

PROVIDING SPECIAL INVESTIGATIVE AUTHORITIES FOR
THE COMMITTEE ON GOVERNMENT REFORM AND OVER-
SIGHT

JUNE 19, 1997.—Referred to the House Calendar and ordered to be printed

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

REPORT

together with

MINORITY AND DISSENTING VIEWS

[To accompany H. Res 167]

The Committee on Rules, to whom was referred the resolution (H. Res. 167) Providing special investigative authorities for the Committee on Government Reform and Oversight, 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. 167 is to provide special investigative authorities for the Committee on Government Reform and Oversight.

SUMMARY OF THE RESOLUTION

H. Res. 167 applies to the investigation by the Committee on Government Reform and Oversight of political fund-raising improprieties and possible violations of law. The resolution states that information obtained under its authority shall be considered as taken by the Committee on Government Reform and Oversight in the District of Columbia, as well as at the location actually taken, and, that the information shall be considered as taken in executive session of the committee.

The resolution also authorizes the chairman, after consultation with the ranking minority member, to order the taking of depositions or interrogatories anywhere within the United States under

oath and pursuant to notice or subpoena, and, to designate a member or staff attorney to conduct any such proceeding.

Finally, the resolution authorizes the chairman, after consultation with the ranking minority member, to order the taking of depositions and other testimony under oath anywhere outside the United States, and, to make application for issuance of letters rogatory and request, through appropriate channels, other means of international assistance.

COMMITTEE CONSIDERATION

H. Res. 167 was introduced by Rules Chairman Solomon on June 17 and referred to the Committee on Rules.

On Thursday, June 12, the Committee held a Congressional Research Service briefing on the proposed resolution. Testimony was heard from: Carol Hardy Vincent, Specialist in American National Government, Government Division; Jay Shampansky, Legislative Attorney, American Law Division; Mort Rosenberg, Specialist in American Public Law, American Law Division.

On Wednesday, June 18, the Committee held a hearing on H. Res. 167 and received testimony from: Hon. Dan Burton, Chairman of the Committee on Government Reform and Oversight, and Hon. Henry Waxman, Ranking Minority Member of the committee.

On Thursday, June 19, the Committee held a mark-up of the resolution. The Committee favorably reported H. Res. 167 by a 9-3 vote. During the mark-up, no amendments to H. Res. 167 were agreed to. However, the Committee did agree to insert committee report language by a voice vote.

SUMMARY OF THE INVESTIGATION TO DATE

To date, the Committee on Government Reform and Oversight's investigation of political fund-raising improprieties and possible violations of law includes the following areas:

The circumstances surrounding possible national security breaches relating to any political donors or potential political donors; any possible national security breaches resulting from political contacts with the Central Intelligence Agency (CIA), the National Security Council (NSC) or any intelligence agency of the government; providing political donors access to the National Security Council, the CIA, the State Department and/or other government agencies; granting John Huang, Yah Lin "Charlie" Trie, Democratic National Committee (DNC) officials and/or other individuals access to classified and/or sensitive national security materials; contacts by Huang, Trie and/or other Administration officials with the Chinese Embassy; other issues related to the Chinese Embassy, the Chinese government and/or other foreign governments' attempts to provide funds or assistance in any manner to political campaigns or organizations.

Whether United States domestic and/or foreign policy was affected by illegal and/or foreign donations, foreign interests and/or foreign governments.

The circumstances surrounding any possible misuse of classified information, how and to whom such information was provided, and any possible political actions or economic espionage connected with such actions.

The activities of John Huang including, but not limited to, his business and political activities in Arkansas; his relationship, employment or otherwise, with any Lippo related company and/or affiliate; his contacts with any foreign government officials; his contacts with the White House and/or any federal agency; his contacts with any present or former White House and/or government officials; his contacts with Webster Hubbell; his relationship, employment or otherwise, with the Commerce Department; and his relationship, employment or otherwise, with the DNC, including, but not limited to, his fund-raising activities on behalf of the DNC.

The activities of Charlie Trie, including, but not limited to, his business and political activities including, but not limited to businesses in Arkansas, Washington, D.C., China, Macau, Hong Kong and/or Taiwan; his contacts and/or business with foreign governments; his relationship with a number of individuals, including, but not limited to, Ng Lap Seng, Antonio Pan, and Keshi Zhan; his political activities, contributions and fund-raising activities; his role in raising funds for the Presidential Legal Expense Trust; his appointment to the Commission on United States Pacific Trade and Investment Policy; all contacts with the White House and/or any federal agency; all contacts with any present or former White House or government officials; any contacts with Webster Hubbell; and all activities since he left the United States.

The activities of the Riady family, including, but not limited to, their business and political activities in Arkansas, California, Indonesia, Hong Kong and China; the business and political activities of Lippo related companies and/or affiliates; the Riadys' contacts, personal or business, with the First Lady, the President and/or any former or current Administration official; political or financial contributions made by the Riadys and/or any Lippo related company or affiliate; the payment(s) to Webster Hubbell by the Riadys and/or any Lippo affiliate including, but not limited to, Hong Kong China Ltd.; and all Riady and/or Lippo related contacts with Susan Thomases, Mark Middleton, C. Joseph Giroir, Jr., Mark Grobmyer, James Blair, Jim Guy Tucker and/or Betty Tucker and any contacts made by these individuals with foreign business interests, foreign officials or foreign governments.

Matters pertaining to Webster Hubbell including all legal matters arising out of and/or in connection with work conducted while a partner at and/or during his employment by the Rose Law Firm; at what time and to whom information about Mr. Hubbell's legal problems became known; all contacts with Mr. Hubbell, his attorneys, representatives, intermediaries and/or agents regarding his legal matters; all contacts with Mr. Hubbell by the President, First Lady, James Blair, Mickey Kantor, Mack McLarty, Mark Middleton, John Emerson, Marsha Scott, Bruce Lindsey, William Kennedy, Bernard Nussbaum, Truman Arnold, James Lyons, David Kendall, Robert Barnett, and/or any representative of such individuals; all contacts with Mr. Hubbell by any past or present White House or administration officials; all contacts with federal agency officials; all contacts with Lippo related companies and/or affiliates, subsidiaries, employees, owners and/or business partners; all contacts with Democratic fund-raisers and/or donors; and any attempts

at obstructing any investigations relating to Webster Hubbell, the Rose Law Firm, the First Lady and/or the President.

Matters pertaining to fund-raising abuses by any political party or campaign from 1992 to the present; Hatch Act violations; possible criminal violations; and potential violations of Federal Election Commission regulations; including, but not limited to, the funneling of foreign money into campaigns and/or political organizations; misuse of government resources for political purposes; and the circumstances surrounding the development and use of the White House Data Base (WhoDB).

The circumstances surrounding Harold Ickes' campaign related activities and fund-raising role at the White House and the DNC, knowledge of any wrongdoing or improprieties, as well as the role of other White House officials and DNC employees in campaign related activities or fund-raising; and/or any misappropriation of federal funds.

Matters relating to political contributions by Young Brothers, Ambrous Young and/or any company related to Ambrous Young to the Republican National Committee, the National Policy Forum and/or any political entity.

Matters pertaining to the White House obtaining hundreds of FBI files inappropriately and any possible misuse of those files; and the involvement of the White House in Immigration and Naturalization Service (INS) policy and changes in INS policy for any political purposes; and any assistance provided by the INS to any questionable fund-raisers or donors or White House visitors.

Any matters related directly or indirectly to the foregoing.

The Government Reform and Oversight Committee anticipates that in the course of investigating these various matters, other issues invariably will arise. Last year, in the course of the Committee's investigation into the White House Travel Office matter, a document that the White House initially withheld under a claim of privilege was finally turned over which resulted in the discovery of the unprecedented abuse of FBI files by the White House. The discovery that the White House had obtained the FBI file of White House Travel Office Director Billy Dale seven months after he was fired by the White House, led to the revelation that hundreds of FBI files had been gathered at the White House in what FBI Director Louis Freeh called an "egregious violation of privacy." At the time the Committee obtained the document leading to the FBI files matter, the Committee had deposition authority for the White House Travel Office matter. The FBI files matter was a matter arising out of the initial investigation and the Committee conducted more than several dozen depositions in the FBI files investigation under the deposition authority initially granted to the White House Travel Office matter.

