

WOODROW WILSON INTERNATIONAL CENTER  
FOR SCHOLARS PANEL DISCUSSION:  
CONGRESSIONAL ETHICS ENFORCEMENT:  
IS CONGRESS FULFILLING ITS CONSTITUTIONAL ROLE

ACKNOWLEDGE PRESENCE OF CONGRESSWOMAN STEPAHNIE  
TUBBS-JONES, CHAIRPERSON OF HOUSE COMMITTEE ON STANDARDS  
OF OFFICIAL CONDUCT (ETHICS COMMITTEE).

ALSO: HERBERT MARKS & SANDY SINICK.

I WANT TO THANK DON WOLFENSBERGER FOR INVITING ME TO  
PARTICIPATE ON THIS DISTINGUISHED PANEL. IT HAS BEEN A  
NUMBER OF YEARS SINCE HE AND BOB LIVINGSTON AND I SERVED  
TOGETHER IN THE CONGRESS. DON VERY ABLY SERVED AS FORMER  
CONGRESSMAN JERRY SOLOMON'S STAFF DIRECTOR ON THE RULES  
COMMITTEE AND ALSO AS THE STAFF DIRECTOR OF THE 1989 HOUSE  
BIPARTISAN LEADERSHIP TASK FORCE ON ETHICS.

NOT ONLY DID BOB LIVINGSTON AND I SERVE ON THAT TASK  
FORCE TOGETHER, BUT WE ALSO SERVED TOGETHER AS MEMBERS  
OF THE HOUSE APPROPRIATIONS COMMITTEE FOR MANY YEARS.

IN THE CONGRESS IN WHICH BOB AND I SERVED, THE TERM “BIPARTISANSHIP” WAS NOT A DIRTY WORD. COMITY AND FRIENDSHIPS ACROSS THE AISLE WERE NOT UNUSUAL AND CERTAINLY WERE NOT DISCOURAGED AS THEY HAVE COME TO BE IN RECENT YEARS.

AS A FORMER MEMBER OF CONGRESS, I DO NOT SUPPORT THE POSITION THAT CONGRESS SHOULD ABANDON ITS CONSTITUTIONAL RESPONSIBILITY TO POLICE ITSELF. I BASE MY CONCLUSION UPON SEVERAL FACTORS. FIRSTLY, MY EXPERIENCE OF SERVING IN THE CONGRESS FOR 30 YEARS. NEXT, MY EXPERIENCE OF HAVING TWICE SERVED ON THE COMMITTEE FOR EIGHT YEARS AS A MEMBER AND SIX YEARS AS CHAIRMAN. THE LATE JULIAN DIXON AND I ARE TIED FOR THE LONGEST SERVICE AS CHAIRS OF THAT COMMITTEE.

AS YOU KNOW, SERVICE ON THIS COMMITTEE IS NOT VOLUNTARY. I DON'T KNOW OF ANY MEMBER OF CONGRESS WHO HAS EVER VOLUNTEERED TO SERVE ON IT. I DO KNOW MEMBERS WHO HAVE BEEN ASKED TO SERVE WHO HAVE REFUSED. IT IS NOT SOUGHT AFTER. IT IS A DREADED ASSIGNMENT. SERVICE ON THIS COMMITTEE IS BY APPOINTMENT BY THE MINORITY LEADER OR THE

SPEAKER, ACTING IN CONCERT, WITH THE SPEAKER HAVING THE POWER OF APPOINTMENT OF THE CHAIRMANSHIP.

LIKE EVERY MEMBER WHO EVER AGREED TO SERVE ON THIS COMMITTEE, I DID SO OUT OF LOVE AND RESPECT FOR THE INSTITUTION. I THINK IT'S EASY, NOT LEGAL, OR CONSTITUTIONAL, BUT EASY TO THROW-UP ONE'S HANDS AND SAY GIVE TO A COMMISSION. LET ME OUT.

IT IS A LITTLE HARDER TO ACKNOWLEDGE THAT YOU ARE PRIVILEGED TO SERVE WITH SOME OF THE WORLD'S FINEST MEN AND WOMEN IN THE WORLD'S GREATEST LEGISLATIVE BODY. THAT OUT OF RESPECT TO THAT INSTITUTION, ITS MEMBERS AND THE PUBLIC WHO SENT THEM THERE, IT IS IMPERATIVE THAT A MECHANISM EXIST IN THAT INSTITUTION TO POLICE ITS MEMBERS.

