House Resolutions of Inquiry

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Summary

The resolution of inquiry is a simple House resolution that seeks factual information from the executive branch. Such resolutions are given privileged status under House rules and may be considered at any time after being properly reported or discharged from committee. Such resolutions apply only to requests for facts—not opinions—within an Administration's control. This report explains the history, procedure, specific uses of resolutions of inquiry, and notes recent increases in their usage.

The examples in this report demonstrate that, historically, even when a resolution of inquiry is reported adversely from a committee and tabled on the floor, it has frequently led to the release of a substantial amount of information from the Administration. Data from more recent Congresses suggest a potential change in the use and efficacy of these privileged resolutions.

For other CRS reports regarding legislative techniques for obtaining information from the executive branch, see CRS Report 95-464, *Investigative Oversight: An Introduction to the Law, Practice and Procedure of Congressional Inquiry*, by (name redacted), and CRS Report RL30240, *Congressional Oversight Manual*, by (name redacted) et al.

This report will be updated as events warrant.

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Introduction

Congress has many techniques for obtaining documents from the executive branch, including simple requests, committee investigations, subpoenas, and holding executive officials in contempt. One procedure, used only in the House of Representatives, is the *resolution of inquiry*, which "is a simple resolution making a direct request or demand of the President or the head of an executive department to furnish the House of Representatives with specific factual information in the possession of the executive branch."[1] It has been the practice to use the verbs "request" in asking for information from the President and "direct" when addressing department heads.[2]

Resolutions of inquiry are often much more effective in obtaining information from the executive branch than one would expect from viewing committee and floor action. Administrations have often released a substantial amount of information, leading the committee of jurisdiction to conclude that the dispute is moot and it is therefore appropriate to report the resolution adversely and table it on the floor. As examples in this report demonstrate, the sponsor of a resolution will often support an adverse report and tabling action because the Administration has substantially complied with the resolution.

There is no counterpart in current Senate parliamentary practice for resolutions of inquiry, although there are precedents dating to the end of the 19th century and an effort in 1926.[3] Nothing prevents the Senate from passing such resolutions, but apparently the Senate is satisfied with the leverage it has through other legislative means, including the nomination process and Senate "holds."[4] Unlike the House, the Senate has no special practices for expediting consideration through committee discharge or non-debatable motions, and resolutions are not generally privileged for immediate consideration.[5]

Origins of Practice

From its very first years, Congress has requested information from the executive branch to further legislative inquiries. Initially, these requests did not depend on a House rule. They were made pursuant to the implied authority of Congress to investigate the executive branch. For example, in 1790 the House investigated the receipts and expenditures of public moneys during Robert Morris's term as Superintendent of Finance during the Continental Congress.[6] Congress sought

[1] U.S. Congress, House, *Deschler's Precedents of the United States House of Representatives*, H. Doc. 94-661, 94th Cong., 2nd sess., vol. 7, ch. 24, § 8. For a current summary of House procedures for resolutions of inquiry, see William Holmes Brown, Charles W. Johnson, *House Practice, A Guide to the Rules, Precedents, and Procedures of the House*, 108th Cong., 1st sess. (Washington: GPO, 2003), pp. 817-822.

[2] DeAlva Stanwood Alexander, *History and Procedure of the House of Representatives*, (Boston: Houghton Mifflin, 1916), p. 360.

[3] U.S. Congress, Senate, *Riddick's Senate Procedure*, S. Doc. 101-28, 101st Cong., 2nd sess., (Washington: GPO, 1992), p. 799. [Hereafter cited as *Riddick's Senate Procedure*.] See also: *Congressional Record*, vol. 67, January 23, 1926, pp. 2658-59, 2661-62, 2663.

[4] See CRS Report RL31685, *Proposals to Reform "Holds" in the Senate*, by (name redacted).

[5] *Riddick's Senate Procedure*, p. 1204.

[6] U.S. Congress, *Annals of Congress*, vol. 1, February 8, 1790, p. 1168. [hereafter cited as *Annals of Congress*.] *Annals of Congress*, vol. 1, February 10, 1790, p. 1204. *Annals of Congress*, vol. 2, March 19, 1790, p. 1514. *Annals of Congress*, vol. 2, February 16, 1791, p. 2017.

documents from the executive branch in 1790 to judge the size of an annuity to be given Baron Frederick von Steuben.[7] As part of its 1792 investigation into the military losses suffered by the troops of Major General Arthur St. Clair, the House received a substantial number of documents from the War Department.[8]

These early investigations differed in scope and procedure from the House resolution of inquiry, which depends not on Congress operating as the "Grand Inquest" but by a special *rule* that grants privileged status to a lawmaker's motion to obtain documents from the executive branch. Early House rules contained no procedure for requesting information from the President or cabinet officials.[9] Throughout its first two decades, however, the House made repeated requests to the President and departmental heads for information, sometimes to be returned to Congress, and sometimes to the states. For example, on January 5, 1797, the House took up this resolution (involving the concurrence of both chambers):

> *Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be requested to give information to the several States who were, by the Commissioners appointed to settle accounts between the United States and the individual States, found indebted to the United States of the several sums in which they were so found indebted.... [10]

This type of resolution differed from the resolution of inquiry, because it lacked privileged status under House rules. Similarly, in 1811, the House considered a resolution requesting the President to lay before the House "a list of the whole number of persons impressed, seized, and otherwise unlawfully taken from on board vessels sailing under the United States' flag on the high seas or rivers, in ports and harbors."[11]

In 1820, the House clarified its rules for requesting information from the executive branch. There was concern that the House had not been acting with sufficient consideration before making such requests. In offering an amendment to House rules on December 12, 1820, Representative Charles Rich noted that "six clerks had been constantly employed, from the close of the last session to the present time, in collecting the materials to enable one of the departments to answer a call at the last session."[12] Rich offered this change to the rules:

> A proposition, requesting information from the President of the United States, or directing it to be furnished by the Secretary of either of the Executive Departments, or the Postmaster General, shall lie upon the table one day for consideration, unless otherwise ordered, with the unanimous consent of the House.[13]

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[7] U.S. Congress, *Annals of Congress*, vol. 2, April 6, 1790, p. 1572. *Annals of Congress*, vol. 2, April 19, 1790, p. 1584. See also: 6 Stat. 2.

