# EXTENSIONS OF REMARKS

## OVERSIGHT: A KEY CONGRESSIONAL FUNCTION

**HON. DAVID DREIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 19, 1999*

Mr. DREIER. Mr. Speaker, many of us are committed to improving and emphasizing programmatic oversight, we jointly asked the Congressional Research Service to conduct bipartisan oversight training for Members and congressional staff. Two sessions have already been held and the third will be held on July 26. So far they have been a great success, and I would like to express my appreciation to the Congressional Research Service, particularly Mort Rosenberg and Walter Oleszek, for their extraordinary efforts to make this such a great success.

At our first oversight workshop, Lee Hamilton, former Democratic Chairman of the International Relations Committee and the Iran-Contra Committee, shared his thoughts and insights with the attendees. He stated in part:

Oversight is designed to throw light on the activities of government. It can protect the country from the imperial presidency and from bureaucratic arrogance. It can expose and prevent misconduct, and maintain a degree of constituency influence in an administration. The responsibility of oversight is to look into every nook and cranny of government affairs. Overlook is designed to look at everything the government does, expose it, and put the light of publicity to it. It reviews, monitors, and supervises the execution and implementation of public policy, to assure that ''the laws are faithfully executed.''

I wholeheartedly agree with our distinguished former colleague. As chairman of the Committee that is charged with the responsibility of safeguarding the privileges and prerogatives of this esteemed institution, I believe Congress should vigorously conduct oversight in order to fulfill the legacy of our Founding Fathers—which is ultimately to preserve and protect our fragile democracy.

Mr. Speaker, I believe all members can benefit from the thoughtful comments of Lee Hamilton, which are included as follows:

### OVERSIGHT: A KEY CONGRESSIONAL FUNCTION

#### INTRODUCTION

I very much appreciate the kind remarks by my friend and former colleague David Dreier. As David mentioned, we devoted considerable attention to ways of improving congressional oversight during our work on the Joint Committee on the Organization of Congress in 1993–94. We held a number of hearings and made several recommendations for structural reforms, some of which have since been implemented.

Oversight of how effectively the Executive Branch is carrying out congressional mandates is an enormously important function of Congress. It is at the very core of good government. Congress must do more than write the laws; it must make sure that the administration is carrying out those laws the way Congress intended. The purpose of oversight is to determine what happens after a law is passed. As Woodrow Wilson put it (and I find myself quoting Woodrow Wilson more and more these days): ''Quite as important as lawmaking is vigilant oversight of administration.'' As more power is delegated to the executive and as more laws are passed, the need for oversight grows.

That is why I have been particularly concerned about the weakening of congressional oversight in recent years. Congress has given too much focus to personal investigations and possible scandals that will interest the media, rather than programmatic review and a comprehensive assessment of which federal programs work and which don't. For those of us who care deeply about the institution of Congress, this has been a disturbing trend. Thus I strongly support the efforts of Speaker Hastert to have the House return to its more traditional oversight functions. Congress needs to get back to the basics on oversight. The Speaker's recent comments on that have been right on the mark.

Under Dan Mulhollan's direction, Walter Oleszek and Mort Rosenberg of CRS have assembled several excellent panels for this series of oversight workshops. You will be hearing from some people with real expertise in this area. In the few minutes I have with you today I want to discuss briefly the importance of good oversight and some of the lessons I learned from my time in Congress about what makes oversight successful.

#### I. IMPORTANCE OF GOOD OVERSIGHT

##### *A. Nature of Congressional Oversight*

I believe in tough, continuing oversight. Oversight has many purposes: to evaluate program administration and performance; to make sure programs conform to congressional intent; to ferret out (in the oft-heard phrase) ''waste, fraud, and abuse''; to see whether programs may have outlived their usefulness; to compel an explanation or justification of policy; and to ensure that programs and agencies are administered in a cost-effective, efficient manner.

Oversight is designed to throw light on the activities of government. It can protect the country from the imperial presidency and from bureaucratic arrogance. It can expose and prevent misconduct, and maintain a degree of constituency in an administration. The responsibility of oversight is to look into every nook and cranny of governmental affairs. Oversight is designed to look at everything the government does, expose it, and put the light of publicity to it. It reviews, monitors, and supervises the execution and implementation of public policy, to assure that ''the laws are faithfully executed''.

Congress can use several tools to make federal agencies accountable, including periodic reauthorization, personal visits by members of staff, review by the General Accounting Office or inspectors general, subpoenas, and reports from the Executive Branch to Congress. Several types of committees—authorization, appropriations, governmental affairs, and special ad hoc committees—can all play important roles in oversight.

