

to share \$767,200 of a \$1.2 million False Claims Act settlement with two federal employees who had long worked to curb underpayments of royalties owed to the United States by oil companies. Faced with multi-billion dollar allegations of royalty rip-offs, 15 oil companies have reached settlements with the Department of Justice totaling \$438 million.

The Department of Justice is investigating whether the payments by POGO were inappropriate or illegal actions. Despite that review, the Resources Committee Majority has duplicated DOJ's effort and issued dozens of subpoenas, held multiple hearings, and consumed nearly two years and many tens of thousands of dollars searching for additional evidence of wrongdoing by POGO and its associates while proclaiming their alleged guilt.

And what about the oil companies who have paid \$438 million in settlement for cheating the American people—and especially children whose schools utilize royalty payments—out of the money they are owed? The Committee Majority has let the oil company misconduct go scot free:

ZERO—Hearings on oil royalty underpayments;

ZERO—Investigations of oil royalty underpayments;

ZERO—Subpoenas issued to oil companies.

ZERO—Condemnation of oil company royalty rip-offs.

To bring the full power of the committee down upon three individuals who have worked to curb oil company fraud without any effort to address billions of dollars in fraudulent underpayments is a blatant misuse of the Committee's resources and the Congress' time. For the House to further condemn these individuals because they declined on advice of counsel to respond to questions which were not pertinent in an abusive investigation which was not conducted in compliance with House rules, is beneath the standard Congress should use when employing the weighty hand of criminal contempt.

If the Majority insists on further discussion and votes on the Contempt resolution, we strongly advise you to vote "No" and protect private citizens and whistleblowers from such misuse of Congress' prosecutorial authority.

Sincerely,

George Miller, Edward Markey, Earl Blumenauer, Peter DeFazio, Bob Filner, Carolyn Maloney, Robert Underwood, Jay Inslee, Janice Schakowsky.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON RESOURCES,  
Washington, DC, October 31, 2000.

THE POGO INVESTIGATION: CONTEMPT FOR  
INDIVIDUAL RIGHTS AND THE HOUSE RULES

DEAR COLLEAGUE: The Committee on Resources' Majority is asking you to vote for a resolution which charges three citizens with the statutory crime of contempt of Congress. Those three individuals, associated with the Project on Government Oversight (POGO), would be subject to criminal prosecution and up to one year in prison. The contempt resolution, which will come up again on the floor tonight, is a substitute for much broader charges of contempt reported by the committee.

Before you vote to send three people you've never ever seen to jail, consider whether you can rely on a rogue committee investigation that has abused the rights of witnesses and Members and failed to adhere to the House rules. In applying the criminal contempt statutes, the Supreme Court has required that a committee strictly follow its own rules and those of the House. *Yellin v.*

*United States*, 374 U.S. 109 (1962). Yet the conduct of the Committee on Resources' investigation related to the pending contempt resolution is so egregious that it would dishonor the House to subject it to judicial review. Among the many procedural deficiencies are the following:

(1) Failure to conduct the investigation within the jurisdiction of the committee under House Rule X, Clause 1. The Majority has not maintained a consistent purpose for its investigation within the scope of the committee's authority as delegated by the House. The Supreme Court has held that a clear line of authority for the committee and the "connective reasoning" to its questions is necessary to prove pertinency in statutory contempt. *Gojack v. United States*, 384 U.S. 702 (1966). Instead, the Majority has constantly shifted their explanations of what they are investigating and why. For example, on March 6, 2000, Chairman Young wrote to POGO's attorney to explain that broad subpoenas were necessary "to begin weighing the merits of those conflicting statements" made in civil litigation. How a probe of potential perjury in a lawsuit relates to the committee's legislative jurisdiction over oil royalty management laws and policies was not clear at the time to witnesses—who declined to answer questions which were not pertinent—and remains unclear to Democratic Members.