[8] *Annals of Congress*, vol. 3, Appendix, pp. 1052-59, 1106-13, 1310-17.

[9] House rules adopted in 1789 made no mention of legislative procedures for obtaining executive documents; U.S. Congress, House, *Journal of the House of Representatives*, 1st Cong., 1st sess., vol. 1, April 2, 1789, p. 6. Nor were such procedures in place in 1794; *Annals of Congress*, vol. 4, November 13, 1794, pp. 875-82.

[10] *Annals of Congress*, vol. 6, January 4. 1797, p. 1797.

[11] *Annals of Congress*, vol. 23, November 26, 1811, pp. 370-373. The House agreed to this resolution.

[12] *Annals of Congress*, vol. 37, December 12, 1820, p. 608.

[13] Ibid., p. 607.

On the following day, the House agreed to Rich's proposition.[14] Two years later, the House made another change to its rules governing resolutions of inquiry, requiring not merely a day's delay but also committee consideration: "And shall be taken up for consideration on the next day, in the order in which they were presented, immediately after reports are called for from select committees, and, when adopted, the Clerk shall cause the same to be delivered."[15] The House rule now read:

> A proposition, requesting information from the President of the United States, or directing it to be furnished by the head of either of the Executive Departments, or by the Postmaster General, shall lie on the table one day for consideration, unless otherwise ordered by the unanimous consent of the House; and all such propositions shall be taken up for consideration in the order they were presented, immediately after reports are called for from select committees; and, when adopted, the Clerk shall cause the same to be delivered.[16]

This language survived until 1879, when the House Rules Committee reported language to eliminate the need for lawmakers to seek unanimous consent from the chamber in order to seek executive documents. Speaker Samuel J. Randall explained that it was "very seldom that it is in order for a member to offer a resolution calling for information; that is the difficulty. Any one member at any time may prevent a call for information."[17]

Granting this advantage, Representative Roger Q. Mills objected to the procedure for committee referral: "What is the necessity for having a resolution calling for information from one of the Executive Departments referred to a committee? What is the use of my offering a resolution of that kind and having it referred to a committee and there buried?"[18] Representative James A. Garfield explained that the purpose of committee referral was to avoid the "constant danger of gentlemen upon this floor duplicating calls for information. Some one may want some information and offer a resolution calling for it and it passes by unanimous consent, and the same thing may have been asked already by somebody else and nobody has paid any attention to the fact that the same thing has already been called for." Garfield thought it better that legislative requests for information "be referred to the committees, in order that they may not be duplicated so as to put the Departments to the necessity of employing a large number of clerks for a useless purpose."[19]

The House Committee on Rules recommended language that gave committees of jurisdiction full discretion over resolutions referred to them: "Under this call resolutions for information from the Executive Departments of the Government may be offered for reference to the appropriate committees, such committees to have the right to report at any time."[20] The language "under this call" referred to a procedure that required resolutions calling for executive information to be offered only during the morning hour of every Monday.[21]

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[14] Ibid., p. 641.

[15] *Annals of Congress,* vol. 38, January 21, 1822, p. 748.

[16] Ibid., p. 756. The language on this page has "when appointed" rather than "when adopted," as originally proposed. "Appointed" appears to be a typographical error.

[17] *Congressional Record,* vol. 9, May 1, 1879, p. 1018.

[18] Ibid.

[19] Ibid.

[20] Ibid.

[21] Ibid.

Representative Mills objected to this procedure, pointing out that a resolution calling for information might be "of a partisan character," because a member of the minority wanted information in the possession of an executive officer of the majority party in the House. Did anyone believe, he asked, "that such a resolution would get out of any committee against the vote of a majority of its members, when the design of the resolution was, perhaps, to expose the malfeasance of some officer belonging to the party of the majority?"[22] Representative William H. Calkins found Garfield's argument about duplication unpersuasive. If a lawmaker asked for information that an executive department had already made available to another lawmaker, "it would be a full answer to the resolution for such Department to reply that the information had already been given, and the Department would not be required to go over it again."[23]

As to Mills's argument that a committee could use its majority party power to block any action on a resolution, Speaker Randall noted that members of the majority party could block floor action on the resolution, because "a single member of that majority could object to it." Mills conceded that point, but said "there would be a record."[24]

Representative John H. Baker thought that too much power had been centered in the committees of jurisdiction. Upon receiving a resolution requesting information, it should be "imperative for the committee to report either for or against the resolution, so as to allow the question to come before the House for its determination." Speaker Randall considered that "a very good suggestion" that did not occur to the Rules Committee.[25] Representative Harry White sharpened Baker's proposal by requiring the committee to report "within one week."[26] Baker's amendment, as modified, was agreed to, resulting in this language: "And such committees shall report thereon within one week thereafter."[27]

Committee and Floor Procedures

Under House Rule XIII, clause 7, a Member may address a resolution of inquiry "to the head of an executive department." The resolution is privileged and may be considered at any time after it is properly reported or discharged from committee. If the resolution is not reported to the House within 14 legislative days after its introduction, a motion to discharge the committee from its further consideration is privileged. Should the committee or committees of referral report (or be discharged under a time limit placed by the Speaker) within the 14 day period, only a designee of the committee can move to proceed to the consideration of the resolution on the floor.