BACKGROUND ON THE INVESTIGATION

The Committee on Government Reform and Oversight is the U.S. House of Representative's chief oversight committee. The Committee has been compelled by substantial allegations in the media, an accumulating body of evidence, and the ensuing public outcry to undertake a thorough investigation of potential campaign fundraising illegalities and potential national security threats. As the prin-

cial investigatory body of the House of Representatives, the Committee has a statutory obligation to scrutinize waste, fraud and abuse in the federal government. At this time, the Committee's investigation focuses on the use of illegal foreign contributions to influence American policy, but it also includes matters relating to potential illegal or improper political fundraising, related activities involving the White House and other federal agencies, improper use of official resources, potential interference with government investigations, the FBI files matter, the INS naturalization matter, the Webster Hubbell matter, and related matters.

Serious questions of national policy and national security abound as daily revelations disclose more troubling facts about the unusual access that questionable individuals had to high-ranking White House and Administration officials in private meetings, fundraising "coffees" and other political events, and official functions. According to one published report, "[t]he FBI has obtained substantial evidence that top Chinese officials approved plans in 1995 to buy influence with American politicians, and that the scheme continued through the 1996 elections and is ongoing * * *"¹ Testifying before a Senate subcommittee in March 1997, FBI Director Louis Freeh stated that the FBI Task Force investigating the fundraising matter would scrutinize as one of its top priorities whether there was a direct threat to our national security by a deliberate plan by a foreign government to influence our political process. Freeh told the subcommittee, "One of the subjects that the * * * task force is going to be investigating are allegations with respect to not just illegal political activities and contributions, but also the national security aspects of that * * * [and] whether the funding or attempted funding or planning was originated not by individuals *per se*, but by a foreign government or state sponsor or ministry."²

The investigation is also following the flow of money once it enters the United States and scrutinizing whether and to what extent illegal actions or money influenced government officials and official government policies or actions. In doing so, the committee will determine whether there is a definable pattern of illegal activity and whether there was a commonality of purpose involved.

The activities of former Commerce Department official and DNC fund-raiser John Huang, who raised at least \$3 million for the DNC during the 1996 election cycle, raise many potential illegalities, including the misuse of an official government position at the Department of Commerce, the illegal disclosure of classified information, and questions about the true source of the money that he raised and whether White House and DNC officials had any knowledge or role in the systematic transfer of funds from foreign sources to the Democratic Party.

John Huang has strong ties to the Indonesia-based Lippo Group and worked for banks affiliated with Lippo since the early 1980's. The Lippo Group is controlled by the Riady family and has large investments in Hong Kong, Taiwan, China, and Vietnam. Riady companies and the Riady family, who were permanent residents in the United States at the time, contributed substantially to the

¹ Washington Post, April 25, 1997, at A1.

² Pittsburgh Post-Gazette, March 21, 1997, at A6.

DNC, affiliated state parties, and soft money venues during the 1992 election. The Riadys subsequently returned to Indonesia following the election. Upon leaving the Lippo Group in 1994 to work at Commerce, Huang received a bonus package worth hundreds of thousands of dollars.

A recently published report has implicated Huang as having deliberately funneled political contributions to the DNC and affiliated organizations using a number of sham corporations and ineligible individual contributors. The report also alleges that Huang may have been a conduit for the transfer of money from foreign governments, including the People's Republic of China and other foreign entities, to the DNC.³ Another recent report contains the alarming information that Huang had an unusually high number of classified briefings while he was an official at the Commerce Department. In just eighteen months, Huang attended 146 briefings at which he had access to classified information. At the same time, Huang was also making telephone calls to his old employer, the Lippo Group. Huang also managed to obtain his top secret clearance five months before he started his employment at Commerce and kept it for a year after he left the department to move to the DNC.⁴ Huang visited the White House at least 23 times between February and October 1996 and regularly met with high level White House officials, such as Bruce Lindsey and Harold Ickes. On four days, June 21-24, 1994, Huang and James Riady of the Lippo Group entered the White House on five separate occasions. At the same time, Riady met with Webster Hubbell at least two times during the same four days. On June 27, 1997, a Lippo Group subsidiary, Hong Kong China Ltd., paid Hubbell \$100,000.⁵

John Huang is a central figure in this investigation, who, along with Webster Hubbell, Charlie Trie, the Riady family, Mark Middleton and Pauline Kanchanalak, has chosen not to cooperate with the investigation. By asserting his Fifth Amendment rights, Huang forces the Committee to utilize other means, such as document subpoenas, depositions of witnesses and foreign discovery, to proceed with its investigation.

DNC fund-raiser Charlie Trie, who first met President Clinton in the late 1970's or early 1980's as a Little Rock, Arkansas restaurant owner, raised over \$300,000 for the DNC, much of which the DNC has pledged to return. Trie also tried to contribute more than \$600,000 to the President's legal defense fund, all of which was eventually returned because of its doubtful origins. According to published reports, Trie "received a series of substantial wire transfers in 1995 and 1996 from a bank operated by the Chinese government."⁶ Trie visited the White House at least 38 times and met with high level officials, such as Mark Middleton. In January 1996, President Clinton issued an executive order to increase the size of the U.S. Pacific Trade and Policy Commission from fifteen to up to twenty members. He thereafter added only Charlie Trie's appointment to the Commission. The White House released the names of the appointees, including Trie on April 17, 1996, only

³NY Times, June 6, 1997, at A1.

⁴Washington Times, May 15, 1997, at A3.

⁵NY Times, March 20, 1997.

⁶Wall Street Journal, April 1, 1997, at A20.

weeks after the Presidential Legal Expense Trust's Executive Director Michael Cardozo informed Mrs. Clinton and Harold Ickes of Trie's delivery of questionable funds to the fund.

DNC contributor Ted Sioeng and his daughter contributed more than \$355,000 to the DNC since 1993. According to published reports, Sioeng is under investigation for "allegedly working as a [Chinese] political operative in the United States * * * [and seeking] to acquire influence for China through his family's political donations, including \$250,000 to the Democratic National Committee during last year's presidential campaign."⁷ Sioeng is now rumored to be in Hong Kong.

According to a recent news article, "[i]n at least two other cases that have come to light in recent months, the president in 1996 continued to have dealings with large contributors even after his aides received unfavorable reports on them from law-enforcement and intelligence agencies."⁸

The White House has recently admitted that President Clinton ordered then-chief of staff Thomas "Mack" McLarty personally to investigate obtaining the Department of Energy's support for political contributor Roger Tamraz's proposal to build an oil pipeline through the Caucuses after Tamraz spoke with the President at the White House on March 27, 1996.⁹ Tamraz, who is reportedly wanted for questioning in Lebanon in connection with a possible embezzlement charge, contributed at least \$177,000 to the DNC and affiliated state parties in 1995 and 1996. Although Tamraz's access to the White House had been opposed by White House National Security Council staff, they had been overruled by senior White House officials, who allowed Tamraz to visit the White House on at least six or seven separate occasions in 1995 and 1996.

In a related matter, the Department of Justice and the CIA Inspector General are investigating former DNC Chairman Don Fowler's contacts with the Central Intelligence Agency concerning Roger Tamraz. In the Tamraz case, it is alleged that Fowler asked the CIA to vouch for Tamraz to circumvent the objections of NSC staff director Nancy Soderberg.¹⁰

In another case, unfavorable information obtained by staff on the National Security Council about a potential White House visitor, California businessman Yogesh Gandhi, prevented him from meeting the President at the White House. However, "Democratic fundraisers arranged for the meeting to take place on May 13, 1996, at the Sheraton Carlton hotel, two blocks [from the White House] * * * [where] Gandhi met with President Clinton and donated \$325,000 to the Democratic National Committee."¹¹

These are just a number of the disturbing revelations that surface daily and raise serious concerns about how national security or policy may have been compromised by such questionable characters with unique access to the White House.

Other matters under investigation relate to the possible misuse of government resources or federal funds.

⁷ Los Angeles Times, May 18, 1997.

⁸ Wall Street Journal, June 10, 1997.

⁹ Los Angeles Times, June 4, 1997, at A1.

¹⁰ Ibid, at A8.