SURE ITS TOUGH TO TAKE TOUGH STANDS AGAINST A COLLEAGUE, SOMEONE YOU WORK ALONGSIDE EVERY DAY, BUT MEMBERS OF CONGRESS TAKE TOUGH STANDS EVERY DAY ON ISSUES AND LEGISLATION. THE CULTURE OF CONGRESS IS THAT YOU HAVE TO TAKE TOUGH STANDS.

YOU HAVE TO TAKE TOUGH STANDS ON THE STANDARDS OF CONDUCT OF THE MEMBERS OF THIS INSTITUTION TO PRESERVE

RESPECT FOR THE INSTITUTION. THAT STANDARD IS TO DETERMINE WHETHER A MEMBER HAS CONDUCTED HIMSELF OR HERSELF "IN A MANNER WHICH SHALL REFLECT CREDITABLY ON THE HOUSE." THAT DETERMINATION WHEN DONE, SHOULD HAVE BEEN DONE IN SUCH A WAY THAT IS FAIR TO THE MEMBER, IN THE BEST INTERESTS OF THE HOUSE AND ACCEPTABLE TO THE PUBLIC.

GRANTED, THAT IS A DIFFICULT TASK. CAN IT BE DONE? YES. HAS IT BEEN DONE? YES.

ONE OF THE CRITERIA IS FOR THE ETHICS COMMITTEE TO BE ABLE TO WORK AS A BIPARTISAN, EVENLY DIVIDED COMMITTEE. WHEN I CHAIRED THE COMMITTEE, I WAS FORTUNATE TO HAVE TWO OF THE FINEST MEN WHO SERVED IN CONGRESS AS MY RANKING MEMBER, EACH TIME I CHAIRED THE COMMITTEE. FOR MANY YEARS FLOYD SPENCE, A REPUBLICAN FROM SOUTH CAROLINA, AND I WORKED TOGETHER. LATER, JIM HANSEN, A REPUBLICAN FROM UTAH, AND I WORKED TOGETHER.

WE HANDLED MANY INFAMOUS CASES, THE TYPE THAT WERE FRAUGHT WITH POLITICAL PARTISANSHIP AND OTHER FACTORS WHICH MANY, INCLUDING MEMBERS, DOUBTED THE HOUSE ETHICS COMMITTEE COULD HANDLE IN A CREDIBLE WAY.

WE HAD THE ABSCAM CASES WHERE A SIZABLE NUMBER OF DEMOCRATIC MEMBERS WERE CAUGHT IN AN FBI STING INVOLVING ARAB SHEIKS WITH THEIR PHOTOGRAPHS SHOWN ON NATIONAL TELEVISION STUFFING MONEY INTO THEIR POCKETS; THE SEX AND DRUG INVESTIGATIONS LAUNCHED OVER NATIONAL TV, WHERE TWO PAGES OF THE HOUSE, HIDDEN BEHIND SCREENS, ACCUSED SOME 30 MEMBERS OF THE HOUSE WITH INVOLVEMENT WITH PAGES IN SEX AND DRUGS. WE HAD THE INVESTIGATION OF GERALDINE FERRARO, A MEMBER OF THE HOUSE, WHEN SHE WAS RUNNING AS A CANDIDATE FOR THE VICE PRESIDENCY OF THE UNITED STATES ON THE TICKET WITH SENATOR WALTER MONDALE. WE HAD A NUMBER OF OTHER CASES, INCLUDING A MEMBER NAMED GEORGE HANSEN, FOR FINANCIAL DISCLOSURE VIOLATIONS.

IN ALL OF THESE CASES, FLOYD SPENCE, JIM HANSEN AND I NEVER HAD A DISSENTING VOTE FROM ANY MEMBER OF THE COMMITTEE ON ANY CASE BEFORE THE ETHICS COMMITTEE. IN EVERY INSTANCE WE HAD A UNANIMOUS VOTE IN EVERY CASE WE TOOK TO THE FLOOR OF THE HOUSE. THAT WAS BECAUSE WE TOOK SERIOUSLY OUR MANDATE OF THE HOUSE TO REACH A BIPARTISAN AGREEMENT IN OUR WORK.