Typically, the House debates a resolution of inquiry for not more than one hour before voting on it. When a committee reports a resolution, the time for consideration is generally given to the committee chairman, who may decide to grant half the time to the ranking member of the committee or subcommittee. The deadline for a committee to report was extended from one week

[22] Ibid.

[23] Ibid.

[24] Ibid.

[25] Ibid.

[26] Ibid.

[27] Ibid., p. 1019.

to 14 legislative days in 1983.[28] In calculating the days available for committee consideration, the first day and the last day are not counted.[29]

A resolution of inquiry is usually referred to the committee that has jurisdiction over the subject matter, but on a number of occasions two or more committees have been involved in responding to a resolution of inquiry. After a resolution of inquiry is introduced and referred to committee, the committee sends the resolution to the Administration for action, requesting a timely response to allow the committee to act within the deadline for a committee report.

While waiting for information from the executive branch, the committee may decide to act on the resolution in the form in which it was referred or consider amendments to it. The committee then votes to report the resolution favorably or adversely. It may also decide not to report at all, forcing the Member who introduced the resolution to make a motion to discharge the committee. In most cases the committee reports, either positively or negatively. If the committee concludes that the Administration's response is in substantial compliance with the resolution, it may offer a motion on the House floor to table the resolution on the ground that the congressional interest has been satisfied.

When a resolution of inquiry is reported from committee, the chairman of the committee calls up the resolution and becomes floor manager, either to pass the resolution or table it. If the committee decides not to report, the sponsor of the resolution can call up the resolution as privileged business.

The privileged status of the resolution applies only to requests for facts within the Administration's control and not for opinions or investigations.[30] In 1905, a Member of the House asked unanimous consent for a resolution that requested the Secretary of the Interior "to furnish to Congress a report on the progress of the investigation of the black sands of the Pacific slope ... and for his opinion as to whether or not this investigation should be continued."[31] Another Member pointed out that the Geological Survey, in a letter to the Senate, had already reported on the result of the investigation.[32] Because of a possible duplication of printing, objection was heard to the resolution of inquiry. The sponsor of the resolution asked: "Is not this a privileged resolution?" Speaker Joseph G. Cannon replied, "The Chair thinks the first part of the resolution privileged. The latter part is not privileged; and that destroys the privilege of the whole resolution."[33]

Resolutions of inquiry are directed "to the head of an executive department." There have been parliamentary challenges to resolutions that are directed to executive officials who are not considered the head of an executive department. In 1891, a Member offered a resolution of inquiry to the Regents of the Smithsonian Institution for information regarding expenditures of

[28] U.S. Congress, *Constitution, Jefferson's Manual, and Rules of the House of Representatives*, H.Doc. 108-241, 108th Cong., 2nd sess. (Washington: GPO, 2005), §864.

[29] Asher C. Hinds, *Hinds' Precedents of the United States House of Representatives*, 5 vols. (Washington: GPO, 1907), vol. 3, §1858.

[30] See clause 7 of House Rule XIII.

[31] *Congressional Record*, vol. 40, December 19, 1905, pp. 591-592.

[32] Ibid., p. 592.

[33] Ibid., p. 593.

the National Zoological Park. The following dialogue occurred between Representative Benjamin A. Enloe and Speaker Charles F. Crisp:

> The SPEAKER. The rule applies only to resolutions of inquiry addressed to the heads of Executive Departments.
> Mr. ENLOE. On that point, Mr. Speaker, I desire to say that the reason why the resolution was framed as it is and also the reason why I consider this as presenting a question of privilege is because it is addressed to the Regents of the Smithsonian Institution, who are made trustees for the disbursement of this fund and for the organization of this park and are not under the control of any Department of the Government.
> The SPEAKER. "Head of Executive Departments" is the language of the rule.
> Mr. ENLOE. I understand; but the Regents of the Smithsonian are not under the jurisdiction of any Department of the Government.
> A MEMBER. And consequently do not come under the rule.
> Mr. ENLOE. They are virtually the head of a Department, and I should think they come within the meaning of the rule.
> The SPEAKER. They are not heads of any Executive Department.
>
> Mr. ENLOW. Well, Mr. Speaker, I believe it is privileged; but, instead of arguing that proposition, I will ask unanimous consent that the resolution be now considered by the House.[34]

Objection was heard.[35] Following Enlow's resolution, a Member announced that he had a resolution reported back from the Committee on Commerce, asking for certain information from the Interstate Commerce Commission. Again Speaker Crisp ruled: "The Chair thinks it is not privileged. The Interstate Commerce Commission is not the head of a department."[36]

There are cases when the Chair rules against a resolution of inquiry because it is not directed to an executive department, but the Member prevails through a unanimous consent motion. In 1904, a member called up a resolution of inquiry to obtain information from the Civil Service Commission. After the Chair ruled that the resolution was not a privileged matter because it did not call upon "the head of Department, but upon the Civil Service Commission," the Member asked unanimous consent for its immediate consideration. There was no objection, "and the resolution was accordingly considered and adopted."[37]

Although the President is not "the head of an executive department," resolutions of inquiry are directed to the President without the parliamentary challenge that the President is not technically a departmental head.

