

PROVIDING SPECIAL AUTHORITIES TO THE COMMITTEE ON
GOVERNMENT REFORM AND OVERSIGHT TO OBTAIN TES-
TIMONY ON THE WHITE HOUSE TRAVEL OFFICE MATTER

MARCH 6, 1996.—Referred to the House Calendar and ordered to be printed

Mr. SOLOMON, from the Committee on Rules,
submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H. Res. 369]

The Committee on Rules, to whom was referred the resolution (H. Res. 369) to provide to the Committee on Government Reform and Oversight special authorities to obtain testimony for purposes of investigation and study of the White House Travel Office matter, having considered the same, report favorably thereon without amendment and recommend that the resolution be agreed to.

PURPOSE OF THE RESOLUTION

The purpose of H. Res. 369 is to provide the Government Reform and Oversight Committee with special authorities to obtain testimony in its investigation and study of matters surrounding the White House Travel Office matter.

SUMMARY OF THE RESOLUTION

H. Res. 369 authorizes the chairman of the Committee on Government Reform and Oversight, for purposes of its investigation and study of the White House Travel Office matter, upon consultation with the ranking minority member of the committee, to authorize the taking of affidavits, and of depositions, pursuant to notice or subpoena, by a member or staff of the committee designated by the chairman, or require the furnishing of information by inter-

rogatory, under oath administered by a person otherwise authorized by law to administer oaths.

The resolution deems all such testimony to be taken in executive session of the committee in Washington, D.C.

Furthermore, the resolution requires such testimony to be considered as nonpublic until received by the committee, but permits it to be used by members of the committee in open session unless otherwise directed by the committee.

COMMITTEE CONSIDERATION

H. Res. 369 was introduced by Rep. William Clinger, Chairman of the Committee on Government Reform and Oversight, on February 29, 1996, and referred to the Committee on Rules.

On Tuesday, March 5, 1996, the Committee on Rules held a hearing on H. Res. 369 and received testimony from the Hon. William Clinger, Chairman of the Committee on Government Reform and Oversight, and the Hon. Cardiss Collins, Ranking Minority Member of the committee.

Immediately following the hearing, the Committee met to mark-up H. Res. 369. The Committee favorably reported H. Res. 369 by a nonrecord vote. During the mark-up, no amendments to H. Res. 369 were agreed to.

BACKGROUND ON THE TRAVEL OFFICE MATTER

At approximately 10:00 a.m., on May 19, 1993, all seven members of the White House Travel Office staff were fired and the five Travel Office employees present in the White House that day were ordered to vacate the White House compound within two hours. Returning to the Travel Office by 10:30 a.m., the fired Travel Office employees found their desks already occupied by employees of World Wide Travel, the Arkansas travel agency which arranged for press charters during the Clinton presidential campaign, Catherine Cornelius and others.

Two White House Travel Office employees were out of the White House Travel office on May 19, 1993, one on a White House advance trip to South Korea, the other on vacation. They learned of their firings, respectively, via CNN telecast and a son who saw Tom Brokaw announce the firings on network news that night. The seven White House Travel Office employees had served from 9 to 32 years in the White House Travel Office.

The five Travel Office employees who were present in the White House for their firings ultimately were given additional time to complete their White House outprocessing. By early afternoon, they heard then-White House Press Secretary Dee Dee Myers announce at a press briefing that they were subject of an FBI criminal investigation. They had been given no such indication at the time of their dismissals. After completing out-processing, the five Travel Office employees present on May 19, 1993 were driven out of the White House compound in a panel van with no passenger seats. They were seated on the floor and wheel wells of the van along with boxes of their gathered personal effects.

While the Travel Office employees served at the pleasure of the President, their precipitous firings and replacement by the Clinton campaign's primary travel agency immediately raised a storm of

criticism. Administration claims that it had acted in order to save the press and taxpayers money were met with skepticism by a White House press corps which responded with a litany of complaints of over billing and undocumented billings by World Wide itself throughout the 1992 campaign. In addition, the Clinton Administration's announcement that an FBI criminal investigation had been launched was highly improper and, in fact, questionable when it was announced. Furthermore, White House contacts with the FBI in the days leading up to and immediately following the Travel Office firings also were considered improperly handled by Attorney General Janet Reno, who publicly admonished the Administration for them.

Members of the House and the Senate immediately raised concerns about the manner in which the Travel Office firings took place. In the face of press, public and Congressional outcry, the White House placed five of the seven Travel Office employees on administrative leave with pay on May 25, 1993, and announced that it would conduct a White House Management Review of the Travel Office and the Administration's role in the Travel Office firings. The fired Travel Office director and deputy director retired.