¹¹ Wall Street Journal, June 10, 1997.

The Committee is investigating the use of official White House resources in the creation of a database, which included political contributors. Reportedly, White House officials merged a list of the President's social contacts with a larger list of political contributors, despite a warning from the White House counsel's office that the database could be used only for official, not political, purposes.¹² There have also been reports published recently that DNC contributor lists were found in official Commerce Department files.¹³

Although many instances of potential illegalities center on the White House, there is a growing body of evidence that points to the widespread misuse and politicization of officials in a large number of government agencies. In one such case, there have been reports that prominent Democratic fund-raiser Peter Knight obtained preferential treatment for his clients in the form of several millions of dollars in contracts with the Department of Energy.¹⁴ Mr Knight, who is a personal friend of Vice President Gore, reportedly used a contact at the Department of Energy, Thomas Grumbly, who worked for the Vice President in the 1980's. One of the recipients of the DOE's largesse in this matter was a company run by a former Gore White House staffer, William Haney.

In another case of alleged misuse of government agencies, the Department of Justice announced on April 28, 1997, that its Inspector General was launching an investigation of allegations of "mismanagement, misconduct and illegality"¹⁵ at the Immigration and Naturalization Service regarding the operation of the Citizenship USA program. "The probe will delve into charges that the program * * * was misused for political purposes and ended up naturalizing criminals in a rush to create as many new citizens as possible in time for last year's elections * * * [and] will cover allegations that the office of Vice President Gore played a key role in promoting the program in hopes of reaping a Democratic electoral windfall."¹⁶

The allegations connected with these individuals concern very serious matters relating to foreign influence over our government, very unusual access to the highest levels of the White House and the Administration by questionable people, and an unprecedented flow of favors and campaign cash intersecting at 1600 Pennsylvania Avenue. No doubt the facts in this investigation will lead us to further sources of information, however the Committee began its investigation where many of the central figures intersect: at the White House.

The Committee already has amassed a large body of documents that contain troubling information regarding the conduct of senior government officials and donors with highly unusual access. Of great significance are the allegations that this administration may have solicited money from foreign and other sources to obstruct the workings of justice and protect various officials from further investigation and possible prosecution. Reported payments to Webster

¹² Washington Times, May 16, 1997, at A1.

¹³ Washington Post, June 1, 1997, at A11.

¹⁴ Washington Times, May 31, 1997, at A1.

¹⁵ Washington Post, April 29, 1997.

¹⁶ Ibid.

Hubbell of \$100,000 by the Lippo Group¹⁷ raise serious questions about whether there was a coordination of payments by persons close to the President from entities in the United States and abroad, and whether these payments to Hubbell influenced his cooperation with the investigation of Whitewater and related matters. The interrelationships of the billionaire Riadys, John Huang, Webster Hubbell and other senior Administration figures is a central focus of the inquiry into alleged misuse of government resources and/or obstruction of ongoing criminal investigations.

The Fifth Amendment claims of key witnesses such as John Huang, Webster Hubbell, and Mark Middleton have already significantly hampered the progress of the investigation, necessitating much additional work. Other key witnesses such as the Riadys, Charlie Trie and Pauline Kanchanalak left the country after news reports of their involvement in the foreign contributions to the Democratic National Committee.

In what may be the first of a series of related prosecutions in this matter, two key Democratic fund-raisers, Eugene and Nora Lum, pleaded guilty on June 5, 1996, to the felonious transfer of \$50,000 to the campaign of Senator Edward Kennedy and another campaign using straw donors.¹⁸ The Lums each face the prospect of up to five years in prison and fines totaling \$250,000 at their sentencing. The Lums were prominent fund-raisers for the DNC and were confidantes to the late Commerce Secretary Ron Brown and fund-raiser John Huang. Mrs. Lum was the executive director of the Asian Pacific Advisory Council and in that capacity she raised more than \$250,000 for the 1992 Clinton/Gore campaign. The Lums' daughter, Trisha, also pleaded guilty to serving as an illegal conduit for her mother for a \$10,000 contribution to the DNC. The Lums reportedly have agreed to fully cooperate with the Justice Department's fundraising task force.¹⁹ The Committee is reviewing these actions as well as related actions at the Commerce Department and the practices of the late Commerce Secretary Ron Brown.

On October 31, 1996, then-Chairman Clinger issued a request for documents to the White House regarding the activities of John Huang, after allegations of campaign financing irregularities surfaced. In January 1997, Chairman Burton issued a similar letter request to the White House. After receiving no response from the White House, Chairman Burton on March 4, 1997 issued a document subpoena to the White House. On April 10, 1997, in response to White House demands for a formal procedure for the handling, storage and release of documents, the Committee adopted a document protocol. In response to the taking of the Fifth Amendment by key witnesses Webster Hubbell, John Huang, and Mark Middleton and other witnesses, such as Pauline Kanchanalak and Charlie Trie, having left the country, the Committee issued numerous letter requests and over 100 subpoenas to related entities and individuals.

In the face of the White House's refusal to fully comply with the Committee's lawfully executed subpoenas, the Committee in late

¹⁷ NY Times, October 12, 1996, at A11.

¹⁸ Washington Times, June 6, 1997, at A1.

¹⁹ Washington Post, June 6, 1997.

April issued six additional, “targeted” subpoenas covering Charlie Trie, John Huang, Webster Hubbell, Pauline Kanchanalak, the Riady family, and Mark Middleton. After substantial negotiations between the White House and the Committee and the scheduling of a contempt hearing by the Committee for May 21, 1997, the White House on May 20, 1997 agreed to release all relevant documents in its possession by June 13, 1997, with the exception of 40 documents it has listed on a privilege log it submitted to the Committee.

The Committee undertakes its responsibilities in this investigation in a grave and cautious manner. It is aware of the great seriousness of the potential crimes adversely affecting our national security that may have been committed and the possibility that power was abused at the highest levels. The Committee believes that no delay may be endured in investigating the possible trading of access for money and possible obstruction of justice. The Committee has not declared any entities off limits and is committed to bringing to light all instances of illegalities. To this end, the Committee has issued subpoenas and letter requests to the Republican National Committee and certain Republican donors and will follow the facts wherever they lead.

To demonstrate the seriousness of these charges, which possibly involve senior officials, and the degree to which the public consternation has been aroused, it is useful to note a few newspaper editorial quotes:

Americans are now fully aware of the disclosures and allegations that the law was broken by operatives of Mr. Clinton’s re-election campaign. Of particular interest is the allegation that money was solicited and accepted from foreign sources. Every informed account of the campaign, including many from insiders, says that senior officials in the White House and the campaign, as well as Mr. Clinton himself, were involved in the most intricate details of fund-raising.²⁰

The fund-raising disclosures have blown up into the biggest political scandal in the United States since Watergate. It is paralyzing the President, preoccupying Congress, and fueling public cynicism about our political system.²¹

We’ve commented before on the selective way in which this White House dispenses—and—doesn’t dispense—the truth when it is in trouble. They put up a series of false fronts; you knock one down only to be confronted by another. Then they complain about the fact that they are not believed. They’re dead right about that.²²

It gets progressively easier to see why * * * [there] may be the makings of an obstruction of justice case in the White House treatment of Webster Hubbell. * * * [T]he circumstantial case is already weighty.²³

²⁰ NY Times, May 2, 1997.

²¹ NY Times, April 16, 1997.

²² Washington Post, May 9, 1997.

²³ NY Times, May 6, 1997.

These issues and many others must be fully investigated to ensure that our national security has not been compromised and government officials have not obstructed the path of justice. Through the congressional inquiry and hearing process, the Government Reform and Oversight Committee has an obligation to the American people to investigate the many allegations of wrongdoing on the part of this administration and others connected with these and related events.

BACKGROUND AND NEED FOR THE RESOLUTION

The broad authority for the Congress to conduct investigations is well-established and universally recognized.

* * * although there is no express provision of the Constitution which specifically authorizes the Congress to conduct investigations and take testimony for the purposes of performing its legitimate functions, numerous decisions of the Supreme Court have firmly established that the investigatory power of Congress is so essential to the legislative function as to be implicit in the general vesting of legislative power in Congress.” (CRS Report 95-464; “Investigative Oversight: An Introduction to the Law, Practice and Procedure of Congressional Inquiry, by Mort Rosenberg, April 7, 1995)

In furtherance of Congress’ legitimate investigative function, the standing Rules of the House provide the committees with the general authority and tools needed to carry out most investigations of matters that properly fall within their jurisdiction.

