what it appears to be, because what I am getting concerned about now is that perhaps the gentleman from Indiana [Mr. BURTON] is being used as some kind of fall guy. We know that he is over eager to investigate the Democrats and especially Bill Clinton.

The majority gives him three times the amount of money, some $15 million, $17 million to investigate. They want to give him all of the rights individually to decide on who should be subpoenaed, who should be deposed, unprecedented powers. No one else on the committee will have to risk their career, put their career on the line to vote on behalf of subpoenaing anyone, no one will have to take responsibility for the actions in this investigation.

So what I suggest is that our view here in the minority is that we need to have everyone share the responsibility, not just put the gentleman from Indiana [Mr. BURTON] out in front of this, as if he is the only one conducting this train and the only one responsible for what is going to be in the final analysis something that defamed seriously the credibility and the integrity of this Congress and this committee.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY of New York. Mr. Speaker, if my majority colleagues have their way this morning, we will empower the chair of the Committee on Government Reform and Oversight as never before, and I have just one question to ask my colleagues: Can anyone tell me when in the history of this Congress has this kind of authority been exercised unilaterally?

Mr. COX of California. Mr. Speaker, will the gentlewoman yield?

Mrs. MALONEY of New York. I yield to the gentleman from California.

Mr. COX of California. Mr. Speaker, the rules of the 103d Congress state the following.

Mrs. MALONEY of New York. Mr. Speaker, reclaiming my time, I did not ask about rules, I asked when was this power used unilaterally?

Mr. COX of California. Mr. Speaker, does the gentlewoman mean when did the Republicans in the minority not go along with what the Democrats wished to do?

Mrs. MALONEY of New York. Mr. Speaker, my question is, when was it used? When in the history of this Congress did a chairman go out and unilaterally issue subpoenas? Never in the history of this Congress has it happened. The numbers speak for themselves. Zero to 156.

Furthermore, 156 of those subpoenas had been issued for Democrats, 9 are targeting Republicans. The numbers speak for themselves. We should not be wasting $12 million to $15 million on a partisan investigation.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. GILMAN].

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I commend the gentleman from Indiana [Mr. BURTON] and his staff for their diligent work and their important work in bringing this resolution to the floor at this time that would authorize the chairman of the Committee on Government Reform and Oversight, after consultation with the ranking minority member, to order the taking of depositions and interrogatories.

My colleagues in the minority have raised the argument that such depositions in the committee's current subpoena authority is an abuse of majority power. In fact, during consideration of the October Surprise resolution, on February 5, the Democrats opposed and voted down the Republican substitute which would have authorized a majority vote before issuing any subpoenas.

During that debate, it was stated, it has been common practice in special congressional investigations to give the chairman responsibility for issuing subpoenas. If such a limiting substitute was not impractical then, it certainly should not be impractical now.

Accordingly, I urge my colleagues to support the resolution and allow the Committee on Government Reform and Oversight to get on with its work.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL], the ranking member of the Committee on Commerce.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, over a period of 14 years, the Committee on Commerce, under my chairmanship, conducted hundreds of investigations, issued thousands of subpoenas, and never were any of these events done without full participation by the minority, without full consultation, and without a vote of the minority.

The public wants a good investigation of the election process and the fundraising. They will expect this Congress to do an honorable and a decent job. Let us investigate everybody.

Let us see to it that we find out where the wrongdoing is, when it was done. Let us not have a carefully cooked investigation wherein only one side is investigated. Let us find all of the wrongdoing, and let us use this as what the American people want it to be, an investigation to lay the predicate for meaningful reform of our campaign laws. To do less brings shame upon the investigation; brings shame upon this body, and I would urge that this body make the kind of investigation that the American people want, where we get to the bottom of the facts and we conduct it in a fashion in which the American people may say, the Congress did well, and trust us to do well in the future. That is not to be seen here.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

If the previous question is defeated, I will offer an amendment which will do two things. First, it will require the Committee on Government Reform and Oversight to adopt the same rules that Mr. Clinger used in the last Congress and, second, prohibit the subpoena of any witness already deposed by the Senate unless the committee votes, unless the committee votes, to issue that subpoena.

This is the taxpayer protection and antiduplication amendment of the gentleman from California [Mr. CONDIT], which was defeated in the committee, but it is a very, very good idea. I urge my colleagues to support it by defeating the previous question.

Mr. Speaker, I insert my amendment and extraneous materials in the RECORD.

Mr. SPEAKER, if the previous question is defeated I will offer an amendment to do two things: First, require the Government Reform Committee to adopt the same rules Chairman Clinger used last Congress and second, prohibit the subpoena of any witness already deposed by the Senate unless the committee votes to issue the subpoena.