Administrative Discretion

Some House resolutions of inquiry give the Administration discretion in providing factual information to Congress, particularly when they are directed to the President. In 1811, a

[34] *Congressional Record,* vol. 22, June 27, 1891, pp. 1874-1875.

[35] Ibid., p. 1875.

[36] Ibid.

[37] *Annals of Congress*, vol. 38, March 12, 1904, p. 3181.

resolution requested from the President, "as far as practicable," a list of Americans impressed by other countries, "with such other information on this subject as he in his judgment may think proper to communicate."[38] In the same year, a resolution requested from the President information relative to the situation in the Indiana Territory, "which may not be improper to be communicated."[39] Early in 1812, a resolution requested the President to furnish the House with copies of instructions given to the U.S. Minister at London, regarding the impressment of American seamen into the naval service of Great Britain, "excepting so much as it may be improper to disclose, on account of any pending negotiation."[40]

In 1876, the House passed a resolution requesting President Ulysses S. Grant to inform the House "if, in his opinion, it is not incompatible with the public interest," whether since March 4, 1869 (the date his term began) any executive offices, acts, or duties had been performed at a distance from "the seat of Government established by law, and for how long a period at any one time, and in what part of the United States; also, whether any public necessity existed for such performance, and, if so, of what character, and how far the performance of such executive offices, acts, or duties, at such distance from the seat of Government established by law was in compliance with the act of Congress of the 16th day of July, 1790." This resolution was not taken up as a resolution of inquiry. Instead, the rules were suspended by the necessary two-thirds majority and the resolution adopted.[41]

President Grant could have withheld information on the ground stated in the resolution, that disclosure was not compatible with the public interest. He chose to set forth constitutional reasons for declining the information. First, he said he could find nothing in the Constitution to justify congressional interest as to where the President discharged official acts and duties. What the House could require in terms of information from the executive branch was limited "to what is necessary for the proper discharge of its powers of legislation or of impeachment," neither of which, he said, applied. Asking where executive acts are performed and at what distance from the seat of Government "does not necessarily belong to the province of legislation. It does not profess to be asked for that object."[42]

Second, if the House sought the information to assist in the impeachment process, "... it is asked in derogation of an inherent natural right, recognized in this country by a constitutional guaranty which protects every citizen, the President as well as the humblest in the land, from being made a witness against himself."[43] This position was not well taken. Other Presidents have made it clear that if the House sought information as part of impeachment proceedings, the information would be supplied. In denying the House the papers it requested on the Jay Treaty, President George Washington stated that the only ground on which the House might have legitimately requested the documents was impeachment, "which the resolution has not expressed."[44] President James Polk recognized that the power of impeachment gives the House "... the right to investigate the conduct of all public officers under the Government. This is cheerfully admitted. In such a case the safety

[38] *Annals of Congress*, vol. 23, November 26, 1811, p. 370.

[39] Ibid., p. 582.

[40] Ibid., p. 779.

[41] *Congressional Record*, vol. 4, April 3, 1876, p. 2158.

[42] James D. Richardson, ed., *Compilation of the Messages and Papers of the Presidents*, in 11 vols. (New York: Bureau of National Literature, 1911) vol. 9, p. 4316. (Hereafter "Richardson").

[43] Ibid.

[44] *Annals of Congress*, vol. 5, March 18, 1796, p. 759.

of the Republic would be the supreme law, and the power of the House in the pursuit of this object would penetrate into the most secret recesses of the Executive Department. It could command the attendance of any and every agent of the Government, and compel them to produce all papers, public or private, official or unofficial, and to testify on oath to all facts within their knowledge."[45]

Third, Grant pointed out that previous Presidents found it necessary to discharge official business outside the nation's capital, and that "during such absences I did not neglect or forego the obligations of the duties of my office."[46] To his letter to the House he appended a study on the number of days other Presidents had conducted official business outside the nation's capital.

Fourth, with regard to the statute of July 16, 1790, Grant said that no act of Congress could limit his constitutional duty to discharge governmental functions outside the nation's capital, and that the 1790 statute made no attempt to do so. He noted that on March 30, 1791, shortly after passage of the statute cited in the resolution, President Washington issued a proclamation "having reference to the subject of this very act from Georgetown, a place remote from Philadelphia, which then was the seat of Government.... "[47]

In 1952, the House debated a resolution of inquiry to "direct" the Secretary of State to transmit to the House, "at the earliest practicable date, full and complete information with respect to any agreements, commitments, or understandings which may have been entered into" by President Harry Truman and Prime Minister Winston Churchill in the course of their conversations during January 1952, "and which might require the shipment of additional members of the Armed Forces of the United States beyond the continental limits of the United States or involve United States forces in armed conflict on foreign soil."[48] The resolution came to the floor accompanied by an adverse report from the Committee on Foreign Affairs.[49]

During debate on the resolution, which passed 189 to 143,[50] those who supported the resolution regarded it as non-binding. For example, Representative John Martin Vorys advised his colleagues that "we cannot by this resolution make the Executive answer. We cannot make the President, we cannot make the Secretary of State, say anything. That has been passed on time and again under the precedents of this House. We can put a question up to them. All we can do, if we pass this resolution, is to say to the Secretary of State and the Department of State: "Please try again. That answer you sent down was not very good."[51] Representative James P. Richards, who voted against the resolution, said, regarding this resolution, "it is within the province of the President to refuse to divulge information that he considers would be dangerous or incompatible with the interests of our Nation."[52]

Discretion over the release of information to Congress has also been given expressly to department heads. In 1971 the House considered a resolution directing the Secretary of State to

[45] Richardson, vol. 5, p. 2284.