The specific provisions governing committees’ investigative procedures can be found in House rule XI.

Clause 2(h)(1) establishes a minimum quorum of two members for taking testimony or receiving evidence in a committee.

Clause 2(k) outlines procedures for the conduct of investigative hearings designed to balance the interests of the committee in gathering necessary testimony and evidence while carefully safeguarding certain procedural rights of witnesses.

These procedures include: announcement by the chairman of the subject of the investigation; provision of the committee’s rules and the relevant House rules to each witness; allowance for witnesses to be accompanied by counsel; authority for the chairman to appropriately punish accompanying counsel for breaches of order, decorum or professional ethics; guidelines for taking testimony or evidence in executive session when it is asserted that such testimony or evidence may tend to defame, degrade or incriminate any person; restrictions on the release of evidence or testimony taken in executive session; discretion for the committee to determine the pertinence of testimony and evidence; and means for a witness to obtain a transcript of testimony given in public or executive session.

Clause 2(m)(1)(A) authorizes committees and subcommittees to sit and act (including holding hearings) within the United States whether the House is in session, has recessed or has adjourned.

Clause 2(m)(1)(B) authorizes committees and subcommittees to require by subpoena or otherwise the production of documents or

the testimony of witnesses. It further authorizes the chairman of the committee, or any member of the committee designated by the chairman, to administer oaths to any witness.

Clause 2(m)(2) specifies that subpoenas necessary for the conduct of an investigation must be authorized by a majority vote of the committee's (or subcommittee's) members, a majority being present. However, this rule allows a committee to adopt written rules delegating to its chairman the authority to issue subpoenas in connection with an ongoing investigation.

These standing rules have, for the most part, proven sufficient to permit the House to fulfill its legitimate investigative functions. The Rules Committee continues to believe that these rules have proven resilient, have served the House and the public well, and are not in need of any permanent revision.

There have been times, however, when the complexity and broad scope of a pending investigation have prompted the House to grant standing committees or select committees special authorities to assist in the orderly conduct of those investigations. The Rules Committee believes that this type of case-by-case approach has been effective in maintaining the primacy of the standing rules of the House while allowing for the necessary flexibility to respond to special circumstances involving major investigations.

Specifically, since 1974 there have been at least 10 major investigations undertaken in the House where the membership determined that the standing rules did not provide sufficient flexibility or authority to ensure completion of a thorough and complete inquiry. In those cases the House has adopted a special resolution, brought forward under the original jurisdiction of the Rules Committee, granting special authorities to a standing committee or, in certain cases, establishing a temporary select committee or subcommittee for the purpose of conducting the investigation.

These resolutions have been carefully drawn to ensure that the investigatory panel has the authority to conduct a comprehensive investigation while the basic principles of the standing rules of the House, including protection of the rights of witnesses, are upheld. [see Appendix A in this report for the text of these resolutions]

Regarding the handling of information obtained under the authority granted by a special resolution, the House has frequently provided that such material is considered to be taken in executive session. The purpose of this designation is to ensure that the witness protection afforded under clause 2(k)(7), which requires approval by the committee to release evidence or testimony received in executive session, is maintained.

Perhaps the most common "special authority" granted by the House to assist the conduct of investigations is the authority to allow a single member of the committee or staff designated by the chairman to take depositions. Members who have participated in major congressional investigations are well aware that depositions of key witnesses in such complex cases can last for hours or even extend beyond a single day. Given the many demands on members' time, it has at times proven extremely difficult to meet the two-member quorum requirement by clause 2(h)(1) of rule XI.

In these cases the House has acknowledged the reality of scheduling conflicts, recognizing that frequent interruptions and distract-

tions would undoubtedly impact upon the quality of the investigative proceedings. Because it is in the best interests of the House and the nation to ensure that major investigations are thorough and are not unduly prolonged, the House has in such clearly defined cases approved a resolution granting a committee or select committee the authority to allow a single member or designated staff to take depositions.

The Committee on Rules is generally reluctant to depart from the two-Member quorum requirement for committees to receive evidence. The Rules Committee believes that the rule assigns the proper responsibility to receive evidence to the Members of the House and notes that the rule was also designed to protect witnesses in a congressional inquiry. Nevertheless, due to the magnitude and severity of the revelations from the executive branch, and the need to bolster the ability of the Government Reform and Oversight Committee to properly investigate this matter, the Rules Committee is compelled to report to the House a resolution granting staff deposition authority.

The House has also, on occasion, recognized the need to provide standing or select committees undertaking major investigations the specific authority to seek testimony and evidence beyond the borders of the United States. In at least six major investigations since 1975, the House has concluded that the need for gathering evidentiary information from abroad justified granting special authorities to the committees charged with conducting those investigations. This special authority, which is generally constrained by the level of international cooperation that can be secured in each specific case, allows the committee to employ existing channels (through the courts and other diplomatic means) for seeking to interview individuals in foreign countries or gain access to foreign-held information.

According to Mort Rosenberg, a CRS Specialist in American Public Law:

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 interrogatories 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 recent past, standing committees and select committees whose investigations necessitated access to individuals or information in a foreign country have been granted additional authority by the House to take depositions and other testimony outside the United States, to make application for the issuance of letters rogatory and request other means of international assistance.

This type of authority has proven necessary in cases where individuals whose testimony is relevant to an investigation are not present within the United States and have been, in some cases, unwilling to cooperate voluntarily with the investigation. In addition, there have been cases where a committee has sought access to records and other documentary evidence that could not be gathered within the United States.

According to Mort Rosenberg, a CRS Specialist in American Public Law:

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.

The term "letter rogatory" is a letter of request from a court in the United States seeking judicial action by a foreign court, including taking evidence or serving a subpoena or other legal notice to someone who is subject to that foreign court's jurisdiction.

As Mort Rosenberg explained:

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. Section 1781(a)(2), the transmission of such requests through the State Department (i.e., diplomatic) channels is authorized * * *. 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 * * *. 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.

House rules grant committees the ability to carry out their investigative responsibilities under the rules and, in clause 2(m)(1)(B) authorize committees "to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned * * *" A House resolution is necessary to grant the Committee on Government Reform and Oversight the ability to obtain evidence anywhere outside the United States.

The Committee on Rules is concerned at the allegations of campaign finance improprieties in this case, and it is truly alarmed at the possibility that American national security may have been severely compromised in this affair. The Committee believes that any House resolution granting special investigative authorities to the Committee on Government Reform and Oversight should acknowledge the international aspects of this scandal. Press reports indicate that potential witnesses may have left the United States, and the media has also reported that certain campaign contributions may have originated overseas. The Rules Committee believes that the Government Reform and Oversight Committee would be hampered in its ability to gather evidence if the authority to employ standard international evidence-gathering techniques were not included in the resolution.

In the investigation into the White House Travel Office matter in the 104th Congress, the Government Reform and Oversight Committee adopted a committee rule specifying the procedures to be employed if the House granted staff deposition authority to the

Committee. This committee rule addressed the procedures for taking depositions, provisions for notice, transcription of depositions, the rights of the minority to participate in depositions, and witness protections.

The Committee on Rules recommended, in the 105th Congress, that the Committee on Government Reform and Oversight adopt a committee rule setting forth procedures for this investigation in advance, if the House grants the Committee special investigative authorities.

On June 18, the Committee on Government Reform and Oversight adopted committee rules 20 and 21 by a vote of 22–17. [The text of committee rules 20 and 21 are contained in Appendix B.]

In addition to the specific procedures for taking depositions adopted recently, the rules of the Committee on Government Reform and Oversight for the 105th Congress address various investigative abilities of the committee, and are entirely consistent with precedents.

In the 103rd Congress, the rules of the (then) Committee on Government Operations delegated the power to authorize and issue subpoenas as provided in House rules directly to the chairman of the Committee. In the 104th Congress, the Committee on Government Reform and Oversight adopted a committee rule which also delegated the power to authorize and issue subpoenas as provided in House rules directly to the chairman of the Committee. That committee rule was limited by a further committee rule later in the 2nd session of the 104th Congress.