Congress needs a large number of oversight methods to hold agencies accountable because the various methods have their own strengths and weaknesses. Oversight hearings, for example, cannot be called every day, so committees may turn to reports or on-site visits to agencies.

In many ways Congress underestimates and undervalues its power in oversight. Agencies start to get a little nervous whenever someone from Congress starts poking around, and that is probably to the good overall. Federal bureaucracies do not stay on their toes unless they expect review and oversight from Congress.

##### *B. History of Oversight*

Oversight has been a key function of Congress since its very beginning. It is an implied power, not an enumerated power in the Constitution. It is based on the constitutional powers given to Congress to pass laws that create agencies and programs, to provide funding for these agencies and programs, and to investigate the Executive Branch. The first congressional oversight investigation took place in 1792, an inquiry into the conduct of the government in the wars against the Indians, and they have been taking place ever since.

Congress overhauled its oversight responsibilities in 1946 with the passage of the Legislative Reorganization Act of 1946. It reinforced the need for ''continuous watchfulness'' by Congress of the Executive Branch, and placed most of that responsibility in the standing committees rather than in specially created investigatory committees. The extent of congressional oversight has fluctuated in recent decades, with some Congresses taking it much more seriously than others. In the 96th Congress, for example, Speaker Tip O'Neill gave it very high priority and called the 96th the ''oversight Congress''. More recently, Speaker Gingrich shifted the emphasis of oversight, seeing it not just as a way to oversee but to shrink the size and reach of the federal government. He also used it to aggressively investigate the White House. Speaker Hastert, as I noted earlier, is encouraging the committees to move away from oversight as political micro management to oversight as congressional review of agency performance and effectiveness.

##### *C. Importance of Policy Oversight*

The oversight responsibilities of Congress are critical to good policy. Most important policy issues are complex, and Congress is seldom able to specify fully all the details of a governmental program in the original legislation. The Clean Water Act, for instance, sets the goals and general procedures for improving the quality of the nation's water resources, but the specific rules and regulations for achieving these aims are left to Executive Branch officials. For several reasons, Congress needs to carefully monitor how its broad intentions are translated into actual programs:

First, tough monitoring by Congress can encourage cost-effective implementation of a legislative program. Every year the President sends Congress specific funding requests for thousands of federal programs. These requests can often be cut back, as Members seek to identify the minimum funding levels needs for a program to be effectively implemented. Such oversight efforts are an important means for reducing governmental waste and making government work better.

Second, Congress must assure that the program, as implemented, reflects the intent of Congress. In complex issue areas such as environmental policy or health care, agency officials may simply misinterpret a piece of

legislation or they may use the discretion they have been given in the law to shift policy toward their views, the President's views, or the views of special interest groups.

Third, Congress must continue to monitor programs to determine whether unintended consequences or changing circumstances have altered the need for the program. Programs need consistent and regular review and assessment over time. Members of Congress are helped in that task by their close connection to their constituents, which gives them special opportunities to observe on a day-by-day basis the strengths and weaknesses of federal programs as they are being carried out.

*D. Decline in Oversight*

In recent years, the traditional oversight activities of Congress have generally declined, for a variety of reasons:

The shorter congressional workweek means that committees do not meet as often as they used to, reducing time for oversight.

The power of the authorizing committees—which is where most of the oversight was done—has declined over the years.

Monitoring the myriad of federal programs is tedious, takes time and preparation, and is often quite technical. It is typically unglamorous work, and most Members see little political benefit from engaging in it. Members do not rank oversight at the top of their responsibilities. For most Members, constituent service is number one, legislation is number two, and oversight is number three.

The media do not pay much attention to traditional oversight work. They usually like to focus on scandals. Congress has permitted the desire for media coverage to drive the hearing and oversight process.

There is simply less interest in government reform.

And constituents rarely contact their Members asking them to engage in systematic program review.

But another factor has been that the oversight priorities of Congress have shifted away from the careful review of programs to highly adversarial attempts at discrediting individual public officials—looking at great length at, for example, Hillary Clinton's commodity transactions or charges of money-laundering and drug trafficking at an Arkansas airport when Bill Clinton was Governor. Congress has certainly investigated federal officials throughout congressional history—from its earliest investigation of the Indian wars to the Teapot Dome scandal of 1923 to Watergate and the Iran-contra hearings (which I co-chaired). The authority of Congress to conduct investigations can be a crucial check on executive powers.