On June 1, 1993, William F. Clinger, Jr., the then-ranking member of the House Government Operations Committee, requested that then Chairman John Conyers, Jr., hold hearings on the White House Travel Office firings.

Then-White House Chief of Staff Thomas F. (Mack) McLarty and then-Office of Management and Budget Director Leon Panetta released the White House Travel Office Management Review on July 2, 1993 and announced the reprimands of four White House staffers. Reprimanded were: Associate Counsel to the President, William H. Kennedy, III; Assistant to the President for Management and Administration, David Watkins; former Special Assistant to the President for Management and Administration, Catherine A. Cornelius; and Deputy Assistant to the President and Director of Media Affairs, Jeff Eller. At least three of the four first learned of the "reprimands" during their televised announcement. None of the reprimands were documented in the personnel files of any of the four.

Also on July 2, 1993, the Supplemental Appropriations Act of 1993 (P.L. 103-50) required the United States General Accounting Office (GAO) to "conduct a review of the action taken with respect to the White House Travel Office."

In addition to the White House Management Review and the GAO Report entitled White House Travel Office Operations (Released on May 2, 1994), four other reports were prepared concerning various aspects of the White House Travel Office firings. These reports were prepared by: the Office of Professional Responsibility (OPR) of the United States Department of Justice (dated March 18, 1994 and released by the Committee on October 24, 1995); a Federal Bureau of Investigation Internal Review of FBI Contacts with the White House (dated June 1, 1993), the IRS Inspection Service Report, "Allegation of Misuse of IRS RE: ULTRAIR" (dated June 11, 1993); and the Department of the Treasury Inspector General Report (dated March 31, 1994).

On September 23, 1993, after consultations with majority staff of the Government Operations Committee, Mr. Clinger withdrew his request for Committee hearings on the White House Travel Office firings, "contingent upon the adequacy of the GAO effort" which had been mandated by Congress through P.L. 103-50.

Individually and collectively, the five reports prepared concerning the White House Travel Office left many questions unanswered and, in fact, raised many more. Several Members of Congress, including Mr. Clinger, sought to have these questions answered through further investigation and Congressional hearings. In a letter dated October 7, 1994, Mr. Clinger and 16 other House Members again requested Congressional hearings on the White House Travel Office in order to "address serious questions arising from, or unanswered by, the General Accounting Office (GAO) Report to Congress, White House Travel Office Operations (GAO/GGD-94-132)."

Mr. Clinger's request was accompanied by a 71-page minority analysis of issues unaddressed by any of the previous five reports. This analysis reviewed contradictions concerning: memoranda drafted by Catherine Cornelius outlining its new organizational structure and placing her in charge; activities of Harry Thomason and Darnell Martens; mismanagement by David Watkins; White House reasons justifying the Travel Office firings; contacts between Dee Dee Myers and Darnell Martens; public disclosure of the FBI investigation; possible influence on the FBI; the integrity of Travel Office records, the role of the President; the reprimands; and inaccuracies and insufficiencies in the GAO report on the White House Travel Office.

Soon after the November 1994 Congressional elections, Mr. Clinger, Chairman of the Government Reform and Oversight Committee of the 104th Congress, announced that he would hold hearings on the White House Travel Office firings. In December, 1994, the Public Integrity Division of the United States Department of Justice indicted former White House Travel Office Director Billy R. Dale on one charge of embezzlement and one charge of conversion.

The Committee investigative staff conducted interviews and gathered documents from various participants in the Travel Office matter on a voluntary basis throughout the spring and summer of 1995. White House document production, however, proved problematic and led to numerous meetings and phone conversations with Clinton administration representatives in the White House Counsel's Office, the Department of Justice, Department of the Treasury as well as the General Accounting Office. Witness interviews also provided problematic as key witnesses refused requests for informal interviews and refused requests for depositions under oath. More documentation mounted throughout the investigation that demonstrated that this was a unique situation where a number of prior interviews and statements under oath have been provided and key witnesses have provided misleading information and/or omitted material information.

In the fall of 1995, Chairman Clinger scheduled the Committee's first hearing on the White House Travel Office for October 24, 1995. The hearing focused on the accuracy and completeness of the five White House Travel Office reports and to consider whether fur-

ther hearings were required to address unanswered issues. The panel at the October 24, 1995, hearing included authors of each of five reports, respectively. This hearing purposely avoided all areas that might have impacted upon the trial of former Travel Office Director Billy R. Dale which was to commence on October 26, 1995.