[46] Richardson, vol. 9, p. 4317.

[47] Ibid., p. 4318.

[48] 98 Stat. 1205.

[49] Ibid.

[50] Ibid., p. 1215.

[51] Ibid., p. 1208.

[52] Ibid., p. 1209.

furnish certain information respecting U.S. operations in Laos, but the language of the resolution included the phrase "to the extent not incompatible with the public interest."[53] The House tabled this resolution, 261 to 118.[54] In 1979, in the midst of an energy crisis, a resolution of inquiry (H.Res. 291) requested certain facts from the President, "to the extent possible," regarding shortages of crude oil and refined petroleum products, refinery capacity utilization, and related matters. It was adopted 340 to 4.[55]

Committee Review

A committee has a number of choices after a resolution of inquiry is referred to it. It may vote on the resolution up or down or amend it. It can report favorably or adversely, but an "adverse report" is often accompanied by a substantial amount of information prepared by the executive branch. The quality and quantity of this information can bring the Administration into compliance with the resolution, making further congressional action unnecessary. Usually a committee issues a report on a resolution of inquiry; if it does not, it can be discharged.

Committee Amendments

Resolutions of inquiry may be amended at the committee level before action on the House floor. In 1980, the House acted on H.Res. 745, a resolution directing President Jimmy Carter to furnish information on the role of Billy Carter, the President's brother, as an agent of the government of Libya.[56] The House Judiciary Committee, after considering and adopting a number of amendments, reported the resolution favorably by a vote of 27 to 0.[57] The amendments included two that had been adopted by the Foreign Affairs Committee.[58] A third committee, the Permanent Select Committee on Intelligence, reported on the resolution with regard to classified material that touched on the relationship between Libya and Billy Carter. It concluded that the Administration was in substantial compliance with H.Res. 745.[59]

During floor action, the chairman of the House Judiciary Committee, Representative Peter Rodino, asked unanimous consent that the committee amendments be considered en bloc. There was no objection to his request and the committee amendments were agreed to.[60] He then noted that out of the previous 33 resolutions of inquiry, dating back to 1932, motions to table carried 25 times, largely because there had been substantial compliance to the committee on jurisdiction. It

[53] *Congressional Record*, vol. 117, July 7, 1971, p. 23800.

[54] Ibid., p. 23807.

[55] *Congressional Record*, vol. 125, June 15, 1979, pp. 15027-15039.

[56] *Congressional Record*, vol. 126, September 10, 1980, p. 24948.

[57] U.S. Congress, House Committee on the Judiciary, 96th Cong., 2nd sess., H.Rept. 96-1213, Part 1, (Washington: GPO, 1980).

[58] *Congressional Record*, vol. 126, September 10, 1980, p. 24950; U.S. Congress, House Committee on Foreign Affairs, 96th Cong., 2nd sess., H.Rept. 96-1213, Part 2 (Washington: GPO, 1980).

[59] U.S. Congress, House Committee on the Judiciary, 96th Cong., 2nd sess., H.Rept. 96-1269, Part 1 (Washington: GPO, 1980).

[60] *Congressional Record*, vol. 126, September 10, 1980, p. 24949.

was Rodino's judgment that the Administration had substantially complied with H.Res. 745 and that the issue was therefore "moot" and he would make a motion to table the resolution.[61]

Representative Robert McClory, a member of the Judiciary Committee, disagreed with Rodino's position and his proposal to table the resolution. In McClory's view, "there has been something less than substantial compliance with the terms of the resolution," and that one omission from the materials assembled by the Administration was President Carter's "conversation on June 17, 1980, with the Attorney General concerning the Billy Carter investigation."[62] Rodino's motion to table the resolution was rejected on a vote of 124 to 260, after which the House voted to agree to the resolution.[63] In defeating the tabling motion, 116 Democrats joined 144 Republicans.

Adverse Reports

The fact that a committee reports a resolution of inquiry adversely does not mean the committee opposes the resolution or that the Administration has declined to supply information. The documents delivered by the executive branch may bring it in substantial compliance with the resolution, thus making it unnecessary for the committee to report the resolution favorably for floor action.

An example typifying this executive-legislative exchange comes from 1979, when 81 Members supported H.Res. 291, a resolution that directed President Carter to provide the House with information on the energy crisis: shortages of crude oil and refined petroleum products, methods used in allocating oil supplies, possible actions within the private industry to withhold or reduce oil supplies, and any reduction in the supply of crude oil from any foreign country.[64] Within a week, 21 additional Members joined as sponsors of the resolution.

The House Committee on Interstate and Foreign Commerce reported the resolution unfavorably and recommended that it not pass.[65] However, the committee had been seeking the information in a number of hearings, and had asked the Department of Energy to provide the information requested in the resolution. The committee stated that much of the information could be found in departmental publications, and that some of the information had been obtained in the course of committee investigations. Yet it also faulted the Administration: "it cannot be said that all information necessary to a full understanding of the supply problem is collected by the DOE, nor that the information which is collected is timely. To the contrary, the Committee has found the DOE lacking vital information on such matters as secondary stocks and actual sales of products." The information supplied by the department was "rarely timely, as a result of long lag times in sending out forms and retrieving them," and the department was "heavily reliant on unverified industry data despite the clear directives from the Congress in a variety of statutes, such as the Energy Supply and Environmental Coordination Act of 1974, and the Department of Energy Organization Act."[66]

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[61] Ibid., p. 24951.