Similarly, in the 105th Congress, the Committee on Government Reform and Oversight adopted a committee rule which delegated the power to authorize and issue subpoenas as provided in House rules directly to the chairman of the Committee. This rule was adopted along with the committee's rules at the committee's organizational meeting on February 12, 1997 by a voice vote. The Committee then established further procedures relating to the issuance of subpoenas in its Protocol for Documents adopted on April 10, 1997 by a vote of 21–16.

SECTION-BY-SECTION ANALYSIS OF THE RESOLUTION

Section 1 applies the authorities granted by H. Res. 167 to the investigation by the Committee on Government Reform and Oversight into political fundraising improprieties and possible violations of law. The application of the resolution contained in Sec. 1 is identical to the application of the investigation contained in the Government Reform and Oversight Committee's Protocol for Documents, adopted by the Committee on April 10, 1997 by a vote of 21–16.

Section 2 considers information obtained under authority of the resolution as taken by the Committee on Government Reform and Oversight in the District of Columbia, as well as at the location actually taken; and, considers information obtained under authority of the resolution as taken in executive session. The Committee on Rules intends that such information, taken in executive session, should not be released or used in public sessions without the consent of the committee, as provided in clause 2(k)(7) of House rule XI.

The resolution states clearly that information sought through depositions or interrogatories shall be considered as taken in executive session. As such, questions put at depositions and in interrogatories are propounded with the full authority of the Committee on Government Reform and Oversight. Failure of a deponent or of a person to whom interrogatories are propounded to answer such questions is subject to sanction under 2 U.S.C. Sec. 192. Pursuant to this statute, the issue of pertinency of any question is left for ultimate resolution of the courts in the event a default in responding to interrogatories or a refusal to answer in the course of a deposition is certified for prosecution, but should also be first decided by the Committee on Government Reform and Oversight consistent with clause 2(k)(8) of Rule XI as part of any statement of fact provided for in 2 U.S.C. Sec.194.

Section 3 authorizes the chairman of the Committee on Government Reform and Oversight, after consultation with the ranking minority member of the committee, to order the taking of depositions or interrogatories anywhere within the United States, under oath and pursuant to notice or subpoena; and, to designate a member of the committee or an attorney on the staff of the committee to conduct any such proceeding. The authority granted by the resolution will allow the Committee to take sworn testimony quickly and confidentially. The authorities contained in the resolution are necessary tools to enable the Committee to effectively conduct its investigation, acknowledging the domestic and international nature of the scandal in question.

Section 4 authorizes the chairman of the Committee on Government Reform and Oversight, after consultation with the ranking minority member of the committee, to order the taking of depositions and other testimony under oath anywhere outside the United States; and, to make application for issuance of letters rogatory, and to request, through appropriate channels, other means of international assistance, as appropriate. The Rules Committee understands the assessment made by CRS that "letters of request are honored on the basis of comity between the courts addressed" and recognizes that cooperation and assistance from the Department of State and foreign governments will be integral to securing the necessary evidence and testimony from beyond the borders of the United States. It is the expectation of the Rules Committee that the legitimate inquiry being conducted on behalf of the American public will be given all possible assistance as it works to get to the bottom of the very serious charges that form the basis of this investigation.

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

Committee votes

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. 34

Date: June 19, 1997.

Measure: H. Res. 167, Providing special investigative authorities to the Committee on Government Reform and Oversight.

Motion by: Mr. Moakley.

Summary of motion: To amend the resolution to replace “consultation” with requirement for “concurrence” with the minority or a vote of the committee.

Results: Rejected, 3–9.

Vote by Members:

Dreier—Nay; Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; McInnis—Nay; Hastings—Nay; Myrick—Nay; Moakley—Yea; Frost—Yea; Slaughter—Yea; Solomon—Nay.

Rules Committee Rollcall No. 35

Date: June 19, 1997.

Measure: H. Res. 167, Providing special investigative authorities to the Committee on Government Reform and Oversight.

Motion by: Mr. Moakley.

Summary of motion: Strike the sections of the report entitled, “Summary of the Investigation to Date” and “Background on the Investigation”.

Results: Rejected, 3–9.

Vote by Members:

Dreier—Nay; Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; McInnis—Nay; Hastings—Nay; Myrick—Nay; Moakley—Yea; Frost—Yea; Slaughter—Yea; Solomon—Nay.

Rules Committee Rollcall No. 36

Date: June 19, 1997.

Measure: H. Res. 167, Providing special investigative authorities to the Committee on Government Reform and Oversight.

Motion by: Mr. Moakley.

Summary of motion: To amend the resolution to prohibit subpoena for any witness already deposed by the Senate unless the committee votes to issue the subpoena.

Results: Rejected, 3–9.

Vote by Members:

Dreier—Nay; Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; McInnis—Nay; Hastings—Nay; Myrick—Nay; Moakley—Yea; Frost—Yea; Slaughter—Yea; Solomon—Nay.

Rules Committee Rollcall No. 37

Date: June 19, 1997.

Measure: H. Res. 167, Providing special investigative authorities to the Committee on Government Reform and Oversight.

Motion by: Mr. Moakley.

Summary of motion: To amend the resolution to limit deposition rounds to one hour for each side.

Results: Rejected, 3–9.

Vote by Members:

Dreier—Nay; Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; McInnis—Nay; Hastings—Nay; Myrick—Nay; Moakley—Yea; Frost—Yea; Slaughter—Yea; Solomon—Nay.

Rules Committee Rollcall No. 38

Date: June 19, 1997.

Measure: H. Res. 167, Providing special investigative authorities to the Committee on Government Reform and Oversight.

Motion by: Mr. Frost.

Summary of motion: To amend the resolution to clarify the scope of the investigation by adding after "possible violations of the law" "as they relate to such fundraising activities".

Results: Rejected, 3-9.

Vote by Members:

Dreier—Nay; Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; McInnis—Nay; Hastings—Nay; Myrick—Nay; Moakley—Yea; Frost—Yea; Slaughter—Yea; Solomon—Nay.

Rules Committee Rollcall No. 39

Date: June 19, 1997.

Measure: H. Res. 167, Providing special investigative authorities to the Committee on Government Reform and Oversight.

Motion by: Mrs. Slaughter.

Summary of motion: To amend the resolution to strengthen due process by requiring that a copy of 18 USC 1001 be provided to individuals before they are asked to respond to a request for information.

Results: Rejected, 3-9.

Vote by Members:

Dreier—Nay; Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; McInnis—Nay; Hastings—Nay; Myrick—Nay; Moakley—Yea; Frost—Yea; Slaughter—Yea; Solomon—Nay.

Rules Committee Rollcall No. 40

Date: June 19, 1997.

Measure: H. Res. 167, Providing special investigative authorities to the Committee on Government Reform and Oversight.

Motion by: Mrs. Slaughter.

Summary of motion: To amend the resolution to: (a) require notice to minority of all interviews; (b) require all testimony and information obtained from such interviews to be provided to both sides; (c) require all staff travel requests be provided to the minority along with a statement of purpose for the trip and names of individuals to be interviewed.

Results: Rejected 3-9.

Vote by Members: Dreier—Nay; Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; McInnis—Nay; Hastings—Nay; Myrick—Nay; Moakley—Yea; Frost—Yea; Slaughter—Yea; Solomon—Nay.

Rules Committee Rollcall No. 41

Date: June 19, 1997.

Measure: H. Res. 167, Providing special investigative authorities to the Committee on Government Reform and Oversight.

Motion by: Mrs. Slaughter.

Summary of motion: To amend the resolution to require the committee database to be made available to the minority.

Results: Rejected 3-9.

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

Myrick—Nay; Moakley—Yea; Frost—Yea; Slaughter—Yea; Solomon—Nay.

Rules Committee Rollcall No. 42

Date: June 19, 1997.

Measure: H. Res. 167, Providing special investigative authorities to the Committee on Government Reform and Oversight.

Motion by: Mr. Dreier.

Summary of motion: To order H. Res. 167 reported.

Results: Adopted 9–3.