The Committee reviewed which of seven key Travel Office issues each report addressed. These issues are: the completeness of the review of references to "Highest Levels" involvement at the White House in the Travel Office firings; whether any assessment of White House Standards of Conduct was performed and whether Administration staffers had violated those standards; whether inquiries were made into the role of Hollywood producer Harry Thomason in the firings; the role of Mr. Thomason's and his firm, Thomason, Richland and Martens (TRM) in seeking contracts involving the GSA's Interagency Committee on Aviation Policy (ICAP); whether the issue of competitive bidding by the White House Travel Office and by the White House itself in dealing with the Travel Office was reviewed; and whether thorough investigations into FBI and IRS actions and reactions to the White House inquiries had been undertaken.

The hearing made clear that, given limitations on their scope, none of the reports had addressed fully the issues raised by the Travel Office firings. The IRS Inspection Service Report redactions made it impossible to determine whether the IRS addressed any of the seven issues. The OPR and FBI reports only partially addressed two issues, "FBI actions" and references to "Highest Levels of the White House" and never addressed the other five. Despite its far greater understanding of the participants and circumstances leading to the Travel Office firings, the White House Travel Office Management Review only briefly and superficially addressed Harry Thomason's role, FBI actions and references to "Highest Levels" of the White House while ignoring competitive bidding, IRS action, standards of conduct and ICAP contracts. Similarly, the GAO relied on the White House Management Review in its report on Mr. Thomason's role and only partially addressed FBI actions and "Highest Levels" while leaving ICAP, competitive bidding and standards of conduct unaddressed. IRS disclosure laws prevented the GAO from publicly addressing IRS actions.

The October 24, 1995, hearing also made clear that the GAO and OPR reports, the most independent of the five, were hobbled by what their respective authors referred to as an unprecedented lack of cooperation by the White House in their investigations. It was determined in the hearing that the White House had denied both GAO and OPR documents which were critical to their investigations. Accordingly, both GAO and OPR never received many of the documents subsequently produced by the White House to the Committee.

The criminal trial of former Travel Office Director Billy R. Dale began on October 26, 1995 and concluded on November 17, 1995 with Mr. Dale's acquittal of both charges. After the acquittal was announced, Chairman Clinger requested that the Public Integrity Section of the Department of Justice turn over all documents related to the criminal prosecution for review by the Committee.

At year-end 1995, the Committee planned hearings on: the role of Mr. David Watkins in the Travel Office firings; the experiences of the fired seven Travel Office employees; the role of Mr. Harry Thomason; and the role of the FBI and IRS. In January 1996, the Committee subpoenaed all of Mr. Thomason's documents related to the Travel Office and filed a "6103 Waiver" with the IRS in which representatives of UltraAir authorized the IRS, Department of Treasury and others to release all relevant documents concerning the IRS audit of UltraAir in the wake of the Travel Office firings. The Department of the Treasury had promised prompt delivery of all documents pending receipt of the expanded 6103 waiver.

As of year-end 1995, the Clinton Administration continued to prove most uncooperative in Travel Office document productions. The Department of the Treasury failed to turn over the documents previously promised. The threat of further subpoenas to compel Executive Branch compliance with the ongoing Congressional investigation loomed.

On January 3, 1996, the White House released to the Committee a 9-page memo by David Watkins in which Mr. Watkins stated he was writing the memo as a "soul cleansing" as he had been "vague and protective" in speaking with investigators about the White House Travel Office matter. Watkins also stated that "pressures for action originated outside my Office" led to the firings and that "failure to take immediate action in this case would have been directly contrary to the wishes of the First Lady." The General Accounting Office conducted a congressionally mandated investigation of the Travel Office firings in which it interviewed Mr. Watkins as well as numerous other White House officials. The Watkins memo did not appear consistent with the statements provided in Mr. Watkins' GAO statement. In sworn testimony before the Government Reform and Oversight Committee on January 17, 1996, Mr. Watkins reaffirmed the accuracy of the "soul cleansing" memo released on January 3, 1996.

Subsequently, the General Accounting Office on February 13, 1996, forwarded a criminal referral on Mr. Watkins to U.S. Attorney Eric H. Holder, Jr., asking Mr. Holder to determine whether Mr. Watkins violated the federal false statements law. The U.S. Attorney referred it back to the Attorney General who in turn referred the matter to Independent Counsel Ken Starr.

The Committee on Government Reform and Oversight has served 36 subpoenas on the White House, Department of Justice and current and former White House staffers. The Committee has yet to receive full compliance from the White House and Justice Department as well as a number of personal subpoenas.

BACKGROUND ON THE RESOLUTION

The Rules of the House grant investigative and subpoena powers to all standing committees and subcommittees, but they do not expressly authorize staff depositions. House rule XI, clause 2(h)(1) permits each House Committee to fix the number of members to constitute a quorum "for taking testimony and receiving evidence which shall be not less than two." House rule XI, clause 2(m)(1) permits committees to sit and act in the United States, whether the House is in session or has adjourned, for the purpose of carry-

ing out its functions under rules X and XI, to require by subpoena or otherwise the production of documents or the testimony of witnesses. Moreover, “the chairman of the committee, or any member designated by such chairman, may administer oaths to any witness.”