But recently there has been too much personalization and not enough policy in congressional oversight. Certainly for many years a lot of congressional oversight has been done for partisan purposes, and that doesn't necessarily make it bad. But spending too much time on personal investigations weakens the oversight function of Congress. It consumes Executive Branch time and resources and, more importantly, diverts congressional time and resources from the more constructive work of policy oversight. That's why Speaker Hastert 's attempt to redirect congressional oversight is a good sign, and I am hopeful that it will be successful.

II. NATURE OF GOOD OVERSIGHT

You will hear from a host of experts during these oversight workshops explaining in considerable detail the role and nature of congressional oversight. So let me briefly give you a few observations to help set the stage for your discussions—some specific examples of what I thought worked well when I was in Congress plus a few general lessons I learned about how oversight should be handled.

*A. Specific Examples from Committee Work*

Much of my oversight work in Congress was done on the Foreign Affairs/International Relations Committee. We had the responsibility of overseeing all foreign policy activities and agencies. Let me give you a sense of some of the main methods I used that I found particularly helpful.

*Regular hearings:* Congressional hearings are one of the most important methods of oversight. Yet, hearings can be unproductive when Members simply read prepared questions and aren't ready to ask the tough follow-up questions. So I gave particular attention to regular hearings on United States policy. I found them particularly helpful in forcing Executive Branch officials to articulate policy and explain the rationale behind it—something they do not like to do. One good example would be the extensive oversight I had relating to U.S. programs of assistance to the former Soviet States—the Freedom Support Act—as well as Eastern Europe—the SEED Act.

*Closed briefings:* Regular, indeed weekly closed briefings were essential to educating ourselves on complex issues. I instituted a monthly series of ''hot-spot'' classified briefings for Members done by the CIA on particularly volatile areas including Bosnia, the situation in Rusia, North Korea, and other issues that most Members do not routinely pay attention to.

Letters for the Record: One technique I developed, which I found to be a good way to exercise oversight, was to press the Administration for written explanations and clarifications of various aspects of U.S. foreign policy, which I would then insert into the CONGRESSIONAL RECORD. I did this, for example, to help pin the administration down on its position on arms sales to Taiwan, on the Nuclear Agreed Framework with North Korea, on the train-and-equip program for Bosnia, and on U.S. policy vis-a-vis Turkey. Sometimes I had to go back to them several times to get a meaningful response. Since educating and informing the public is at the heart of oversight, I found the publication of letters to be very important. I was impressed by the interest these letters generated.

Staff travel: I required staff to make a periodic trips with focused objectives to the areas of the world they covered. For example, Committee staff made repeated trips over a several year period to Bosnia, to look into specific aspects of the Dayton peace process including how U.S. assistance was being spent, and the role of U.S. peacekeeping troops in the region. This travel, in combination with the travel of staff from other committees, served to demonstrate to the Administration and local officials in Bosnia that Congress was paying close attention to how resources were being spent. I also required staff to write extensive reports on the main findings and accomplishments of their travel.

Informal contacts: I made sure staff had informal and frequent contacts with Executive Branch officials. If you get to know people before a problem on crisis, you are in much better shape when there is one. Staff has close contact with officials at the State Department, DOD, and the NSC on all aspects on the Middle East crisis, in Bosnia, as well as U.S. relations with Russia and the NIS. My staff and I were able to work closely with U.S. officials on such issues as the Middle East, Russia, Yugoslavia, China, and North Korea in part because of longstanding personal contacts with lay people.

Reports to Congress: Although Congress has in many ways gone overboard in the reports that it requires of the Administration, sometimes this is a very useful tool. For example, I had the State Department make reports on the economies of major recipients of foreign aid. We need to know what effect our assistance is having in key countries.

GAO investigations: GAO has enormous resources, and probably does more detailed oversight work than congressional committees can. I found GAO particularly helpful on foreign assistance programs, the Lavi fighter the Israelis wanted to build with U.S. help but which did not make sense, and on specific overseas projects which ran into trouble.

B. GENERAL OBSERVATIONS ON SUCCESSFUL OVERSIGHT

Let me now turn to a few general thoughts and observations about what makes oversight successful:

First, oversight works best when it is done in as bipartisan a way as possible. Certainly there will be times when the committee chairman and the ranking minority member will disagree, but they should be able to sit down at the beginning of a new Congress and agree on the bulk of the Committee's oversight agenda.

Second, policy oversight is aided when there is a constructive relationship between Congress and the implementing agency. Much oversight by its very nature is adversarial, and that is particularly appropriate when an agency has engaged in egregious behavior. But excessive antagonism between the branches can be counterproductive and do little to improve program performance. Oversight should put aside petty political motives, and it should act constructively not destructively. Oversight should be conducted seeking good ideas.