This is Mr. CONDIT's taxpayer protection and antiduplication amendment which was defeated in committee but is a very good idea. I urge my colleagues to support it by defeating the previous question.

PREVIOUS QUESTION FOR HOUSE RESOLUTION 167

Amendment text:

Page 3, after line 2, insert the following new sections:

SEC. 5. IMPLEMENTING RULES.

The Committee on Government Reform and Oversight shall implement this resolution by adopting rules identical in substance to those adopted by the Committee on Government Reform and Oversight in the 104th Congress to implement H.Res. 369 as printed in the CONGRESSIONAL RECORD of March 7, 1996.

SEC. 6. ANTI-DUPLICATION PROVISIONS.

The Committee on Government Reform and Oversight is directed to amend its rules that implement this resolution to require that the chairman and ranking member shall make a formal request to the chairman of the Senate Committee on Government Affairs to coordinate efforts to avoid duplication in the deposition process. If the Senate Committee accepts this request, the chairman shall consult with the Senate Committee on Governmental Affairs prior to deposing a witness that the Senate Committee has deposed or scheduled to depose. If after such consultation the chairman seeks to depose such witness, a Committee vote shall be required before a notice or subpoena is authorized or issued for the deposition of the witness. The chairman shall include the ranking minority member in any consultations with the Senate Committee and shall provide the ranking minority member with a copy of any deposition transcripts obtained from the Senate Committee. In turn, the chairman shall provide upon request to the Senate Committee on Governmental Affairs a copy of any transcript of a deposition taken by the House Committee.

To: Members of the Government Reform and Oversight Committee.

From: William F. Clinger, Jr., Chairman.

Date: March 6, 1996.

Re: House Resolution 369 to provide for deposition authority in the White House Travel Office investigation and committee rules to implement such authority.

On Thursday, March 7, 1996, the Committee will vote on adopting a new Committee Rule to allow for special affidavits and depositions. The Rule will be voted on in anticipation of passage of House Resolution 369, which is expected to have floor consideration on Thursday, March 7 or Friday, March 8, 1996. (See attached copy of Draft Rule.)

House Resolution 369 will provide authority to the Committee on Government Reform and Oversight to conduct depositions and submit interrogatories under oath in the process of conducting the ongoing White House Travel office investigation. The Resolution only applies to the White House Travel Office investigation. Rules to conduct the depositions and interrogatories have been developed in consultation with the minority ranking member of the Committee.

Deposition authority is sought to obtain testimony in a timely and efficient manner and curtail the need for extensive hearings. Such depositions will help resolve the numerous discrepancies that have arisen in the course of civil and criminal investigations into the White House Travel Office matter over the past two and a half years.

RULE 19.—SPECIAL AFFIDAVITS AND DEPOSITIONS

If the House provides the committee with authority to take affidavits and depositions, the following rules apply:

(a) The Chairman, upon consultation with the ranking minority member of the committee, may authorize the taking of affidavits, and of depositions pursuant to notice or subpoena. Such authorization may occur on a case-by-case basis, or by instructions to take a series of affidavits or depositions. Notices for the taking of depositions shall specify a time and place for examination. Affidavits and depositions shall be taken under oath administered by a member or a person otherwise authorized by law to administer oaths. Consultation with the ranking minority member will include three (3) business days written notice before any deposition is taken unless otherwise agreed to by the ranking minority member or committee.

(b) The committee shall not initiate procedures leading to contempt proceedings in the event a witness fails to appear at a deposition unless the deposition notice was accompanied by a committee subpoena authorized and issued by the chairman. Notwithstanding committee Rule 18(d), the chairman shall not authorize and issue a subpoena for a deposition without the concurrence of the ranking minority member or the committee.

(c) Witnesses may be accompanied at a deposition by counsel to advise them of their constitutional rights. Absent special permission or instructions from the chairman, no one may be present in depositions except members, staff designated by the chairman or ranking minority member, an official reporter, the witness and any counsel; observers or counsel for other persons or for the agencies under investigation may not attend.

(d) A deposition will be conducted by members or jointly by

(1) No more than two staff members of the committee, of whom—

(1.a) One will be designated by the chairman of the committee, and

(2.b) One will be designated by the ranking minority party member of the committee, unless such member elects not to designate a staff member.

(2) Any member designated by the chairman.

Other staff designated by the chairman or ranking minority members may attend, but are not permitted to pose questions to the witness.

(e) Questions in the deposition will be propounded in rounds. A round will include as much time as necessary to ask all pending

questions, but not more than one hour. In each round, the member or staff member designated by the chairman will ask questions first, and the member or staff member designated by the ranking minority member will ask questions second.