Clause 2(m)(2) of rule XI gives committees and subcommittees the power to authorize and issue subpoenas in the conduct of any investigation or series of investigations or activities only by a majority vote of the committee or subcommittee, a majority being present. However, the rule goes on to allow committees to delegate the authority to authorize and issue subpoenas to the chairman of the full committee by its written rules, subject to such limits as it may prescribe.

The two-member quorum requirement for hearings was adopted on March 23, 1955, as part of H. Res. 151, the “Code of Fair Procedures.” The resolution was designed to grant witnesses certain procedural rights in connection with investigative hearings. Rules Committee Chairman Howard W. Smith explained at the time the resolution was considered on the floor that the two member quorum requirement “abolishes the custom of one-man subcommittees”—one of the major abuses of the McCarthy era.

The other provisions of H. Res. 151 that were incorporated into House Rules can be found in clause 2(k) of rule XI, “Investigative Hearing Procedures.” They include such protections as requiring the chairman to announce the subject of the investigation at the outset of the hearings; to provide the witnesses with copies of the investigative hearings procedures clause; to permit the witness to be accompanied by counsel; to allow the committee to vote on taking the testimony in executive session if it is asserted that it may tend to defame, degrade or incriminate any person; to provide that no testimony taken in executive session may be released or used in public session without the consent of the committee; and to permit a witness to obtain a transcript copy of testimony given in public session, or when given in executive session, when authorized by the committee.

Notwithstanding the two-Member quorum requirement for taking testimony, the House has, on occasion, granted special authority to standing or select committees to allow a single Member or designated staff to take sworn depositions as part of a broader resolution authorizing specified investigations. Such investigative authorization resolutions have been necessary either because they created new select committees to carry-out the investigations, or because they granted existing standing committees with special jurisdiction and/or procedures not available to them under the standing rules of the House.

Some example of investigation authorization resolutions that have included special deposition authority are the following:

President Nixon Impeachment Proceedings (93rd Congress, 1974, H. Res. 803).—This resolution give the Judiciary Committee full authorization to conduct an impeachment inquiry into allegations against President Nixon. Among other things in permitted the committee to require by subpoena or otherwise the attendance and testimony of any person, including the taking of depositions by counsel to the committee.

Assassinations Investigation (95th Congress, 1977, H. Res. 222).—This resolution created the Select Committee on Assassinations, and provided it with various procedural authorities, including the authority to take testimony under oath anywhere in the United States or abroad and authorized designated staff of the select committee to obtain statements from any witness who is placed under oath by an authority who is authorized to administer oaths in accordance with the applicable laws of the U.S.

Koreagate (95th Congress, 1977, H. Res. 252 and H. Res. 752).—The first resolution broadened the authority of the House Standards Committee to investigate whether family members or associates of House Members, officers or employees had accepted anything of value from the Government of Korea or representatives thereof. The resolution also gave joint subpoena authority to the chairman and ranking minority member of the committee but permitted appeal to the committee if one objected. It also gave special counsel the right to intervene in any judicial proceeding relating to the inquiry. The second resolution authorized committee employees to take depositions, but required that an objection by a witness to answer a question could only be ruled on by a member of the committee.

Abscam (97th Congress, 1981, H. Res. 67).—The resolution gave certain special authorities to the Standards Committee, though the investigation was confined to Members, officers and employees. Included in the resolution was a provision permitting any single member of the committee to take depositions.

Iran-Contra (100th Congress, 1987, H. Res. 12).—The resolution authorized the creation of a select committee to investigate the covert arms transactions with Iran and any diversion of funds from the sales. Among other things, the resolution gave the chairman, in consultation with the ranking minority member, the authority to authorize any member or designated staff to take depositions or affidavits pursuant to notice or subpoena, which were to be deemed to have taken in executive session, but available for use by members of the select committee in open session.

Judge Hastings Impeachment Proceedings (100th Congress, 1987 H. Res. 320).—This resolution authorized counsel to the Judiciary Committee or its Subcommittee on Criminal Justice to take affidavits and depositions pursuant to notice or subpoena.

Judge Nixon Impeachment Proceedings (100th Congress, 1988, H. Res. 562).—This resolution authorized Judiciary Committee counsel to take depositions and affidavits pursuant to notice and subpoena.