[62] Ibid., p. 24953.

[63] Ibid., p. 24961.

[64] *Congressional Record,* vol. 125, May 24, 1979, p. 12626.

[65] U.S. Congress, House Committee on Interstate and Foreign Commerce, 96th Cong., 1st sess., H.Rept. 96-261 (Washington: GPO, 1979).

[66] Ibid., p. 4.

The committee offered several reasons for reporting the resolution adversely: (1) the department had provided "all of the requested documents which were available at the time resolution was considered, and has promised to provide the Committee additional information when it becomes available;" (2) much of the information was of a confidential or proprietary nature, which was appropriate to share with the committee of jurisdiction but less appropriate to share with the entire Congress; (3) the cost of reproducing the documents was substantial and unnecessary; (4) whatever information was available to the department had been shared with the committee and Congress; and (5) the data requested would probably not "quell public skepticism relating to the Nation's gasoline problems"[67] The committee then added a sixth reason:

> The Committee wishes to make clear that it is extremely interested in reliable information concerning the nature of our petroleum supply problems. The information currently available is far from adequate, and the Committee in reporting this resolution adversely does not suggest that the Congress and the public have been fully informed concerning these matters. Nor does the Committee wish to indicate that the Congress does not have a right to such information. To the contrary, the Congress clearly has such a right. Rather, the use of a resolution of inquiry is not the appropriate mechanism for obtaining this readily available data: it simply will not result in any new data.[68]

When the resolution came to the floor on June 14, Representative John Dingell pointed to a desk covered with information provided by the Energy Department, including "the tables, data, and other documents. The total is a stack of papers nearly a foot high." Yet he also conceded that all of the committee members "believe that the Department's gathering system is inadequate and that data concerning the energy supplies, demands, and prices is not timely provided."[69] Representative Dingell said he was not critical of those who filed the resolution of inquiry: "I do believe that continued inquiry by the Congress is highly desirable. I believe that the information must be made plain."[70]

Instead of the mass of material sitting on the desk, several Members wanted a summary of what the documents contained. Representative Dingell said the department had prepared a summary but it was not yet available from the printer. After several Members objected to voting on the resolution without a summary, Representative Dingell agreed to withdraw his initial motion for the immediate consideration of the resolution.[71]

Debate continued the next day, with a number of Members expressing dissatisfaction with the quality of departmental data. Minority Leader John J. Rhodes, who had introduced the resolution, said that "as far as the technicalities of the situation are concerned, those questions were answered, but they were answered in such a way as to be almost incomprehensible, and certainly not to inform with the House or the American people as to the reasons for the existence of these shortages."[72] A move to table the resolution of inquiry lost on a vote of 4 to 338.[73]

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[67] Ibid., p. 7.

[68] Ibid., p. 8.

[69] *Congressional Record,* vol. 125, June 14, 1979, p. 14952.

[70] Ibid., p. 14953.

[71] Ibid., p. 14955.

[72] Ibid., p. 15028.

[73] Ibid., p. 15029.

As the debate moved along, with Members of both parties expressing support for the resolution, Representative Dingell said "I understand the temper of the House very clearly. I want to have my colleagues know that we have had the resolution on inquiry fully and fairly and properly complied with by the DOE, and it will be further fully, fairly, and properly complied with according to the letter of the rules of the House if this resolution is adopted." He wanted his colleagues to know "I have no objection to the vote which will take place, and I want them to know that the vote will, I regret to advise them, procure no new information other than that which was available at the committee table and which was made available to my Republican colleagues yesterday in response to the resolution." He pledged to "persist in my efforts to procure the information which I and my colleagues desire to have on this particular matter, and that the motion to table made earlier by me was simply to save the time of the House and to see to it that the information requested by the sponsors of the resolution of inquiry was presented to the House in a proper and appropriate fashion."[74] The resolution of inquiry passed on a vote of 340 to 4.[75]

Another example comes from 1986, after Representative Leon Panetta introduced H.Res. 395 to receive documents regarding the Administration's use of $27 million in appropriated funds for humanitarian assistance for the Nicaraguan democratic resistance. A subcommittee of the House Foreign Affairs Committee held a hearing on the resolution and made a tentative recommendation that the resolution be reported favorably to the full committee.[76] The subcommittee reviewed documents provided by the Administration, and agreed to recommend that the full committee report adversely if the subcommittee received information covering six categories.[77] This second effort by the Administration convinced both the subcommittee and Representative Panetta that the executive branch was in essential compliance with the resolution, but the subcommittee and Representative Panetta also agreed that the documents demonstrated that the Administration "has not complied with the law requiring it to set up appropriate monitoring procedures with respect to the so-called humanitarian assistance for the Contras authorized by the Congress."[78] Representative Panetta, having met with representatives from the Central Intelligence Agency to review classified documents, wrote to the chairman of the full committee that the Administration had complied with his resolution of inquiry.[79]

Competing Investigations

A committee may decide to report a resolution of inquiry adversely because it competes with other investigations that are regarded as more appropriate. In 1980, for example, H.Res. 571 directed the Attorney General to furnish the House with "all evidence compiled by the Department of Justice and the Federal Bureau of Investigation against Members of Congress in connection with the Abscam investigation," which was a Justice Department undercover operation that led to charges of criminal conduct against certain Members of Congress. The

[74] Ibid., p. 15035.