(f) Objections by the witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to answer, the members or staff may proceed with the deposition, or may obtain, at that time or at a subsequent time, a ruling on the objection by telephone or otherwise from the chairman or his designee. The committee shall not initiate procedures leading to contempt for refusals to answer questions at a deposition unless the witness refuses to testify after his objection has been overruled and after he has been ordered and directed to answer by the chairman or his designee upon a good faith attempt to consult with the ranking minority member or her designee.

(g) The committee staff shall insure that the testimony is either transcribed or electronically recorded, or both. If a witness' testimony is transcribed, he shall be furnished with an opportunity to review a copy. No later than five days thereafter, the staff shall enter the changes, if any, requested by the witness, with a statement of the witness' reasons for the changes, and the witness shall be instructed to sign the transcript. The individual administering the oath, if other than a member, shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall be filed, together with any electronic recording, with the clerk of the committee in Washington, D.C. Affidavits and depositions shall be deemed to have been taken in Washington, D.C. once filed there with the clerk of the committee for the committee's use. The ranking minority member will be provided a copy of the transcripts of the deposition once the procedures provided above have been completed.

(h) Unless otherwise directed by the committee, all depositions and affidavits received in the investigation shall be considered nonpublic until received by the committee. Once received by the committee, use of such materials shall be governed by the committee rules. All such material shall unless otherwise directed by the committee, be available for use by the members of the committee in open session.

(i) A witness shall not be required to testify if they have not been provided a copy of the House Resolution and the amended Committee Rules.

(j) Committee Rule 19 expires on July 8, 1996.

HOUSE OF REPRESENTATIVES, COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC, March 6, 1996.

Hon. CARDISS COLLINS,
Ranking Minority Member, Committee on Government Reform and Oversight, U.S. House of Representatives, Washington DC.

DEAR MS. COLLINS: Thank you and your staff for working with my office to develop a new committee rule to provide for the implementation of the affidavit and deposition authorities provided in H. Res. 369. Your office has asked that I provide you with the supplemental information regarding how I interpret some provisions of the proposed committee rule.

19(a). Regarding the right of the minority to recommend witnesses to be deposed, it is my intention that for any witness you would recommend, I will either agree to issue a subpoena or place the question before the full committee for a vote.

19(b). The proposed rule requires that if a subpoena is required in the case of an affidavit or deposition in the Travel Office matter, I shall not authorize such subpoena without your concurrence or the vote of the committee. I believe that this new rule memorializes the longstanding practice of this committee to seek a consensus on the issuance of a subpoena.

19(c). The question has arisen as to whether a witness may be represented by counsel employed by the same government agency as the witness. I further understand that the White House Counsel's office has indicated that it will not seek to personally represent any White House employee during the course of this investigation. It is my intention to discuss with you on case by case basis the ability of Justice Department attorneys to represent Justice Department witnesses. I respect the ability of a witness to have an attorney of their choice, but I also must avoid any conflict of interest between an agency under investigation and a witness' individual rights.

19(d). The proposed committee rule is draft under the assumption that most, if not all, depositions will be conducted by staff. Any members who wish to participate in a deposition should notify me before the scheduled day of the deposition. I will, of course, designate the minority member of your choice. However, in no way are the proposed committee rules intended to limit the ability of a member to participate and ask questions.

19(f). The term "designee" is intended to imply a member, and not staff. Furthermore, let me confirm to you my strongest intention to consult with you before ruling on an objection raised by a witness. In the instance that you are uncontrollably indisposed. I will certainly listen to any concerns expressed by your senior staff.

19(h). The depositions will be assumed to be received in executive session. Members and their staff will not be permitted to release a copy or excerpt of the deposition until such time that is entered into the official record of the committee, under penalty of House sanction. Witnesses will be given the opportunity to edit their transcript but will not be given a copy.

Finally, a question has arisen regarding what steps occur if a witness fails to appear for a deposition under subpoena or fails to respond to a question notwithstanding the chairman's ruling. It will be my intent, under such circumstances, to subpoena the witness before the full Committee to explain why he/she should not be held in contempt of Congress. The scope of such a hearing would not extend to the factual questions of the Travel Office matter, but would be limited to the question of contempt of the prior contempt.

I hope that this answers any outstanding questions you may have. Please feel free to discuss this matter with me further. And, again, thank you for your kind cooperation.

Sincerely,

WILLIAM F. CLINGER, Jr.,
Chairman.

Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. WAXMAN].

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from California [Mr. WAXMAN] is recognized for 1½ minutes.