Vote by Members: Dreier—Yea; Goss—Yea; Linder—Yea; Pryce—Yea; Diaz-Balart—Yea; McInnis—Yea; Hastings—Yea; Myrick—Yea; Moakley—Nay; Frost—Nay; Slaughter—Nay; Solomon—Yea.

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 two day opportunity for members of the committee to file additional, minority, or dissenting views and to include the views in its report. Although this requirement does not apply to the Committee, the Committee always makes the maximum effort to provide its members with such an opportunity. The following views were submitted:

BURTON INVESTIGATION MINORITY VIEWS

If we had any hopes that the investigation in the Government Reform Committee would be on the level and include a thorough investigation of fundraising improprieties by both political parties, those hopes were dashed when we read this report. The first 12 pages of the report focus totally on allegations of wrongdoing on the part of Democratic fundraising activities. Not one specific instance cited any alleged offenses of the Republican fundraising efforts, of which there are a number.

We oppose the granting of this special investigative authority contained in H. Res. 167. Not because we want to forestall or disrupt any legitimate investigation, but because we feel the authority provided in this resolution is unnecessary, will be used to abuse the process, and will guarantee neither the protection of individual rights nor the rights of the minority party in this proceeding.

Prior to the 104th Congress, only the Committee on Standards of Official Conduct for ethics matters and the Judiciary Committee for impeachment proceedings were given this special type of subpoena power for deposing of witnesses. No other standing committees were granted this extraordinary power. In the 104th Congress, the Rules Committee passed a resolution, regarding the White House Travel Office, which was similar to, but more modest in its scope than H. Res. 167. At that time, we expressed our concern that the resolution granted far too much unilateral authority to the Chairman of the Government Reform Committee. Furthermore, the 104th resolution was done at a time when there appeared to be a reasonable degree of cooperation and communication between the Chairman and Ranking Minority Member. Throughout that hearing and mark-up process, we were constantly assured by our majority as well as the majority on the Government Reform Committee that every effort would be made to guarantee the rights of the minority in the investigative process and to include the minority in all aspects of the investigation. However, even in this situation where the Chairman and Ranking Minority Member had a relatively civil working relationship, the rules were not always followed and there were abuses by the majority party of the powers granted in that rather rare House Resolution. We have many reservations about this process.

The scope of the resolution is unclear. It is an improvement over the initial resolution drafted by the Republicans on the Government Reform Committee, which had virtually no limits on its scope and could have been used for essentially any investigation done by that committee. H. Res. 167 was modified to contain some limitations, but not enough. The resolution applies to investigations by the Committee "of political fundraising improprieties and possible violations of law." It is unclear if "possible violations of law" applies only to political fundraising improprieties, or if it could be ex-

panded beyond that arena. During the Rules Committee markup, we offered an amendment to clarify that the “possible violations of law” were pertaining only to political fundraising activities. Unfortunately the amendment was defeated.

The resolution also allows the Chairman, after consulting with the Ranking Minority Member, to take depositions anywhere in the world and authorizes a variety of mechanisms to obtain international assistance in gathering information. This authority has been granted in other major congressional investigations, and we do not necessarily object to its inclusion in this resolution. We would add a note of caution, however, that the conduct of the Government Reform Committee in this investigation has been marked by partisanship, harassment of some witnesses, misrepresentation and misleading statements, information leaks by staff, and disregard for the right of the minority to participate in this process. This does not instill our confidence that international working relationships can be achieved, or that the example of previous congressional investigations will be followed. In a recent briefing on this issue, CRS experts stressed that the ability to gain access to and information from foreign sources depends almost totally upon the willingness of the host country to allow it. This requires comity and clarity. We urge the Committee to engage in the kind of cooperative, bipartisan working arrangements which have enabled other congressional investigations to succeed.

H. Res. 167 does not contain any time limitation or an expiration date. It is extremely rare for a grant of authority of this nature to be without some type of sunset provision. The resolution from the 104th Congress did not have a cut-off date in the resolution but did have one in the special Government Reform Committee rules enacted for implementation of the resolution. We believe that a time limit should at the very least be addressed in the Committee rules. If additional time is needed, the House can, as it has in the past on numerous occasions, approve an extension. We offered an amendment with a generous and reasonable cut-off date of December 31, 1997 which happens to be the date that the supplemental funding for the fundraising investigation expires. The amendment was not approved.

We have very grave concerns regarding the role of the minority throughout this process. The Republican majority on the Government Reform and Oversight Committee has trampled on the rights of its minority members since its organization at the beginning of this Congress. Subpoenas have been issued unilaterally by the Chairman with no consultation and little or no advance notice to the Ranking Minority Member. Little or no notice has been given of witness interviews, including committee authorized and funded staff travel both inside and outside the country for those interviews. The minority has not been allowed to participate in any of the interviews. Protests over this behavior have gone unacknowledged. Numerous correspondence sent by the Ranking Minority Member asking for clarification of these activities and others regarding this investigation has gone unanswered.

Nothing in this resolution in any way includes or guarantees viable minority participation in the investigation. Government Reform Committee rules adopted on June 17, 1997 include modest minority

protections in some instances, but fail to provide the minority with rights in the more substantive areas. It is particularly disconcerting that the committee rules provide that 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,” in effect, giving total, unilateral authority to the Chairman. At the very least the chair should be required instead to “concur” with the Ranking Minority Member or by approval of the committee in this instance. The minority is not seeking for veto authority over any particular subpoena, but simply an opportunity to present to the committee their views and have an opportunity for consideration of those views. The committee rules from the 104th Congress, under Chairman Clinger, required concurrence. We are at a loss as to why this prerequisite was not retained and was, in fact, replaced with a much weaker requirement.

This was not the only change that was made in the committee rules that was used to administer the resolution from the 104th Congress. Another substantial change from the 104th special committee rules is the manner in which witnesses are questioned in the deposition. Previously the rounds of questioning of deposed witnesses would alternate every hour (i.e. 1 hour by the majority and 1 hour by the minority) until all parties gathered the necessary information. The rules for H. Res. 167 provide that questioning of witnesses will be done in rounds with the majority acting, first, asking questions until finished. Only then would the minority member or designated staff attorney be allowed to question the witness. Conceivably the majority could question a witness for several hours before allowing the minority to ask even a single question. Current committee practice alternates between the majority and the minority. This practice should occur in staff depositions as well. We think H. Res. 167 should follow the rules utilized in the last Congress.

We are distressed that in the previous resolution, there were problems with minority rights at witness depositions. In at least one instance, when the majority staff decided to cut off a deposition and ordered the court reporter to stop, the minority staff did not want to stop and requested that the court reporter continue, the majority staff prevailed. There is nothing in either the resolution or the accompanying committee rules that would protect the minority’s right in this situation. We would hope that such blatant abuse of the power of the majority would not be tolerated.

We are deeply, deeply concerned that individual rights may be compromised and, at worst, abused in this investigation by way of this resolution. Neither the resolution or the accompanying rules provide necessary safeguards to protect those who will be subject to the measure. We think it is extremely perilous to allow staff, in a closed session, to have virtually unlimited questioning of a witness with little or no rights given to the individual being deposed. There is ample opportunity for staff to intimidate and harass witnesses. These interrogative sessions are not trials or courts of law. People approaching these staff depositions should not be deprived of the protections that are generally available to those giving statements under oath.

We also believe that witnesses have the right to have counsel and anyone else of their choosing at a deposition and should not be limited in that right as they are in the resolution's committee rules. Another point with regard to individual rights that is too often overlooked or ignored when a committee becomes overzealous in utilizing its investigative powers is the cost of legal counsel for the witnesses. Because of the accusatory manner most witnesses desire to be accompanied by counsel at any interview taking place, whether under oath or not. Additionally, recent changes to title 18, section 1001 of the U.S. Code make it illegal for anyone to in any way mislead Congress, subjecting the violator to a fine and/or imprisonment of up to five years, making representation by counsel a necessity in an investigative setting. While we would not suggest that pertinent witnesses be bypassed because of the potential cost of counsel, we urge the committee to consider the financial burden that may be placed on potential witnesses, particularly if that person testimony is likely to have little or no relevance to the investigation at hand. Investigations are not fishing expeditions, and subjecting dozens of witnesses to such a process is unfair, unprincipled, and not a practice in which the committee should be engaging.