[75] Ibid., p. 15039.

[76] U.S. Congress, House Committee on Foreign Affairs, 99th Cong., 2nd sess., H.Rept. 99-585 (Washington: GPO, 1986), p. 1.

[77] Ibid., pp. 4-5.

[78] Ibid., p. 5.

[79] Ibid., p. 6.

resolution also asked for "the total amount of Federal moneys expended in connection with the Abscam probe."[80]

The House Judiciary Committee reported the resolution adversely.[81] Committee opposition to the resolution was unanimous.[82] The Justice Department "vigorously oppose[d]" the resolution.[83] The objections raised by the department, with which the committee agreed, centered on the concern that disclosure of evidence to the House would jeopardize the ability of the department to successfully conduct grand jury investigations and to prosecute any indictments, and that the release of unsifted and unevaluated evidence "would injure the reputations of innocent people who may be involved in no ethical or legal impropriety."[84]

Other considerations were present. The House Standards of Official Conduct Committee, conducting its own inquiry into Abscam, unanimously opposed the resolution of inquiry.[85] The committee had begun the process of negotiating with the Justice Department to obtain access to evidence needed for investigation by the House.[86] Moreover, two subcommittees of the House Judiciary Committee were planning hearings into the proper standards for the Justice Department to conduct undercover operations, particularly against Members of Congress.[87] During House debate, Representative John J. Cavanaugh expressed concern that Abscam "raises serious questions of the separation of powers and the ability of one branch of our Government—the executive—to employ investigative methods that are capable of subverting and intimidating and compromising the independence, the constitutional independence, of another and separate branch of our Government."[88]

In this case, Congress chose not to interrupt or interfere with Justice Department prosecutions because it might appear to be self-serving. Representative William J. Hughes stated: "I can think of nothing that would be more damaging to the Congress than to be perceived as having obstructed an active criminal investigation."[89] One Member was concerned that forcing the Justice Department to release evidence might help some Members who faced criminal prosecution and look as though lawmakers had greater protection than the average citizen.[90] By a vote of 404 to 4, the House decided to table the resolution of inquiry.[91]

In other situations, Congress may choose to investigate a scandal even if jeopardizes successful prosecutions. In terms of public policy, it may be more important to investigate a matter promptly rather than wait for the Justice Department or an Independent Counsel to investigate, prosecute, and pursue appeals. Such was the case with Iran-Contra, where both Houses of Congress

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[80] *Congressional Record*, vol. 126, February 27, 1980, p. 4071.

[81] U.S. Congress, House Committee on the Judiciary, 96th Cong., 2nd sess., H.Rept. 96-778 (Washington: GPO, 1980).

[82] *Congressional Record*, vol. 126, February 27, 1980, p. 4073.

[83] U.S. Congress, House Committee on the Judiciary, 96th Cong., 2nd sess., H.Rept. 96-778 (Washington: GPO, 1980)., p. 2.

[84] Ibid.

[85] *Congressional Record*, vol. 126, February 27, 1980, p. 4071.

[86] Ibid.

[87] Ibid. (statement by Rep. Rodino).

[88] Ibid., p. 4077.

[89] Ibid., p. 4076.

[90] Ibid. (statement by Rep. Lungren).

[91] Ibid., pp. 4078-4079.

concluded that the value of timely legislative investigation outweighed the needs of prosecutors. Lawrence Walsh, the independent counsel for Iran-Contra, recognized that if Congress "decides to grant immunity, there is no way that it can be avoided. They have the last word and that is a proper distribution of power.... The legislative branch has the power to decide whether it is more important perhaps even to destroy a prosecution than to hold back testimony they need."[92]

Discharging a Committee

If a committee receives a resolution of inquiry and fails to report it within the requisite number of days, a motion to discharge the committee is privileged. That procedure was used in 1971 after Representative James M. Collins introduced H.Res. 539 directing the Secretary of Health, Education, and Welfare (HEW) to furnish certain documents.[93] The resolution directed the release, "to the extent not incompatible with the public interest," of any documents containing a list of the public school systems, from August 1, 1971 to June 30, 1972, that would be receiving federal funds and would be engaging in busing schoolchildren to achieve racial balance. Also requested were any documents regarding HEW rules and regulations with respect to the use of any federal funds administered by the department for busing to achieve racial balance.[94] The resolution was referred to the Committee on Education and Labor.

When the committee failed to report the resolution during the deadline, which was seven days in 1971, Representative Collins moved to discharge the committee. His motion was agreed to, 252 to 129.[95] Representative Thomas P. (Tip) O'Neill, Jr.,who at that time was the House Majority Whip, voted against the discharge motion but admitted that he was uncertain about the meaning of the resolution: "What does the resolution do? Is there anything wrong? Is it a serious resolution? Is it something we should have had up today? Is it of that import?"[96] He said that when Members came to the floor they were told: "Well, if you are for busing, you vote 'nay.' If you are against busing, you vote 'yea.'"[97] He now realized that the guidance given to Members was "inaccurate."[98] The vote was not for or against busing, but for or against receiving information from HEW. With this new understanding, Representative O'Neill announced that he had no objection to the resolution and that "I will, and I hope all other Members will vote for the resolution."[99]

Representative O'Neill asked the chairman of the Education and Labor Committee, Representative Carl Perkins, why the committee had not acted on the resolution. Perkins explained: "To be perfectly truthful and frank ... I forgot about it ... [I]t was of the nature that the

[92] Lawrence E. Walsh, "The Independent Counsel and the Separation of Powers," *Houston Law Review*, vol 25, January 1988, p. 9.

