

with the law firm of Kirkland & Ellis where he pulls down over a million dollars a year. Do we want an independent counsel who will investigate the matter and do his or her job as quickly as possible without distractions or do we want someone who fits the investigation in around other commitments so as not to diminish his high salary?

Mr. Starr's continued affiliation with his firm raises other troubling ethical questions—should an independent counsel be in the position of questioning individuals who are in turn questioning his own law firm about their prior activities—in this case the Resolution Trust Corporation?

It seems to me that the special court should at least consider such conflicts when appointing an independent counsel and my bill will require the court to consider such issues.

As important as these ethical questions are, an even greater problem is that these questions distract us from the main issue—the Whitewater investigation itself. In recent months you have not been able to read a single article about Whitewater before bumping into a discussion of Ken Starr's ethical jungle. Because the office of the independent counsel is so important and so high profile, those appointed to the position should not have even the appearance of conflicts.

My bill would require a court appointing an independent counsel to look at the potential counsel's past and present conflicts and to consider whether the counsel should work on the investigation full time.

I also want to note my grave disappointment over the politicization of efforts to revise the independent counsel law.

Last February, the Crime Subcommittee held a hearing on this matter and there appeared to be widespread bipartisan agreement that the statute is in need of revisions.

I hope that Chairman HYDE will consider this bill, and in the spirit of bipartisanship that was exhibited during the independent counsel hearing, schedule a markup as quickly as possible.

CONYERS' INDEPENDENT COUNSEL LAW—  
SECTION BY SECTION

**SECTION 1. SHORT TITLE.**

The title of the bill is the "Independent Counsel Accountability and Reform Act of 1997."

**SEC. 2. EXTENSION.**

This section reauthorizes the Independent Counsel Act.

**SEC. 3. APPOINTMENT AUTHORITY.**

This section requires at least one member of the division of the court appointing an independent counsel to have been named to the Federal bench by a President of a different political party than the other two members of the court.

This section gives the District Court for the District of Columbia jurisdiction over the special division.

This section provides that the members of the special division shall be bound by the Judicial Code of Conduct. It authorizes the judges appointing an independent counsel to seek comments about potential nominees, but requires them to memorialize, not the substance, but the fact of those communications.

This section requires the special division to consider whether: (1) a potential independent counsel has any conflicts of interest; (2) will devote him or her self to the investigation full time; and (3) the potential counsel has prosecutorial experience.

**SEC. 4. BASIS FOR PRELIMINARY INVESTIGATION.**

This section requires the Attorney General to conduct a preliminary investigation whenever she has received specific information from a credible source that an individual subject to the Independent Counsel Law has committed any federal felony or any federal misdemeanor for which there is an established pattern of prosecution.

**SEC. 5. SUBPOENA POWER.**

This section gives the Attorney General the power to issue subpoenas duces tecum when conducting a preliminary investigation.

**SEC. 6. LEVEL OF EVIDENCE.**

This section allows the Attorney General to determine that there is no basis for an investigation to continue if, by a preponderance of the evidence, she determines that the subject of the investigation lacked the requisite state of mind.

**SEC. 7. PROSECUTORIAL JURISDICTION OF INDEPENDENT COUNSEL.**

This section limits the scope of the independent counsel's investigation to those matters for which the Attorney General has requested the appointment of the counsel and matters directly related to such criminal violations, including perjury, obstruction of justice, destruction of the evidence, and intimidation of witnesses.

**SEC. 8. CONSULTATION WITH THE DEPARTMENT OF JUSTICE.**

This section allows an independent counsel to consult with the Department of Justice regarding the policies and practices of the Department is such consultation would not compromise the counsel's independence.

**SEC. 9. AUTHORITIES AND DUTIES OF INDEPENDENT COUNSEL.**

This section requires the independent counsel to comply with the Department of Justice's policies for handling the release of information relating to criminal proceedings.

This section requires the independent counsel to petition the court, after 2 years, for funding to continue the investigation. This section also requires the periodic reports filed by the independent counsel to include information justifying the office's expenditures.

**SEC. 10. REMOVAL, TERMINATION AND PERIODIC REAPPOINTMENT OF INDEPENDENT COUNSEL.**

This section adds the subject of the investigation to the list of those who can seek the termination of the independent counsel on the ground that the investigation has been completed or that it would be appropriate for the Department of Justice to complete the investigation or conduct any prosecution.

This section requires the independent counsel to petition the court for reappointment every 2 years and allows the court to appoint a new counsel if the court finds that appointed counsel is no longer the appropriate person to carry out the investigation.

**SEC. 11. JOB PROTECTIONS FOR INDIVIDUALS UNDER INVESTIGATION.**

This section protects individuals whose positions are not excepted from the competitive service on the basis of confidential, policy-determining, policymaking, or policy advocating character from being terminated for the sole reason that the person is the subject of an independent counsel investigation.

PROTECT CALIFORNIA'S COASTLINE WITH A MORATORIUM ON OIL AND GAS DEVELOPMENT

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. CUNNINGHAM. Mr. Speaker, I rise today to introduce legislation to extend the moratorium on oil and gas development in the Outer Continental Shelf [OCS] off the coast of California. This legislation is similar to H.R. 219 from the 104th Congress.

Californians strongly favor continuing this moratorium. The State of California has enacted a permanent ban on all new offshore oil development in State coastal waters. In addition, California Gov. Pete Wilson and State and local community leaders up and down California's coast have endorsed the continuation of this moratorium.

I believe that the environmental sensitivities along the entire California coastline make the region an inappropriate place to drill for oil using current technology. A 1989 National Academy of Sciences [NAS] study confirmed that new exploration and drilling on existing leases and on undeveloped leases in the same area would be detrimental to the environment. Cultivation of oil and gas off the coast of California could have a negative impact on California's \$27 billion-a-year tourism and fishing industries.

This legislation focuses on the entire State of California, and would prohibit the sale of new offshore leases in the southern California, central California, and northern California planning areas through the year 2007. New exploration and drilling on existing active leases and on undeveloped leases in the same areas would be prohibited until the environmental concerns raised by the 1989 National Academy of Sciences study are addressed, resolved, and approved by an independent peer review. This measure ensures that there will be no drilling or exploration along the California coast unless the most knowledgeable scientists inform us that it is absolutely safe to do so.

I am proud to be working to protect the beaches, tourism, and the will of the people of California. I ask my colleagues to join me in cosponsoring this legislation.

A BEACON-OF-HOPE FOR ALL  
AMERICANS: EDENA C. GILL

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 7, 1997

Mr. OWENS. Mr. Speaker, with the 1996 election behind us, this nation has completed another cycle for the ongoing democratic process which makes America great. The electoral process and the public officials selected through this process are invaluable assets in our quest to promote the general welfare and to guarantee the right of life, liberty and the pursuit of happiness. It is important, however, Mr. Speaker, that we also give due recognition to the equally valuable contribution of non-elected leaders throughout our nation. The fabric of our society in generally enhanced