Mr. WAXMAN. Mr. Speaker, not a single Democrat is against investigating the campaign finance abuses of the 1996 campaign. That is not what this debate is all about. It is about whether a chairman ought to be given the power unilaterally to issue subpoenas. It has never happened before. No chairman has ever issued subpoenas unilaterally in the House, the Senate, Democrat or Republican. This is the first time that we have seen such an activity.

This is about wasting money. I was impressed over and over again by the points made by the gentleman from California [Mr. CONDIT]. He has worked on a bipartisan basis on fiscally conservative measures to save taxpayer's funds, and what he suggested is that we ought to coordinate our investigation with the Senate and not waste this money through duplication.

We ought to defeat the amendment that is before us, defeat the previous question, so that we can offer the amendment that the gentleman from California [Mr. CONDIT] offered in committee, to simply have coordination and saving of taxpayers' dollars in a reasonable campaign finance investigation process so that we can return to the precedents of this House and this Congress, that all investigations will be determined by the members of a committee, even if the majority of the members want to vote on a party line basis, the members conduct the investigation, not one single person who happens to be chairman. Giving that kind of power to one person invites abuse, and we ought not to let that happen.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Government Reform and Oversight has been compelled by substantial allegations in the media, an accumulating body of evidence and an ensuing public outcry to undertake a thorough investigation of campaign financing improprieties and threats to national security. Because of the serious magnitude of the revelations that continue to surface in this scandal, the Committee on Rules has responded by crafting this very effective, but very limited resolution. So I would urge my colleagues on both sides of the aisle to support it so we can get to the bottom of this complicated and complex affair.

RULE 20.—INTERROGATORIES AND DEPOSITIONS

The chairman, upon consultation with the ranking minority member, may order the taking of interrogatories or depositions, under oath and pursuant to notice or subpoena. Such authorization may occur on a case-by-case basis, or by instructions to take a series of interrogatories or depositions. Notices for the taking of depositions shall specify the date, time, and place of examination. Answers to interrogatories shall be answered fully in writing under oath and depositions shall be taken under oath administered by a member or a person otherwise authorized by law to administer oaths. Consultation with the ranking minority member shall include three business day's written notice before any deposition is taken. All members shall also receive three business day's written notice that a deposition has been scheduled.

The committee shall not initiate contempt proceedings based on the failure of a witness to appear at a deposition unless the deposition notice was accompanied by a committee subpoena issued by the chairman.

Witnesses may be accompanied at a deposition by counsel to advise them of their rights. No one may be present at depositions except members, committee staff designated by the chairman or ranking minority member, an official reporter, the witness, and the witness's counsel. Observers or counsel for other persons or for agencies under investigation may not attend.

A deposition shall be conducted by any member or committee staff attorney designated by the chairman or ranking minority member. When depositions are conducted by committee staff attorneys, there shall be no more than two committee staff attorneys of the committee permitted to question a witness per round. One of the committee staff attorneys shall be designated by the chairman and the other shall be designated by the ranking minority member. Other committee staff members designated by the chairman or the ranking minority member may attend, but are not permitted to pose questions to the witness.

Questions in the deposition will be propounded in rounds. A round shall include as much time as is necessary to ask all pending questions. In each round, a member or committee staff attorney designated by the chairman shall ask questions first, and the member or committee staff attorney designated by the ranking minority member shall ask questions second.

An objection by the witness as to the form of a question shall be noted for the record. If a witness objects to a question and refuses to answer, the member or committee staff attorney may proceed with the deposition, or may obtain, at that time or a subsequent time, a ruling on the objection by telephone or otherwise from the chairman or a member designated chairman. The committee shall not initiate procedures leading to contempt proceedings based on a refusal to answer a question at a deposition unless the witness refuses to testify after an objection of the witness has been overruled and after the witness has been ordered by the chairman or a member designated by the chairman to answer the question. Overruled objections shall be preserved for committee consideration within the meaning of clause 2(k)(8) of House Rule 11.

Committee staff shall insure that the testimony is either transcribed or electronically recorded, or both. If a witness's testimony is transcribed, the witness (or the witness's counsel shall be afforded an opportunity to review a copy. No later than five days thereafter, the witness may submit suggested changes to the chairman. Committee staff may make any typographical and technical changes requested by the witness. Substantive changes, modifications, clarifications, or amendments to the deposition transcript submitted by the witness must be accompanied by a letter requesting the changes and a statement of the witness's reasons for each proposed change. A letter requesting any substantive changes, modifications, clarifications, or amendments must be signed by the witness. Any substantive changes, modifications, clarifications, or amendments shall be included as an appendix to the transcript conditioned upon the witness signing the transcript.