We are still concerned over clarifying language in the report regarding contempt against a subpoenaed individual who refuses to be interviewed but is willing to testify before the committee at a regular meeting. Absent clarifying language, there is a danger of challenging long-standing practices of 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. As in the resolution in the 104th Congress in which we consulted with the House Parliamentarian, we offered the following language and requested that it be included in the report:

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 long-standing 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 committee instead adopted language that guarantees a committee vote on the issue of pertinency of any question. We recognize that this does follow the long-standing practices of the House and would require a vote in the committee and in the House before any contempt citation could be issued. However, we hope that the majority staff of the Committee on Government Reform will exercise this power fairly and will not use this authority to "bully" witnesses in interrogations.

In conclusion, we cannot support this resolution for these and other reasons. While we clearly recognize and fully support the

right of Congress through its committee structure to conduct investigations, we are deeply concerned that under the proposed resolution and accompanying committee rules there is far too much unilateral power given to the Chairman and far too much unchecked authority that can be designated to the staff. We also simply were not given an adequate explanation of why this authority is needed. There is a real danger that this type of resolution is now becoming a routine tool to circumvent the traditional committee process. It should be used rarely, only when warranted by extraordinary circumstances. The regular hearing route coupled with informal staff interviews should be more than adequate for this particular investigation, as it is for the other standing committees of the House. We should not be in the habit of making this type of resolution a routine occurrence. Clearly, in a democracy the power rests with the majority. However, with that power comes a responsibility to be painstakingly fair to all sides involved. Without this fairness you cannot have a credible investigation that produces anything of value. We do not support this measure and hope that the full House in its wisdom will share our concerns and reject this unwise resolution.

JOE MOAKLEY.
TONY P. HALL.
MARTIN FROST.
LOUISE MCINTOSH SLAUGHTER.

DISSENTING VIEWS OF HON. JOHN JOSEPH MOAKLEY

I am filing these views to emphasize my strong opposition to the action taken by the Rules Committee in reporting this resolution. This does not mean that I object to the underlying investigation. I believe it is important to investigate allegations of campaign finance abuse by both political parties. We have before us an opportunity to identify and terminate the kind of wrongdoing which corrupts the American political system and further erodes the confidence of the American people. The fact there has never been an investigation of this magnitude into campaign finance practices gives us the opportunity us to accomplish something of real value. Unfortunately, I fear this opportunity is being squandered in unending, unfocused, duplicative interrogation that costs the public money and could subject many individuals—with little or no connection to the instances under investigation—to lengthy, expensive legal proceedings.

The partisan tone of this committee report reflects the partisan nature of the investigation being conducted by the Government Reform Committee. If we were really serious about conducting an effective investigation, we would be doing everything in our power to ensure the credibility and thoroughness of this investigation. That means creating procedures that make it as easy as possible for individuals to come forward with pertinent information and talk frankly with the investigators for the Government Reform Committee. It means putting in place a carefully crafted, fair institutional process so that we protect the ability of our committees to use their prerogatives in the future. Both these principles, combined, would bring the greatest possible access to witnesses and the underlying documents which would form the foundation of any report that might be produced.

Mr. Solomon has tried, to his credit, to bring a more workable process to this resolution. The rules no longer include authority sought by the Chairman of the Committee on Government Reform, Mr. Burton, authorizing staff to rifle through the tax records of prospective witnesses. That is an improvement; however, I must oppose the granting of the special investigative authorities contained in H. Res. 167. It still is not enough. I believe the authority provided in this resolution is unnecessary, increases the partisanship already apparent in this process, and fails to protect the rights of individuals as well as the rights of the minority in the proceedings.

The resolution gives the Chairman of the Government Reform Committee extraordinary power to unilaterally issue subpoenas for deposition, and denies the minority even minimal procedural protections. It is important to note here that no Member in the history of this institution—until now—has actually issued a deposition subpoena unilaterally. Chairman Burton already has issued 156

unilateral subpoenas for documents in the fundraising investigation. He asserted in yesterday's hearings that he intended to seek depositions from "hundreds and hundreds" of witnesses. Yet it is not clear that there is anything he needs to do that he has not been able to do so far. He has received a substantial response to his subpoenas for documents without this resolution. His staff has conducted interviews, though the exact number is not known because the minority has not been consulted. The investigative staff has not yet begun to seek interviews with employees at the White House, but witnesses generally seem willing to come forward to talk. The Committee minority has indicated they would support any effort to subpoena key witnesses to the investigation, if necessary. So why is this extraordinary unilateral power needed?

I am especially concerned about these new authorities because of the way the minority has been treated throughout this process. Nothing in this resolution in any way includes or guarantees viable minority participation in the investigation. My specific concerns are expressed in greater detail in separate minority views in this committee report. For these and other reasons, I cannot support this resolution. I fear we are being sucked into an investigation with no shape and no end under the direction of a Committee seeking extraordinary authorities with no demonstrated need.

I wonder who is looking out for the rights of the individual. I believe the individual witnesses deserve a fair process with adequate protection for his or her rights. And I believe we need a credible outcome. This will require a fair process with a well-defined scope, true consultation with the minority, and behavior that doesn't trample on the rights of individuals along the way. Recent history tells us that other major congressional investigations—October Surprise, Iran-Contra and even Bosnia—accomplished these goals when the majority and minority operated jointly in the course of the investigation. Both sides were able to work side-by-side and keep the investigation honest. Without this kind of cooperation and fairness, we cannot hope to have a credible investigation that produces anything of value.

JOE MOAKLEY.

APPENDIX A

EXCERPTS FROM RESOLUTIONS WHICH HAVE GRANTED STAFF DEPOSITION AUTHORITY AND INTERNATIONAL EVIDENCE GATHERING MECHANISMS

Bosnia Select Subcommittee (H. Res. 416, 104th Congress)

Staff deposition authority:

(e)(1) The chairman of the select subcommittee, for purposes of its investigation, may, upon consultation with the ranking minority party member of the select subcommittee, authorize the taking of affidavits and depositions pursuant to notice or subpoena, by a member of the select subcommittee or of the staff of the Committee on International Relations designated by the chairman of the select subcommittee, or require the furnishing of information by interrogatory, under oath administered by a person otherwise authorized by law to administer oaths.

White House Travel Office Matter (H. Res. 369, 104th Congress)

Staff deposition authority:

(a) The Chairman of the Committee on Government Reform and Oversight, for the purposes of the committee's investigation and study of the White House Travel Office matter, may, upon consultation with the ranking minority member of the committee, 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.

(b) Deposition and affidavit testimony, and information received by interrogatory, shall be deemed to have been taken in executive session of the committee in Washington, District of Columbia. All deposition and affidavit testimony and information received by interrogatory shall be considered nonpublic until received by the committee, except that all such testimony and information shall, unless otherwise directed by the committee, be available for use by members of the committee in open session of the committee.

Senate Whitewater Investigation (S. Res. 120, 104th Congress)

Staff deposition authority:

Sec. 5(b)(7) * * * All depositions shall be conducted jointly by majority and minority staff of the special committee. A witness at a deposition shall be examined upon

oath administered by a member of the special committee or an individual authorized by local law to administer oaths, and a complete transcription or electronic recording of the deposition shall be made. Questions shall be propounded first by majority staff of the special committee and then by minority staff of the special committee. Any subsequent round of questioning shall proceed in the same order. 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 on the basis of relevance or privilege, the special committee staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling on the objection from the chairman. If the chairman overrules the objection, the chairman may order and direct the witness to answer the question, but the special committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to answer after having been ordered and directed to answer.

Sec. 5(b)(8) Delegations To Staff.—To issue commissions and to notice depositions for staff members to examine witnesses and to receive evidence under oath administered by an individual authorized by local law to administer oaths. The special committee, or the chairman with the concurrence of the ranking member, may delegate to designated staff members of the special committee the power to issue deposition notices authorized pursuant to this paragraph.

International evidence-gathering mechanisms:

Sec. 5(b)(1) Subpoena Powers.—To issue subpoenas or orders for the attendance of witnesses or for the production of documentary or physical evidence before the special committee. A subpoena or order may be authorized by the special committee or by the chairman with the agreement of the ranking member, and may be issued by the chairman or any other member of the special committee designated by the chairman, and may be served by any person designated by the chairman or the authorized member anywhere within or outside of the borders of the United States to the full extent permitted by law.