Third, oversight should be done in a regular, systematic way. Congress lacks a continuous, systematic oversight process, at it oversees in an episodic, erratic manner. On the Joint Committee on the Organization of Congress we recommended, for example, that each committee do a systematic review of all of the significant laws, agencies, and programs under its jurisdiction at least every 10 years. My sense is that there are activities of government that have gone on for a long time without full-scale review.

Fourth, oversight must be comprehensive. There are vast number of activities of the federal government that never get into the newspaper headlines, yet it is still the task of Congress to look into them. When I was on the Foreign Affairs Committee, for example, we even held oversight hearings on everything from Yemen and to the future of NATO. Oversight that is driven by whether we can get cameras into the hearing room is not enough to get the job done. I am impressed by how decisions about oversight are made on the basis on how much media attention can be attracted. The relationship between the decline of oversight by Congress and the decline of investigative journalism bears further examination. Being comprehensive in oversight also means casting the net widely to look at the variety of federal agencies involved in a particular area, not just the main one (for example, not just looking at foreign policy actions of the State Department, but also of Commerce, Defense, Agriculture, CIA, etc). As I said earlier, it is the responsibility of oversight to look into every nook and cranny of government.

Fifth, the oversight agenda of Congress should be coordinate to eliminate duplication. The administration often complains, with some justification, about the burden of redundant oversight and duplicative testimony. Different committees shouldn't cover the same ground over and over, while other important areas and programs fall through the cracks. Committees currently do prepare their oversight plans, but I sense no one is in charge of coordination.

Sixth, continuity and expertise are critical to successful oversight. Excessive staff turnover and turnover of chairmen harm the institutional continuity and expertise so essential to the job of oversight. This is also why I generally favor having standing committees do oversight rather than special, ad hoc communities. Also, oversight should not be used or directed by interest groups.

Seventh, there is such a thing as too much oversight. Good oversight draws the line between careful scrutiny and intervention or micro-management. Congress should examine broad public policies, but it should not mettle and it should avoid a media show. It should certainly expose corrupt and incompetent officials, but it should avoid attacking competent, dedicated officials. Oversight requires reports to be informed, but the reporting requirements should not be excessive. In general, the quality of oversight is much more important than the quantity.

Eighth, good oversight involves documentation. The more you can get things in writing, the better off you are.

Ninth, follow-through is also important. It is one thing to ask agencies to improve their performance, but it requires the work of Members, committees, and staff aides to make sure that the changes have taken place.

Tenth, Member involvement in oversight is important. Certainly much of the work needs to be done by staff. Yet I found that Members often left too much of the responsibility with staff. Having Members involved brings additional leverage to any oversight inquiry.

Eleventh, good oversight takes clear signals from the leadership. Structural reforms and individual efforts by Members can be helpful, but for oversight to really work it takes a clear message from the congressional leadership that oversight is a priority and that it will be done in a bipartisan, systematic, coordinated way. The key role of the House Speaker and the Senate Majority Leader in successful oversight cannot be overstated.

And finally, there needs to be greater public accountability to congressional oversight. The general public can be a very important driving force behind good oversight. Congress needs to provide clear reports from each committee outlining the main programs under its jurisdiction and explaining how the committee reviewed them. As citizens understand how important congressional oversight is to achieving the kind of government they want—government that works better and costs less—they will demand more emphasis on the quality of oversight by Congress, and they will be less tolerant of highly personalized investigations that primarily serve to divert Members' attention from this critical congressional function.

CONCLUSION

My personal belief is that conducting oversight is every bit as important as passing legislation. President Wilson thought that ''the informing function of Congress should be preferred even to its legislating function.'' Our founding fathers very clearly recognized that ''eternal vigilance is the price of liberty''.

A strong record of congressional oversight of—''continuous watchfulness''—will do a lot to restore public confidence in the institution. It will show that Congress is taking its responsibilities seriously and is able to work together.

I'm not Pollyannaish about all of this. Certainly there will be roadblocks and obstacles in the effort to strengthen and improve oversight. The work is not particularly easy under the best of circumstances, and we can't expect all of the hard feelings and distrust about the direction of oversight in recent years to dissipate overnight. But it is my firm belief that this is an area in which Congress simply must do better. And your willingness to participate in these workshops gives me good reason to think that this is an area in which Congress will do better.