October Surprise (102nd Congress, 1991, H. Res. 258).—This resolution established a special task force to investigate certain allegations regarding the holding of American hostages by Iran in 1980. Among other things the resolution authorized the chairman, in consultation with the ranking minority member, to authorize subpoenas and to authorize the taking of affidavits and depositions by any member or by designated staff, which were to be deemed to have been taken in Washington, D.C., in executive session.

According to a report of the American Law Division of the Congressional Research Service:

The Senate apparently has taken the position that there is standing authority for its committees and subcommittees to conduct staff depositions but nevertheless has adopted a specific authorizing resolution “out of an abundance of caution.” The House has considered it necessary to expressly authorize depositions by staff. (“Staff Depositions in Congressional Investigations,” by Jay Shampansky, American Law Division, Congressional Research Service, Aug. 31, 1995, pp. 4–5.)

The matter in quotation remarks is from the appendix of the hearings of a Senate Judiciary special subcommittee created to investigate allegations of foreign influence peddling. The reference was to S. Res. 495 which authorized the staff of the subcommittee created to take depositions. As Sec. 3 of S. Res. 495 noted:

This resolution shall supplement without limiting in any way the existing authority of Senate committees and subcommittees to conduct examinations and depositions.

The CRS report notes that the authority being referred to “was likely a reference to a 1928 Senate resolution which authorized the President of the Senate, ‘on the request of any of the committees of the Senate, to issue commissions to take testimony within the United States or elsewhere.’” However, a 1982 Justice Department Office of Legal Counsel memorandum cited in the CRS report suggested that the 1928 resolution is “in a state of desuetude” and denied that staff of a committee could be authorized by committee resolution alone to take depositions—particularly depositions of executive branch officials.

The uncertainty of Senate committee deposition authority noted above may explain why the Senate Committee on Governmental Affairs is careful to get a Senate vote in each Congress, as part of the committee funding resolution, on staff authority for depositions. The most recent biennial Senate committee funding resolution, S. Res. 73, adopted on February 13, 1995, provided funding authority to the Governmental Affairs Committee in section 13. Section 13(d)(3) authorized the committee, its subcommittees, or their chairmen, to authorize subpoenas, hold hearings, sit and act regardless of whether the Senate is in session, administer oaths, and “take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.” [emphasis added]

The Governmental Affairs Committee’s rules for the 104th Congress, published in the February 28, 1995, Congressional Record (pp. 3295–98), provide in rule 5 (“Hearings and Hearing Procedures”), at Part J, procedures for taking depositions. These include the requirement that notices for taking depositions are to be authorized and issued by the chairman, with the approval of the ranking minority member, or without the approval of the ranking minority member if he has not given his disapproval within 72 hours (excluding Saturdays and Sundays) of receiving notification of the deposition notice. If the ranking minority member disapproves, then the question must be voted on by the full committee. The notice must include the time and place of the deposition,

and the name of the committee member or members or staff officer or officers who will take the deposition. Oaths at depositions must be administered by an individual authorized by local law to administer oaths. Questions are to be put orally by the members or staff. If objection is raised to a question, it is duly noted in the record, and the members or staff proceed with the deposition.

It would be unprecedented to amend House Rules to grant a specified committee blanket staff deposition authority for all current and future investigations. As noted in this report, even the Senate has only granted this to one committee for no longer than two years at a time as part of the committee funding resolution as opposed to making such authority part of the standing rules of the Senate.

With the exception of the two judicial impeachment resolutions (which were constitutionally privileged and therefore not reported by the Rules Committee), it is highly unusual, but not unprecedented, to report a resolution for the sole purpose of granting staff deposition authority—especially in the middle of an ongoing investigation. The exception and precedent for such a single purpose resolution being reported in mid-investigation by the Rules Committee was for the Koreagate inquiry by the Ethics Committee for which two special resolutions were reported and adopted—the second of which dealt solely with granting staff deposition authority because the first resolution required that a Member be present at all times during the taking of the deposition. As the report to accompany H. Res. 752 explained:

From a practical point of view, the committee feels that requiring a member to be present is a burden and is time-consuming. Again, it has been the experience of the committee that on many occasions when the House has been in session while a deposition was in progress, there have been interruptions caused by rollcalls and quorum calls, which have not only significantly delayed the proceedings but also impaired the quality of the proceedings by the loss of continuity. (Report No. 95-608, 95th Congress, 1st Session)

NEED FOR THE RESOLUTION

Since the Rules of the House do not expressly grant deposition authority to committee staff as a tool for investigative oversight, such authority must be expressly authorized pursuant to a House resolution to be considered part of the official record of a committee's investigation. The Committee on Rules is generally reluctant to report resolutions granting staff deposition authority in the middle of an ongoing investigation, and believes that such special investigative authority should not be necessary. However, there is a compelling necessity for the grant of such authority to the Government Reform and Oversight Committee with respect to the White House Travel Office matter. The Government Reform and Oversight Committee still needs to obtain testimony from some 50 witnesses. Presently, key witnesses have refused to submit to any staff interviews, while some witnesses have agreed to informal interviews to discuss Travel Office matters but refuse to give informa-

tion under oath. As Rep. William Clinger, Chairman of the Committee on Government Reform and Oversight, noted in a letter to the Rules Committee:

“* * * we have been faced with the reluctance and even refusal of certain potential witnesses to voluntarily submit to staff interviews preliminary to a hearing. This has made it extremely difficult to adequately prepare for a hearing and requires considerably more time during the course of a hearing to develop the same information we would otherwise obtain prior to the hearing.”

The authority granted under H. Res. 369 will assist the Committee on Government Reform and Oversight in obtaining sworn testimony in the Travel Office matter quickly and confidentially without the need for lengthy and possibly unproductive hearings. Ordinarily, such information is obtained in staff interviews with potential witnesses prior to a hearing. Some interviews are even taken as depositions, under oath. However, it is doubtful that such testimony could be considered part of the official committee hearing record given the two-Member quorum requirement for taking testimony.

Given the different versions of events leading to and surrounding the Travel Office firings that were provided by the White House and a number of witnesses, the Government Reform and Oversight Committee has a responsibility to provide the most accurate format for clarifying the events in question. The refusal or reluctance of witnesses who are central to the investigation to cooperate in voluntary depositions necessitates H. Res. 369. Furthermore, the withholding of documents by the White House, the Justice Department and the Treasury Department also makes it necessary to seek out the witnesses who can provide the information first-hand and under oath.

ANALYSIS OF THE RESOLUTION

H. Res. 369 authorizes the chairman of the Committee on Government Reform and Oversight, for purposes of its investigation and study of the White House Travel Office matter, upon consultation with the ranking minority member of the committee, to authorize the taking of affidavits, and of depositions, pursuant to notice or subpoena, by a member or staff of the committee designated by the chairman, or require the furnishing of information by interrogatory, under oath administered by a person otherwise authorized by law to administer oaths.

The “White House Travel Office matter” refers to all events leading to the May 19, 1993, firings of the White House Travel Office employees and includes:

All information pertaining to the White House Travel Office and any employees of the White House Travel Office at any time from January 1, 1993, to the present;

The activities of Harry Thomason, Darnell Martens and Penny Sample at the White House;

All allegations of wrongdoing concerning the Travel Office employees;

Actions taken by the Federal Bureau of Investigation and the Department of Justice, both prior to and after the firings of the White House Travel Office employees (including the ac-

tions by any field office personnel and any White House involvement in the coordination of or attendance at interviews), including but not limited to *U.S. v. Billy Ray Dale*;

All investigations and subsequent reviews of the Travel Office firings by any agency including, but not limited to the White House Management Review, the FBI Weldon Kennedy/I.C. Smith review, the FBI OPR review, the Justice Department OPR review, the IRS internal review, the Treasury Inspector General review, the General Accounting Office review, the proposed U.S. House of Representatives "Resolution of Inquiry" considered and voted on in the House Judiciary Committee in July 1993; and

All actions relating to or describing the criminal investigations into the White House Travel Office matter including any subsequent action or activities of any kind as a result of the above mentioned events by the White House, the Treasury Department, the Internal Revenue Service, the General Services Administration, the General Accounting Office, the Federal Bureau of Investigation and the Department of Justice up to the date of this request unless otherwise limited.

H. Res. 369 deems deposition and affidavit testimony, and information received by interrogatory, related to the White House Travel Office matter to be taken in executive session of the committee in Washington, D.C. The resolution also requires such testimony to be considered as non-public until received by the committee, but permits it to be used by members of the committee on open session unless otherwise directed by the committee. The Committee on Rules intends that with respect to the use of such testimony by members of the Government Reform and Oversight Committee in open session, such open sessions shall be related to the investigation of the White House Travel Office matter.

The strict staff deposition authority granted by H. Res. 369 is investigation-specific and not a grant of blanket authority for all investigations of the Government Reform and Oversight Committee or any other committee.

There will be maximum consultation with the minority of the Government Reform and Oversight Committee and the minority leadership that will result in preagreed upon committee rules governing procedures for taking depositions, provisions for notice, transcription of depositions, use of deposition testimony by members in an open session of the committee concerned with the particular investigation, rights of the witnesses, and protection of the minority to fully participate in such depositions if it wishes.