Sec. 5(b)(7) Depositions.—To take depositions and other testimony under oath anywhere within the United States, to issue orders that require witnesses to answer written interrogatories under oath, and to make application for the issuance of letters rogatory.

October Surprise Task Force (H. Res. 258, 102nd Congress)

Staff deposition authority:

(6) Unless otherwise determined by the Task Force, the chairman, upon consultation with the ranking Republican member, or the Task Force, may authorize the taking of affidavits, and of depositions pursuant to notice or subpoena, by a Member or by designated staff, under oath administered by a Member or a person otherwise authorized

by law to administer oaths. Deposition and affidavit testimony shall be deemed to have been taken in Washington, DC, before the Task Force once filed there with the clerk of the Task Force for the Task Force's use. Depositions shall be deemed to be taken in Executive Session.

International evidence-gathering mechanisms:

(3) The Task Force is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or in any other country, whether the House is in session, or has adjourned; * * * and to obtain evidence in other appropriate countries with the cooperation of their governments and by letters rogatory, commissions, field depositions and other appropriate mechanisms. * * * The Task Force may request investigations, reports, and other assistance from any agency of the executive, legislative, and judicial branches of the federal government.

Judge Nixon Impeachment Proceedings (H. Res. 562, 100th Congress)

Staff deposition authority:

Resolved, That the Committee on the Judiciary or its Subcommittee on Civil and Constitutional Rights, in connection with the inquiry into the conduct of United States District Judge Walter L. Nixon, Jr., may authorize the taking of affidavits and of depositions by counsel to such committee pursuant to notice or subpoena.

Judge Hastings Impeachment Proceedings (H. Res. 320, 100th Congress)

Staff deposition authority:

Resolved, That the Committee on the Judiciary or its Subcommittee on Criminal Justice, in connection with the inquiry into the conduct of the United States District Judge Alcee L. Hastings, may authorize the taking of affidavits and of depositions by counsel to such committee pursuant to notice or subpoena.

Iran-Contra Committee—Senate (S. Res. 23, 100th Congress)

Staff deposition authority:

Sec. 5(d)(6) To issue commissions and to notice depositions for staff members to examine witnesses and to receive evidence under oath administered by an individual authorized by local law to administer oaths. The select committee, acting through the chairman, may authorize and issue, and may delegate to designated staff members the power to authorize and issue, commissions and deposition notices.

International evidence-gathering mechanisms:

Sec. 5(b) The select committee is authorized to issue subpoenas for obtaining testimony and for the production of

documentary or physical evidence. A subpoena may be authorized and issued by the select committee, acting through the chairman or any other member designated by the chairman, and may be served by any person designated by such chairman or other member anywhere within or without the borders of the United States to the full extent permitted by law. The chairman of the select committee, or any other member thereof, is authorized to administer oaths to any witness appearing before the committee.

Sec. 5(d)(5) To take depositions and other testimony under oath anywhere within the United States or in any other country, to issue orders by the chairman or any other member designated by the chairman which require witnesses to answer written interrogatories under oath, to make application for issuance of letters rogatory, and to request, through appropriate channels, other means of international assistance, as appropriate.

Iran-Contra Committee—House (H. Res. 12, 100th Congress)

Staff deposition authority:

(6) Unless otherwise determined by the select committee the chairman, upon consultation with the ranking minority member, or the select committee, may authorize the taking of affidavits, and of depositions pursuant to notice of subpoena, by a Member or by designated staff, under oath administered by a Member or a person otherwise authorized by law to administer oaths. Deposition and affidavit testimony shall be deemed to have been taken in Washington, DC, before the select committee once filed there with the clerk of the committee for the committee's use. Unless otherwise directed by the committee, all depositions, affidavits, and other materials received in the investigation shall be considered nonpublic until received by the select committee, except that all such material shall, unless otherwise directed by the committee, be available for use by the Members of the select committee in open session.

International evidence-gathering mechanisms:

(3) The select committee is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or in any other country, whether the House is in session, has recessed, or has adjourned; * * *

ABSCAM Investigation (H. Res. 67, 97th Congress)

Single Member testimony authority:

Sec. 4 (a) For the purpose of conducting any inquiry or investigation pursuant to this resolution, the committee is authorized to compel—(1) by subpoena or otherwise—(A) the attendance and testimony of any person—(i) at a hearing; or (ii) at the taking of a deposition by one or more members of the committee * * *

International evidence-gathering mechanisms:

Sec. 4(e) In connection with any inquiry or investigation pursuant to this resolution, the committee may request the Secretary of State to transmit a letter rogatory or request to a foreign tribunal, officer, or agency.

Sec. 5 For the purpose of conducting any inquiry or investigation pursuant to this resolution, the committee is authorized to sit and act, without regard to clause 2(m) of rule XI of the Rules of the House of Representatives, at such times and places within or without the United States, whether the House is meeting, has recessed, or has adjourned, and to hold such hearings as it deems necessary.

Koreagate Investigation (H. Res. 752, 95th Congress)

Staff deposition authority:

Resolved, That, in addition to any authority the Committee on Standards of Official Conduct may have under H. Res. 252, such committee is authorized to require, by subpoena or otherwise, the attendance of and testimony of any person at the taking of a deposition by any member of the committee or by any attorney employed or retained by such committee for the purpose of conducting any inquiry or investigation pursuant to such a resolution: Provided, That any objection to any question posed by such attorney shall be ruled on, and, if the objection is overruled, the person shall be directed to answer, only by a member of such committee.

Koreagate Investigation (H. Res. 252, 95th Congress)

International evidence-gathering mechanisms:

Sec. 4(c) Subpoenas and interrogatories authorized under this section may be issued over the signature of the chairman, or ranking minority member, or any member designated by either of them. A subpoena may be served by any person designated by the chairman, or ranking minority member, or any member designated by either of them and may be served either within or without the United States on any national or resident of the United States or any other person subject to the jurisdiction of the United States.

Sec. 4(d) In connection with any inquiry or investigation pursuant to this resolution, the committee may request the Secretary of State to transmit a letter rogatory or request to a foreign tribunal, officer, or agency.

Sec. 5 For the purpose of conducting any inquiry or investigation pursuant to this resolution, the committee is authorized to sit and act, without regard to clause 2(m) of rule XI of the Rules of the House of Representatives, during the present Congress at such times and places within or without the United States, whether the House is meeting, has recessed, or has adjourned, and to hold such hearings as it deems necessary.

House Assassinations Inquiry (H. Res. 222, 95th Congress)

Staff deposition authority and international evidence-gathering mechanisms:

* * * For the purpose of carrying out this resolution the select committee, or any subcommittee thereof authorized by the select committee to hold hearings, is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or in any other country, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tangible objects, and other things of any kind as it deems necessary; to take testimony on oath anywhere within the United States or in any other country and to authorize designated counsel for 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 United States or any state; * * *

President Nixon Impeachment Proceedings (H. Res. 803, 93rd Congress)

Staff deposition authority:

Sec. 2(a) For the purpose of making such investigation, the committee is authorized to require—

(1) by subpoena or otherwise—

(A) the attendance and testimony of any person (including at a taking of a deposition by counsel for the committee); and

(B) the production of such things; and

(2) by interrogatory, the furnishing of such information; as it deems necessary to such investigation.

International evidence-gathering mechanisms:

Sec. 3 For the purpose of making such investigation, the committee, and any subcommittee thereof, are authorized to sit and act, without regard to clause 31 of rule XI of the Rules of the House of Representatives, during the present Congress at such times and places within or without the United States, whether the House is meeting, has recessed, or has adjourned, and to hold such hearings, as it deems necessary.

APPENDIX B

FINAL NEW COMMITTEE RULES PASSED BY THE GOVERNMENT REFORM AND OVERSIGHT COMMITTEE ON JUNE 18, 1997

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 reported, 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 question 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 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. The rule is applicable to the committee's investigation of political fundraising improprieties and possible violations of law, and is effective upon adoption of a resolu-

tion, in the House of Representatives, providing the committee with special investigative authorities.