IN BOTH THE ABSCAM CASES AND THE SEX AND DRUG CASES PRIOR TO THE ETHICS COMMITTEE BEING AUTHORIZED TO PROCEED WITH INVESTIGATIONS, THE HOUSE DEBATED WHETHER THESE CASES SHOULD BE TURNED OVER TO AN INDEPENDENT OUTSIDE PROSECUTOR. IN BOTH CASES AFTER LENGTHY DEBATE BY THE HOUSE, THE ETHICS COMMITTEE WAS GIVEN THE CASES WITH AUTHORIZATION TO HIRE OUTSIDE COUNSEL TO ASSIST IN OUR WORK, THEREBY ENABLING THE HOUSE THROUGH ITS ETHICS COMMITTEE, TO POLICE ITS OWN. IN ONE CASE WE HIRED BARRETT PRETTYMAN, AN OUTSTANDING D.C. LAWYER, AS ETHICS COMMITTEE COUNSEL. IN THE SEX AND DRUG CASES WE HIRED JOE CALIFANO, WHITE HOUSE COUNSEL TO PRESIDENT JOHNSON AND FORMER SECRETARY OF HEALTH EDUCATION AND WELFARE, AS COMMITTEE COUNSEL. AN INTERESTING OUTCOME OCCURRED IN THE SEX AND DRUG CASES. NEAR THE END OF HIS INVESTIGATION, JOE CALIFANO REPORTED TO ME THAT BOTH PAGES HAD RECANTED THEIR ALLEGATIONS, CLEARING ALL MEMBERS OF THE HOUSE WHO HAD BEEN NAMED BY THEM ORIGINALLY. HOWEVER, HE REPORTED THAT THEY HAD UNCOVERED EVIDENCE THAT DAN CRANE OF ILLINOIS, A REPUBLICAN, AND GERRY E. STUDDS, A DEMOCRAT

FROM MASSACHUSETTS, NEITHER OF WHOM HAD BEEN NAMED BY THESE PAGES, HAD BEEN INVOLVED IN SEX WITH TWO DIFFERENT PAGES A NUMBER OF YEARS EARLIER. IN LIGHT OF THE AGE OF THESE CASES, MR. CALIFANO AND HIS STAFF RECOMMENDED TO US THAT THEY FELT, DUE TO THE AGE OF THE CASES, THAT THE COMMITTEE SHOULD RECOMMEND A “REPRIMAND” FOR EACH, CRANE AND STUDDS.

WHEN WE TOOK THE CASE TO THE FLOOR, BOTH SPEAKER O’NEILL AND MINORITY LEADER, BOB MICHAELS, TWO GREAT MEMBERS OF CONGRESS, REJECTED OUR RECOMMENDATION. THEY JOINED TOGETHER WITH AN AMENDMENT TO RAISE OUR RECOMMENDATION TO “CENSURE.” THEIR RECOMMENDATION PASSED AND BOTH CRANE AND STUDDS WERE “CENSURED” IN THE HOUSE. ALSO INTERESTING, IS THAT ALTHOUGH CRANE DID NOT RETURN TO THE HOUSE, STUDDS CONSTITUENTS RETURNED HIM TO THE HOUSE SEVERAL MORE TERMS. HE SPENT MORE THAN 10 ADDITIONAL YEARS IN THE HOUSE BEFORE RETIRING.

NOW THERE HAS BEEN SOME COMMENTARY ABOUT THE ETHICS COMMITTEE NOT TAKING ANY ACTION IN MANY CASES WHEN A MEMBER IS BEING INVESTIGATED BY THE DEPARTMENT OF

JUSTICE OR HAS BEEN INDICTED. IT IS IMPORTANT THAT I PUT THIS IN PERSPECTIVE. SUCH INACTION BY THE ETHICS COMMITTEE IS NOT HAPPENSTANCE, IT IS PURPOSEFUL. IN SOME CASES OUR COMMITTEE HAD BEGUN COLLECTING INFORMATION WHERE NEWSPAPER ALLEGATIONS OR OTHER INFORMATION HAD COME TO OUR ATTENTION ABOUT A MEMBER. BEFORE THE COMMITTEE LAUNCHED A "PRELIMINARY INQUIRY" OR EVEN IF OUR ACTION HAD REACHED THE STAGE OF VOTING A "PRELIMINARY INQUIRY," WHICH IS THE FORMAL STAGE OF BEGINNING AN INVESTIGATION, I WOULD CALL AND TALK WITH THE DEPARTMENT OF JUSTICE. IF THEY REQUESTED THAT WE NOT GET IN THE WAY OF THEIR INVESTIGATION, IT WAS A REQUEST I ALWAYS HONORED. I ALWAYS ASKED THE COMMITTEE TO CEASE AND DESIST IN RESPECT TO OUR INVESTIGATION SO THAT WE DID NOTHING TO BOTCH UP A CRIMINAL INVESTIGATION. I SAW A GOOD EXAMPLE OF HOW CONGRESS CAN BOTCH UP A CRIMINAL CASE WHEN I SERVED ON THE IRAN-CONTRA PANEL, WHICH INVESTIGATED THE ILLEGAL SALE OF ARMS TO IRAN. A FEW OF US DISSENTED TO ACTION TAKEN BY THE COMMITTEE TO IMMUNIZE COLONEL OLIVER NORTH AND OTHERS IN ORDER TO SECURE THEIR TESTIMONY BEFORE OUR