Nothing in H. Res. 369 shall be construed as undermining or reversing procedural precedents established in the course of past congressional investigations. Although the Rules of the House do not expressly authorize formal staff depositions, the Committee is aware that, in the past, sworn testimony has been taken from witnesses in the absence of a specific resolution authorizing the taking of such statements. For example, in the 104th Congress, the majority and minority staff of the Committee on Banking and Financial Services conducted a series of sworn depositions in connection with that Committee's investigation of the failure and resolution of Madison Guaranty Savings & Loan Association and related mat-

ters. In all, committee staff deposed 30 past and present employees of the Resolution Trust Corporation and the Department of Justice. All witnesses were administered the oath; all depositions were transcribed by official House reporters; and no Members were present for the depositions. The transcripts are expected to be made a part of the official record of the Banking Committee's Madison Guaranty investigation.

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

Committee vote

Pursuant to clause 2(l)(2)(B) of House rule XI the results of each rollcall vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee RollCall No. 291

Date: March 5, 1996.

Measure: H. Res. 369, Providing the Committee on Government Reform and Oversight with Special Authorities to Take Testimony.

Motion By: Mr. Moakley.

Summary of Motion: Add a new section setting a deadline of June 30, 1996 for deposition authority.

Results: Rejected, 4 to 7.

Vote by Members: Quillen—Nay; Goss—Nay; Pryce—Nay; Diaz-Balart—Nay; McInnis—Nay; Waldholtz—Nay; Moakley—Yea; Beilenson—Yea; Frost—Yea; Hall—Yea; Solomon—Nay.

Rules Committee RollCall No. 292

Date: March 5, 1996.

Measure: H. Res. 369, Providing the Committee on Government Reform and Oversight with Special Authorities to Take Testimony.

Motion By: Mr. Beilenson.

Summary of Motion: Requires the concurrence of the ranking minority member or a vote of the committee for taking of special testimony.

Results: Rejected, 5 to 7.

Vote by Members: Quillen—Nay; Goss—Nay; Linder—Nay; Pryce—Yea; Diaz-Balart—Nay; McInnis—Nay; Waldholtz—Nay; Moakley—Yea; Beilenson—Yea; Frost—Yea; Hall—Yea; Solomon—Nay.

Rules Committee RollCall No. 293

Date: March 5, 1996.

Measure: H. Res. 369, Providing the Committee on Government Reform and Oversight with Special authorities to Take Testimony.

Motion By: Mr. Frost.

Summary of Motion: Add report language to clarify that the intent of the procedure used in staff depositions is intended to augment the current information gathering function of a committee hearing.

Results: Rejected, 4 to 9.

Vote by Members: Quillen—Nay; Dreier—Nay; Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; McInnis—Nay;

Waldholtz—Nay; Moakley—Yea; Beilenson—Yea; Frost—Yea; Hall—Yea; Solomon—Nay.

Congressional budget office estimates

Clause 2(l)(3)(C) of rule XI requires each Committee to include a cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974, if the cost estimate is timely submitted. No cost estimate was received from the Director of the Congressional Budget Office.

Oversight findings

Clause 2(l)(3)(A) of rule XI requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X. The Committee has no oversight findings.

Oversight findings and recommendations of the committee on government reform and oversight

Clause 2(l)(3)(D) of rule XI requires each committee report to contain a summary of the oversight findings and recommendations made by the Government Reform and Oversight Committee pursuant to clause 4(c)(2) of rule X, whenever such findings have been timely submitted. The Committee on Rules has received no such findings or recommendations from the Committee on Government Reform and Oversight.

Views of committee members

Clause 2(l)(5) of rule XI requires each committee to afford a three day opportunity for members of the committee to file additional, minority, or dissenting views and to include the views in its report. Although neither requirement applies to the Committee, the Committee always makes the maximum effort to provide its members with such an opportunity. The following views were submitted:

MINORITY VIEWS

Congress has an affirmative duty to oversee and investigate the executive branch. There is no intention on the part of the minority to hinder or otherwise undermine this or any other legitimate investigation. However, we are concerned about the potential abuse of this responsibility. In the past, only the Committee on Standards of Official Conduct for ethics matters and the Judiciary Committee for impeachment proceedings have been given this special type of subpoena power for deposing of witnesses. No other standing committees have been granted this extraordinary power. The only other times that such special authority has been granted by the full House were for specially created and appointed Select Committees and task forces for a single investigatory purpose and for a specified period of time.

While this resolution follows the basic outline from previous investigatory rules, we have several concerns we would like to outline in these views.