(2) Failure to follow House Rule XI, Clause 2(k) applicable to investigative hearing procedures. It was not until June 27, 2000—over a year after subpoenas were issued—that Chairman Young authorized Subcommittee Chairman Cubin to "begin an investigation to complement the oversight inquiry underway." This is a meaningless effort to draw a distinction between "oversight" and an "investigation" when no such distinction exists for purposes of House Rule XI, Clause 2. Accordingly, over the protests of Democratic Members, the Majority failed to follow House Rules applicable to the rights of witnesses in Subcommittee hearings held May 4, and May 18, 2000. These flaws range from the failure to provide witnesses with the committee and House Rules prior to their testimony, to the failure to go into executive session.

(3) Failure to allow Members to question witnesses under House Rule XI, Clause 2(j). On multiple occasions, the Subcommittee Chair prevented Democratic Members from exercising their rights to question witnesses, either under the five-minute rule or time allocated to the Minority under clause 2(j)(B).

(4) Failure to have a proper quorum under committee Rule 3(d). The Committee rules require a quorum of members, yet no such quorum was present during the hearings at the times of votes on sustaining the Subcommittee Chairman's rulings on whether questions were "pertinent."

(5) Failure to allow subpoenaed witnesses to make an opening statement under committee Rule 4(b). This rule states, "Each witness shall limit his or her oral presentation to a five-minute summary of the written statement, unless the Chairman, in conjunction with the Ranking Minority Member, extends this time period." In contravention of this rule and longstanding committee practice, the Chair refused to grant hearing witnesses the opportunity to make opening statements. Democratic objections were overruled.

(6) Failure to hold a hearing on the contempt issues. It is fundamentally unfair not to allow the parties charged with contempt an opportunity to explain their legal arguments for declining to answer questions or supply specific documents in contention. The Chair repeatedly refused the efforts of Democratic Members to recognize legal counsel to

address the Subcommittee on these issues. The failure to provide due process in a hearing to those accused of violating a criminal statute further weakens the Majority's case.

(7) Failure to fully inform Members of the committee. At the July 19th committee markup of the contempt resolution, the Majority failed to provide Members with the language of the contempt statutes. They cited no judicial standards or precedents of the House for applying those criminal statutes in a contempt proceeding. They did not adequately explain or refute the legal rationale that the subpoenaed parties, based on advice from counsel, had asserted when they declined to answer specific questions which were not pertinent to the investigation. And they neglected to explain to Members that the witnesses had appeared at hearings and produced thousands of pages of documents in compliance with multiple subpoenas.

No matter what wrongdoing may be alleged, all citizens of the United States have the right to expect that they be given fair treatment and due process in compliance with the rules. The real threat to the integrity of the House of Representatives stems from the abusive and irresponsible manner in which the Committee on Resources investigation was conducted. To subject this record to judicial review—in what would be the first contempt of Congress referral since 1983—could threaten to undermine the powers of the House to conduct legitimate oversight and investigations in the future.

By offering a substitute for the original resolution, the sponsors have tacitly acknowledged that the broad contempt charges of contempt reported by the committee were unsustainable. Especially when considered in the context of the myriad procedural deficiencies in this investigation, this latest change of direction ought to give Members ample reason to vote "NO" on the contempt charges.

Sincerely,

GEORGE MILLER,  
Senior Democratic Member.

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#### POSTPONING CONSIDERATION OF COMMITTEE ON RESOURCES CONTEMPT RESOLUTION

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute.)

Mr. YOUNG of Alaska. Mr. Speaker, as many of my colleagues know, we were going to take up the contempt report following this vote. We have decided not to do that until a later time. It is not because of the issue. It is because of the number of people that saw fit to leave this body on both sides of the aisle to return to their homes. It will be considered next time.

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#### REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 2796, WATER RESOURCES DEVELOPMENT ACT OF 2000

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 106-1022) on the resolution (H. Res. 665) waiving points of order against the conference report to accompany the Senate bill (S. 2796) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the

United States, and for other purposes, which was referred to the House Calendar and ordered to be printed.