PANEL. WE WERE OVERRULED AND THEIR IMMUNIZED TESTIMONY WAS RECEIVED BY THE COMMITTEE. AFTER THEIR CONVICTIONS WERE OBTAINED IN THE CRIMINAL CASES BROUGHT AGAINST OLIVER NORTH AND OTHERS, THEY WERE ACQUITTED ON APPEALS BASED ON THE IMMUNITY GRANTED THEM BY CONGRESS IN THE IRAN-CONTRA HEARINGS.

IN EVERY CASE I AM AWARE OF, ETHICS COMMITTEES HAVE TRIED TO AVOID THIS TYPE OF EMBARRASSMENT AND INTERFERENCE WITH THE JUDICIAL PROCESS.

LOST IN THE WHOLE DISCUSSION ABOUT AN OUTSIDE COMMISSION TO EDUCATE AND MONITOR ETHICS IN CONGRESS IS WHAT THE ETHICS COMMITTEE ALREADY DOES. FEW PEOPLE SEEM TO REALIZE OR KNOW HOW MUCH INFORMATION, MONITORING AND EDUCATION IS DONE BY THE ETHICS COMMITTEE TO HELP MEMBERS AVOID ANY DIFFICULTY WITH ETHICAL PROBLEMS. BESIDES THE RULES GOVERNING GIFTS AND TRAVEL, CAMPAIGN ACTIVITY, MEMBER CASEWORK AND EVENTS, EMPLOYMENT AND POST EMPLOYMENT, THERE ARE CAMPAIGN ACTIVITY ETHICS BRIEFINGS FOR MEMBERS AND THEIR STAFFS, DEAR COLLEAGUE LETTERS, WHICH GO OUT TO MEMBERS FROM THE CHAIRMAN AND RANKING

MEMBER, RULES AND STANDARDS APPLICABLE TO COMMITTEE CONSULTANTS, ANSWERS TO THE TOP 20 QUESTIONS, AND REQUESTS TO ALL MEMBERS TO SEEK AN OPINION FROM THE ETHICS COMMITTEE ON ANY SUBJECT BEFORE YOU DO IT. ALL OF THIS IS CONSTANTLY SENT TO MEMBERS ON "PINK SHEETS." THESE ADVISORY SHEETS TRY TO KEEP MEMBERS OUT OF TROUBLE BY ADVISORY MEMORANDA ON THINGS SUCH AS PRIVATELY FUNDED TRAVEL, OUTSIDE EARNED INCOME LIMITATIONS, FINANCIAL DISCLOSURE, GIFT RULES, GIFT PROVISIONS ON MEALS, ENTERTAINMENT AND RECREATIONAL ACTIVITIES FROM LOBBYISTS, AND A HOST OF OTHER MEMBER RELATED ISSUES. NO COMMISSION CAN DO MORE THAN THE ETHICS COMMITTEE DOES IN KEEPING MEMBERS, WHO WANT TO KEEP OUT OF TROUBLE, OUT OF TROUBLE.

IN SUPPORTING THE HOUSE AND CONGRESS NOT ABDICATING ITS RESPONSIBILITIES UNDER THE CONSTITUTION TO POLICE ITS OWN, I AM NOT UNMINDFUL OF ITS CURRENT IMAGE AS A RESULT OF ACTS SUCH AS THE ACTION TAKEN TO ABOLISH THE RULE WHICH REQUIRED AN INDICTED MEMBER TO RELINQUISH HIS OR HER CHAIRMANSHIP IN ORDER TO PROTECT TOM DELAY OF TEXAS. THIS WAS CAUSED BY THE WRONGFUL INTERFERENCE OF THE