The individual administering the oath, if other than a member, shall certify on the transcript that the witness was duly sworn. The transcriber shall certify that the transcript is a true record of the testimony and the transcript shall be filed, together with any electronic recording, with the clerk of the committee in Washington, D.C. Interrogatories and depositions shall be considered to have been taken in Washington, D.C. as well as at the location actually taken once filed there with the clerk of the committee for the committee's use. The chairman and the ranking minority member shall be provided with a copy of the transcripts of the deposition at the same time.

All depositions and interrogatories received pursuant to this rule shall be considered as taken in executive session.

A witness shall not be required to testify unless the witness has been provided with a copy of the committee's rules.

This rule is applicable to the committee's investigation of political fundraising improprieties and possible violations of law, and is effective upon adoption of a resolution, in the House of Representatives, providing the committee with special investigative authorities.

RULE 21.—LETTERS ROGATORY AND INTERNATIONAL GOVERNMENT ASSISTANCE

The chairman, after consultation with the ranking minority member, may obtain testimony and evidence in other countries through letters rogatory and other means of international government cooperation and assistance. This rule is applicable to the committee's investigation of political fundraising improprieties and possible violations of law, and is effective upon adoption of a resolution, in the House of Representatives, providing the committee with special investigative authorities.

Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. COX], a member of the Committee on Government Reform and Oversight.

□ 1100

Mr. COX of California. Mr. Speaker, it is well, as we conclude debate and prepare to vote, that we recall what it is that is contained in the resolution before us. This is a resolution that will grant the staff attorneys, not the staff but the staff attorneys, former U.S. attorneys, of the Committee on Government Reform and Oversight, the ability to conduct depositions in preparation for hearings by the full committee.

The previous speaker spoke instead to the issue of subpoenas, and he said, incorrectly, that never before in history has the chairman had the power unilaterally to issue subpoenas. I first point out, that is not what this resolution provides. It does not provide anything about subpoenas.

But for the Record, I would also point out that for the entirety of the Democratic control of Congress over a 40-year period that was precisely what was the rule, and for the most recent Democratic Congress, the 103d Congress, let me quote from the Committee on Government Operations, the House of Representatives, rule XVIII: "The chairman of the full committee shall authorize and issue subpoenas." It does not say anything even about consultation with the minority, let alone concurrence.

Second, with respect to staff depositions themselves, over and over and over again this authority has been granted by this Congress in precisely this way. This was the rule for the Iran-Contra investigation. Let me quote the rule: "* * * the chairman, upon consultation with the ranking minority member * * * may authorize the taking * * * of depositions.* * *"

That was the rule for Iran-Contra, and it is the very same rule we are adopting here, with consultation; not a veto, not concurrence, which means agreement, which means if we do not agree, as the minority, then we have to have a full committee vote on every one, but consultation.

In fact, in this rule we provide something that the Democratic Party, for all the years they controlled Congress, never provided us when we were in the minority, and that is 3 full business days advance notice and consultation. This rule, therefore, is better than anything that the Democrats had when they were in charge.

October Surprise, we have heard that mentioned out here before. Let me read the rule for the October Surprise investigation when the Democrats were in the majority: "The chairman, upon consultation with the ranking Republican member * * * may authorize the taking of * * * depositions. * * *

But that is not the rule they are offering. They wanted a veto power to kick it to full committee. Why should it not be kicked to full committee? Let me read from a leading Democrat, the gentleman from Indiana, Mr. LEE HAMILTON, whose statement it seems to me speaks for itself:

* * * requiring a majority vote for each subpoena would be extremely time-consuming and difficult to arrange. It would be impractical. It has been common practice in special congressional investigations to give the chairman responsibility for issuing subpoenas. * * *

So we need to focus once again on what is in the resolution before us; nothing about subpoena authority, but the authority to take staff depositions. Let me add also that we have an opportunity to cooperate and to make this the kind of bipartisan investigation that so much of the debate has focused on here today.

Mr. Speaker, recall what went on in the October Surprise investigation. It was an election year. This is not. The charges were not about Webster Hubbell receiving hush money from the Lippo Group and the Riadys, people that have taken the fifth amendment and fled the country, and whose grievous offenses, apparent grievous offenses have been drawn to the Nation's attention by the New York Times.

Rather, it was alleged that President George Bush met secretly in Paris with the Ayatollah and begged that he not release our hostages. That absurd premise was dismissed because we cooperated in that investigation. Please cooperate with us in this one. Vote yes for the resolution.

The SPEAKER pro tempore (Mr. LAHOOD). All time has expired.

Ms. PRYCE of Ohio. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.