## AFRICAN GROWTH AND OPPORTUNITY ACT

SPEECH OF

### HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 16, 1999*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 434) to authorize a new trade and investment policy for sub-Sahara Africa:

Mr. KLINK. Mr. Chairman, I oppose H.R. 434, and I am proud to say I was an original co-sponsor of a much better trade bill, H.R. 772, the ''HOPE for Africa Act'' introduced by my colleague JESSE JACKSON of Illinois.

I supported H.R. 772, and opposed H.R. 434, for reasons centering on concerns for labor, the environment, womens' rights, and the HIV/AIDS problem faced worldwide.

First, in labor terms, I opposed H.R. 434 because it is bad for both American and African workers. Over the past twelve months, 118,000 jobs in the textile and apparel industry have been lost in the United States—more jobs than in any other industry. The reason is competition with low-wage imports, manufactured in nations where worker compensation and working conditions are deplorable. As a result, U.S. textile workers are losing their jobs, and African workers work in sweat-shop style conditions.

On the other hand, H.R. 772, the Jackson bill, would have required that labor rights be adhered to in the workplace, while the H.R. 434 has no binding language to protect worker rights. The Teamsters, International Longshoremen and Warehousemen, AFSCME, Paper Allied-Industrial Chemical and Energy Workers (PACE), Transport Workers of America, Union of Needletrades, Industrial and Textile Employees (UNITE) and the United Auto Workers all opposed H.R. 434.

Second, in environmental terms, I opposed H.R. 434 because the bill text does not even mention the environment. The bill contains no environmental safeguards in its core text—which is a startling oversight. This encourages U.S. firms to move to sub-Saharan Africa in order to evade the standards they must meet here at home.

On the other hand, H.R. 772, the Jackson bill, provided a new model for trade by combining expanded trade, open to all sub-Saharan countries, with the requirement that multinational corporations operating in these countries comply to the same environmental standards that apply here in the United States.

For these reasons, H.R. 434 was opposed by—and H.R. 772 was supported by—the Sierra Club, Defenders of Wildlife, Friends of the Earth, American Lands Alliance, Earth Island Action, International Rivers Network, Native Forest Council, International Law Center for Human, Economic and Environmental Defense, and the International Primate Protection League.

Third, in women's rights terms, I opposed H.R. 434 because it simply called on the Overseas Private Investment Corporation (OPIC) to give special consideration to women entrepreneurs and to investments that help women and the poor.

On the other hand, H.R. 772, the Jackson bill, targeted investment financing for small businesses and women-owned and minority-owned businesses, including provisions for human rights, labor rights and environmental protections.

Fourth, in HIV/AIDS terms, I opposed H.R. 434 because it completely ignored the AIDS crisis. The bill failed to mention the word ''AIDS'' nor did it specify any funding to combat the AIDS epidemic in Africa. However, since the beginning of the AIDS crisis, 83% of AIDS deaths have occurred in sub-Saharan Africa.

On the other hand, H.R. 772, the Jackson bill, targeted direct assistance from the Development Fund for Africa for AIDS education and treatment programs. For these reasons, many HIV/AIDS community groups opposed H.R. but supported H.R. 772—ranging from the Human Rights Campaign Fund to Project Planet Africa.

In closing, I want to turn for a moment to general trade policy. I read a disturbing quote from the Chinese Ministry of Foreign Trade and Economic Cooperation (MOFTEC) given on March 3, 1999: ''Setting up assembly plants with Chinese equipment, technology and personnel could not only greatly increase sales in African countries but also circumvent the quotas imposed on commodities of Chinese origin imposed by European and American countries.''

H.R. 434, had very weak transshipment provisions, with no safeguard against China using sub-Saharan Africa as a transshipment point for Asian manufacturers of textile and apparel products. On the other hand, H.R. 772, the Jackson bill, contained strict, enforceable rules guarding against transshipment from China and other locales. For these reasons, the National Cotton Council and the American Textile Manufacturers Institute opposed H.R. 434.

By passing H.R. 434, which I voted against, nothing was accomplished to give relief, and to save the jobs of, American and African textile workers; to protect the environment; to help African women; to give aid to victims of HIV/AIDS; nor to deny China the right to circumvent the trade laws which impose quotas on Chinese goods.

This is a sad day for American trade relations with sub-Saharan Africa.

## PERSONAL EXPLANATION

### HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 19, 1999*

Mr. PICKERING. Mr. Speaker, I was unavoidably detained and missed the following rollcall vote: Rollcall vote No. 295, H.R. 2466. Had I been present, I would have voted ''aye.''