Unilateral authority of the chairman to authorize subpoenas for staff depositions

We are concerned that this resolution grants the Chairman of the Committee unilateral authority to authorize staff to take affidavits and depositions on behalf of the committee. In the investigations of ABSCAM and Koreagate, both of which were conducted by the Committee on Standards of Official Conduct under direction by the full House, the Chair could act only with the support of the ranking minority member or by direction of the entire committee. We offered an amendment in full committee markup which would have allowed the Chairman with the concurrence of the ranking minority member, or by vote of the committee, to authorize the staff to take affidavits and depositions. Testimony in the Rules Committee indicated that the Chairman and Ranking Minority Member will be working together to create a bipartisan internal committee process for issuance of such subpoenas and taking of staff depositions. Because of this cooperative effort, we believe it is unlikely that the full committee would need to meet to vote in most, if not all, instances. We believed this was a very reasonable and modest request for this resolution which gives such considerable and unprecedented power to a standing committee of the House. This amendment would help ensure that minority rights are protected in this process and that the Chairman does not abuse the considerable power granted to him under this unusual authority. Unfortunately our amendment was defeated by a 5 to 7 vote with only one Republican member voting in favor of the amendment.

Open-ended resolution with no expiration date

The report language for this resolution states that the authority granted under H. Res. 369 will assist the Government Reform Committee in obtaining sworn testimony “quickly and confidentially.” A deadline for completion of the deposition process would seem to be an effective tool in expediting the process for compilation of these materials for use by the full committee. However, the resolution does not contain any language to provide for sunseting this unilateral staff deposition authority. The measure is open ended and has no cut-off date. In previous resolutions of this type, whether in a special committee or task force or in a standing committee, there has generally been specific language to provide for such closure. We are particularly concerned because this staff level investigation could continue on into the summer and fall. If the committee finds that it needs additional time to complete the staff depositions, the date can be extended, as it was in the past for the October Surprise Task Force as well as in the Judiciary Committee for certain impeachment proceedings. We offered an amendment in the Rules Committee markup that would have provided an expiration date of June 30, 1996 for the taking of affidavits or depositions. This would have given the committee more than three and a half months to complete their task, certainly a more than adequate amount of time. Again, our amendment was defeated, this time on a party line vote.

Use of intra-committee rules to carry out the subpoena and deposition process

We are supportive of the ongoing effort by the majority and minority of the Government Reform Committee to reach a bipartisan agreement on the procedure that will be followed to carry out H. Res. 369. However, we are apprehensive that this process will not be part of the resolution itself. The current committee leadership, on both sides of the aisle, may develop rules that will allow for an orderly process that is fair to both those who will be called as witnesses and the committee minority. The need for rules and an orderly process are equally important to the preservation of the integrity and reputation of the House. However, this intra-committee agreement is not binding and may not be honored by all those involved in this process. We sincerely hope that all sides will work to ensure that any agreed upon rules are strictly adhered to and that partisan differences will not abrogate what will hopefully be a bipartisan process. This is important now and in the future should this resolution continue for any length of time.

Lack of clarification regarding citation of witness for contempt

We are particularly troubled that there is lack of clarity in the Rules Committee report with regard to the issuance of a contempt citation against witnesses who refuse to comply with the subpoena for staff deposition. We hope that this grant of authority is not intended to change any of the longstanding practices of the House in this area. Absent clarifying language, there is a danger that there could be a challenge to the longstanding practice in the House which holds that there are no grounds for a contempt citation if a witness refuses to appear before or to answer questions in a staff

deposition provided that the witness responds fully at a duly called hearing of the committee with a quorum of members present. After consultation with the House Parliamentarian on this matter, we offered the following amendment in committee that would have called for the inclusion of report language to address this issue.

The procedure used in this resolution which authorizes the deposition of witnesses by staff is meant to augment and not replace the current information gathering function of a committee hearing. Nothing in this resolution is intended to change the longstanding precedent that there are no grounds for a contempt citation if a witness refuses to appear before or to answer questions in a staff deposition provided that the witness responds fully at a duly called hearing of the committee with a quorum of members present.

The amendment was defeated on a straight party line vote. We think this is an extremely shortsighted move on the part of the majority and could lead to unintended consequences that would undermine the rights of witnesses under rule XI of the House Rules. The integrity of the House and the manner in which it conducts its business are too important for this matter to go unaddressed in this resolution or its accompanying report.

The granting of authority to staff to take depositions from witnesses who are under oath in executive session, with no members present, is an extraordinary situation that should only occur when no workable alternative is available. We recognize that there are instances when it may be appropriate. However, it is imperative that the objective of the committee is solely for the gathering of information for use by the committee in a formal hearing setting. The membership of the committee must be extremely cautious in proceeding with this process. It must exercise strong oversight of this procedure and of those who are assigned to carry out this task. Congress has an obligation to undertake its duties and responsibilities in a manner that is effective, but scrupulously fair to the process and those affected by it.

JOE MOAKLEY.
TONY BEILENSON.
MARTIN FROST.
TONY P. HALL.

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