REPUBLICAN LEADERSHIP IN THE LAST CONGRESS, WITHOUT ANY CONSULTATION WITH THE ETHICS COMMITTEE. THE FORMER CHAIRMAN OF THE ETHICS COMMITTEE, JOEL HEFLEY, JUST PRIOR TO HIS RETIREMENT, ADDRESSED THIS SITUATION IN A SPEECH ON THE FLOOR OF THE HOUSE. IN HIS EXCELLENT AND CANDID SPEECH, HE SAID “PRIOR TO THIS MISGUIDED EFFORT, THE ETHICS COMMITTEE HAD ALMOST 40 YEARS OF BIPARTISAN TRADITION.” HE FURTHER STATED THAT “THE PROCESS USED BY THE HOUSE LEADERSHIP DAMAGED BOTH THE ETHICS PROCESS IN THE HOUSE AND THE HOUSE AS AN INSTITUTION.” I GUESS I AM SUPPORTING WHAT CAN BE DONE BY AN ETHICS COMMITTEE IN CONGRESS, WHICH USES IT IN THE BIPARTISAN MANNER INTENDED BY THE FRAMERS OF THE CONSTITUTION. HOPEFULLY, OUR CURRENT CONGRESS WILL ATTEMPT TO REPAIR THE LACK OF COMITY, COLLEGIALLY AND MEMBER RESPECT THAT HAS BEEN THE HALLMARK OF PAST CONGRESSES AND THE REASON FOR THE CHANGES VOTED FOR BY THE ELECTORATE IN THE NOVEMBER ELECTIONS.

WHEN WE TALK ABOUT ETHICS REFORM, ONE OF THE AREAS MENTIONED IS FINANCIAL DISCLOSURE. I WOULD SUPPORT AN

AUDIT FEATURE IF WE ARE TO MAKE FINANCIAL DISCLOSURE RELATIVE TO CONGRESSIONAL ETHICS. CURRENTLY, THIS REQUIREMENT SERVES LITTLE PURPOSE OTHER THAN PROVIDING THE MEDIA AN OPPORTUNITY TO WRITE AN ARTICLE EACH YEAR ABOUT HOW POOR AND HOW RICH SOME MEMBERS OF CONGRESS ARE. REPORTERS IN MY STATE WERE SO ANXIOUS TO GET THIS STORY OUT THAT THEY WOULD CALL AND SAY, "CAN WE GET AN ADVANCE COPY OF WHAT YOU ARE GOING TO FILE WITH THE COMMITTEE." THEY WOULD TELL YOU, "WE KNOW YOU DON'T HAVE TO, BUT THE ARTICLE COMES OUT TOMORROW, AND IF WE DON'T HAVE YOURS WE'LL HAVE TO DO A SEPARATE STORY ON JUST YOURS. NOT TO BE SINGLED OUT, I ALWAYS COMPLIED. HOWEVER, IT WAS NO FUN EACH YEAR WHEN I READ THE STORY WHICH WAS ALWAYS ABOUT HOW RICH SENATORS HOWARD METZENBAUM AND JOHN GLENN WERE, AND HOW POOR LOU STOKES WAS.

LASTLY, I THINK IT IS IMPORTANT TO SAY THAT I AM VERY PROUD TO HAVE SERVED IN CONGRESS. IN ITS 218 YEAR HISTORY, SLIGHTLY OVER 2000 AMERICANS HAVE BEEN ELECTED TO SERVE THERE. SLIGHTLY OVER 100 BLACK AMERICANS HAVE EVER BEEN

ELECTED TO SERVE IN CONGRESS. THE PEOPLE WHO SERVE THERE ARE NO BETTER NOR ANY WORSE THAN THE PEOPLE IN ANY OTHER AMERICAN INSTITUTION. THEY ARE BY AND LARGE SOME OF THE HARDEST WORKING, MORAL, WELL EDUCATED AND DECENT HUMAN BEINGS IN OUR COUNTRY. LIKE ANY OTHER INSTITUTION IN AMERICAN, INCLUDING THE LEGAL PROFESSION, THE MEDICAL PROFESSION, BANKING, EDUCATION, CORPORATE AND THE MINISTRY, ALL OF WHICH HAVE SOME BAD APPLES, CONGRESS IS NO EXCEPTION. IT IS EASY TO FOLLOW THE RULES. THE MEMBER OF CONGRESS WHO USED HIS POSITION TO GET A ROLLS ROYCE, A YACHT, A MILLION DOLLAR HOME, WASN'T INTERESTED IN RULES. HE WAS A CRIMINAL. THERE IS NO ETHICS REFORM YOU CAN ENACT APPLICABLE TO HIM. THE RANDY CUNNINGHAM'S ARE FEW AND FAR IN BETWEEN. I REMEMBER MY CRIMINAL LAW PROFESSOR TELLING OUR CLASS, "THE LAW WILL NEVER KEEP UP WITH THE MACHINATIONS OF THE HUMAN MIND." I HAVE FOUND THAT TO BE TRUE.

AS LONG AS MEMBERS OF CONGRESS ARE WILLING TO POLICE THEIR OWN INSTITUTION, THEIR RESPONSIBILITY UNDER THE CONSTITUTION, I SUPPORT THAT POSITION.

Speech Given By Louis Stokes at the Woodrow Wilson  
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