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# DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON TODAY

Mr. GOSS. Mr. Speaker, I ask unanimously consent that the business in order under the Calendar Wednesday rule be dispensed with today.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Florida?

There was no objection.

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# VOICING CONCERN ABOUT SERIOUS VIOLATIONS OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN MOST STATES OF CENTRAL ASIA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 397, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska (Mr. BE-REUTER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 397, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 362, nays 3, answered “present” 1, not voting 66, as follows:

[Roll No. 589]

YEAS—362

Abercrombie	Callahan	Duncan
Ackerman	Calvert	Edwards
Aderholt	Camp	Ehlers
Allen	Cannon	Ehrlich
Andrews	Capps	Engel
Armey	Capuano	English
Baca	Cardin	Eshoo
Bachus	Carson	Etheridge
Baird	Castle	Evans
Baker	Chabot	Everett
Baldacci	Clay	Ewing
Baldwin	Clayton	Farr
Ballenger	Clement	Fattah
Barcia	Clyburn	Filner
Barr	Coble	Fletcher
Barrett (NE)	Coburn	Foley
Barrett (WI)	Combest	Forbes
Bartlett	Condit	Ford
Barton	Cook	Fossella
Bass	Cooksey	Frank (MA)
Becerra	Costello	Frelinghuysen
Bentsen	Cox	Frost
Bereuter	Coyne	Gallegly
Berkley	Cramer	Ganske
Berman	Crane	Gejdenson
Berry	Crowley	Gekas
Biggart	Cubin	Gephardt
Bilirakis	Cummings	Gibbons
Bishop	Davis (FL)	Gilchrest
Blagojevich	Davis (IL)	Gillmor
Blumenauer	Davis (VA)	Gilman
Blunt	Deal	Gonzalez
Boehner	DeFazio	Goode
Bonilla	DeGette	Goodlatte
Bonior	DeLauro	Goodling
Bono	DeLay	Gordon
Borski	DeMint	Goss
Boswell	Deutsch	Graham
Brady (PA)	Diaz-Balart	Granger
Brady (TX)	Dixon	Green (TX)
Bryant	Doggett	Green (WI)
Burr	Doolittle	Gutierrez
Burton	Doyle	Gutknecht
Buyer	Dreier	Hall (OH)

Hall (TX)	McIntyre	Sanford
Hastings (WA)	McKinney	Sawyer
Hayworth	McNulty	Saxton
Hefley	Meehan	Schaffer
Herger	Meeks (NY)	Schakowsky
Hill (IN)	Menendez	Sensenbrenner
Hilleary	Millender-	Serrano
Hiiliard	McDonald	Sessions
Hinchey	Miller (FL)	Shadegg
Hobson	Miller, Gary	Sherman
Hoeffel	Miller, George	Sherwood
Hoekstra	Minge	Shimkus
Holden	Mink	Shows
Holt	Moakley	Shuster
Hoolley	Moore	Simpson
Horn	Moran (KS)	Sisisky
Hostettler	Moran (VA)	Skeen
Houghton	Morella	Skelton
Hoyer	Murtha	Slaughter
Hulshof	Myrick	Smith (MI)
Hunter	Nadler	Smith (NJ)
Hyde	Napolitano	Smith (TX)
Inslee	Nethercutt	Smith (WA)
Isakson	Ney	Snyder
Jackson (IL)	Northup	Souder
Jefferson	Norwood	Spence
Jenkins	Oberstar	Spratt
John	Obey	Stabenow
Johnson (CT)	Olver	Stark
Johnson, E. B.	Ortiz	Stearns
Johnson, Sam	Owens	Stenholm
Jones (NC)	Oxley	Strickland
Kanjorski	Packard	Stump
Kaptur	Pallone	Stupak
Kelly	Pascrell	Sununu
Kildee	Pastor	Sweeney
Kind (WI)	Payne	Tancredo
King (NY)	Pease	Tanner
Kingston	Pelosi	Tauscher
Kleccka	Peterson (MN)	Tauzin
Knollenberg	Peterson (PA)	Taylor (MS)
Kolbe	Petri	Taylor (NC)
Kuykendall	Phelps	Terry
LaFalce	Pickering	Thomas
LaHood	Pickett	Thompson (CA)
Lampson	Pombo	Thompson (MS)
Largent	Pomeroy	Thornberry
Latham	Porter	Thune
LaTourette	Portman	Thurman
Leach	Price (NC)	Tiahrt
Lee	Pryce (OH)	Tierney
Levin	Quinn	Toomey
Lewis (CA)	Radanovich	Towns
Lewis (GA)	Rahall	Trafficant
Lewis (KY)	Ramstad	Udall (CO)
Linder	Rangel	Udall (NM)
Lipinski	Regula	Upton
LoBiondo	Reyes	Visclosky
Lofgren	Reynolds	Vitter
Lowe	Riley	Walden
Lucas (KY)	Rivers	Walsh
Lucas (OK)	Rodriguez	Wamp
Luther	Roemer	Watkins
Maloney (CT)	Rogan	Watt (NC)
Maloney (NY)	Rogers	Weiner
Manzullo	Rohrabacher	Weldon (PA)
Markley	Ros-Lehtinen	Weller
Martinez	Rothman	Weygand
Mascara	Roukema	Whitfield
Matsui	Roybal-Allard	Wicker
McCarthy (MO)	Royce	Wilson
McCarthy (NY)	Rush	Wolf
McCrery	Ryan (WI)	Woolsey
McDermott	Ryun (KS)	Wu
McGovern	Sabo	Wynn
McHugh	Sanders	Young (AK)
McInnis	Sandlin	Young (FL)

NAYS—3

Chenoweth-Hage Metcalf Paul

ANSWERED “PRESENT”—1

Kucinich

NOT VOTING—66

Archer	Danner	Hill (MT)
Billbray	Delahunt	Hinojosa
Bliley	Dickey	Hutchinson
Boehlert	Dicks	Istook
Boucher	Dingell	Jackson-Lee
Boyd	Dooley	(TX)
Brown (FL)	Dunn	Jones (OH)
Brown (OH)	Emerson	Kasich
Campbell	Fowler	Kennedy
Canady	Franks (NJ)	Kilpatrick
Chambliss	Greenwood	Klink
Collins	Hansen	Lantos
Conyers	Hastings (FL)	Larson
Cunningham	Hayes	Lazio

McCollum	Pitts	Velazquez
McIntosh	Salmon	Waters
McKeon	Sanchez	Watts (OK)
Meek (FL)	Scarborough	Waxman
Mica	Scott	Weldon (FL)
Mollohan	Shaw	Wexler
Neal	Shays	Wise
Nussle	Talent	
Ose	Turner	

□ 1243

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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# FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 159. Concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

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# MOTION TO INSTRUCT CONFEREES ON H.R. 4577, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2001

Mr. HOLT. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will report the motion.

The Clerk read as follows:

Mr. HOLT moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 4577, be instructed to insist on disagreeing with provisions in the Senate amendment which denies the President's request for dedicated resources for local school construction and, instead, broadly expands the Title VI Education Block Grant with limited accountability in the use of funds.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. HOLT) and the gentleman from Delaware (Mr. CASTLE) each will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HOLT).

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

I would like to speak today on why we are still in session in November and why we may have a lame duck session in front of us. In fact, I would like to speak about work not done. And I am not talking about the Patients' Bill of Rights or gun safety legislation or campaign finance reform or minimum wage legislation or workplace safety legislation or prescription medicine coverage under Medicare.

Yes, that is some of the work that is not done. But in particular I would like to talk about overcrowding in our schools and the need to provide adequate classrooms for our students so