[93] *Congressional Record*, vol. 117, July 14, 1971, p. 24936.

[94] Ibid., p. 28863.

[95] Ibid.

[96] Ibid., p. 28864.

[97] Ibid., p. 28866.

[98] Ibid.

[99] Ibid., p. 28867.

sponsor of the resolution could have picked up the telephone and gotten the information from HEW."[100]

Representative Edith Green emphasized that the resolution "is simply a request for information," not "a bill to legislate," and asked the HEW Secretary "in a perfectly orderly fashion to supply within 60 days the amount of money that is now being spent and in which districts for busing and the guidelines, rules and regulations which HEW has drawn up to enforce this busing to achieve some magical racial balance."[101] With the purpose of the resolution clarified, the House passed it 351 to 36.[102]

Military Operations in Vietnam

The House has frequently used resolutions of inquiry to obtain information on matters of defense and military policy. A particularly heavy use of resolutions of inquiry came during the Vietnam War. In 1971, the House voted on two resolutions to give Members access to the "Pentagon Papers," the Defense Department study entitled "United States-Vietnam Relationships, 1945-1967." One of the cosponsors of the resolution, Representative Bella Abzug, stated that the procedures adopted by the House Armed Services Committee, which had a single copy of the study, did not provide Members adequate access to the 47-volume study: "they cannot take notes, cannot have staff people review and comment, cannot report on what they have read. Under such limitations, a Congressman must have an elephantine memory to retain the facts that would enable him to exercise his constitutional duty."[103]

H.Res. 489 directed the President "to furnish the House of Representatives within fifteen days after the adoption of this resolution with the full and complete text" of the Pentagon Papers. The House Armed Services Committee reported the resolution adversely, 25 to 2, and it was tabled on the floor, 272 to 113.[104] H.Res. 490, containing the identical language, was also reported adversely and tabled.[105]

Also in 1971, the House considered three resolutions of inquiry to obtain information about U.S. covert operations in Laos. H.Res. 492 directed the Secretary of State, "to the extent not incompatible with the public interest," to provide the House with any documents containing policy instructions or guidelines given to the U.S. Ambassador in Laos regarding covert CIA operations in Laos, Thai and other foreign armed forces operations in Laos, U.S. bombing operations other than those along the Ho Chi Minh Trail, U.S. armed forces operations in Laos, and U.S. Agency for International Development operations in Laos that assisted, directly or indirectly, military or CIA operations in Laos.[106] The resolution was accompanied by an adverse

[100] Ibid., p. 28864.

[101] Ibid., p. 28866.

[102] Ibid., p. 28869.

[103] *Congressional Record*, vol. 117, June 30, 1971, p. 23026.

[104] U.S. Congress, House Committee on Armed Services, 92nd Cong., 1st sess., H.Rept. 92-318 (Washington: GPO, 1971).; *Congressional Record*, vol. 117, June 30, 1971, pp. 23030-23031.

[105] U.S. Congress, House Committee on Armed Services, 92nd Cong., 1st sess., H.Rept. 92-319 (Washington: GPO, 1971).; *Congressional Record*, vol. 117, June 30, 1971, pp. 23030-23031.

[106] *Congressional Record*, vol. 117, July 7, 1971, p. 23800.

report from the House Foreign Affairs Committee.[107] Representative Benjamin Rosenthal, a cosponsor of the resolution, explained its purpose:

> This administration has steadfastly refused to report to the people and to the Congress the nature of the CIA covertly declared war in Laos where the CIA agents are advising the Meo tribesmen. The administration has steadfastly refused to admit that we are hiring Thai mercenaries and ferrying them to Laos in American aircraft to conduct a war in defense of the Laotian Government—a war which this administration has not declared ... Yet it is widely reported in the papers—the New York Times and the Washington Post and other newspapers, Life magazine and the Christian Science Monitor—that all of these events are taking place. We in Congress are forced to depend on what we are advised of in the public newspapers as to our involvement in Laos.[108]

The resolution was tabled, 261 to 118.[109] Another resolution of inquiry, directing the Secretary of State—"to the extent not incompatible with the public interest"—to furnish the House with additional information regarding U.S. policy involving Laos,[110] was also tabled.[111]

House resolutions of inquiry are typically reported from committee after a committee meeting and a roll-call vote, but usually without holding hearings. However, in 1972 the House Armed Services Committee held hearings on H.Res. 918, a resolution of inquiry introduced by Representative Abzug to obtain information on U.S. bombing in Vietnam. Most of the resolution requested specific facts on U.S. military personnel in South Vietnam, the number of sorties flown during specific periods, the tonnage of bombs and shells fired or dropped during specific periods, and other statistics.[112]

In testifying on the resolution at the hearings, Representative Abzug stated that the level of bombing constituted "the most dramatic proof yet that the Nixon administration is entirely committed to a full-scale and long-term U.S. air war in Indochina instead of negotiating a full withdrawal in return for the release of our captured pilots."[113] At these hearings, Dennis J. Doolin, Deputy Assistant Secretary of Defense for East Asia and Pacific Affairs, provided information on some of the elements in H.Res. 918.[114]

The resolution was reported adversely, 32 to 4.[115] During floor debate, the chairman of the House Armed Services Committee, Representative F. Edward Hébert, explained that the information sought in the resolution was in committee files, "available to any Member of the House for his examination, subject, of course, to the rules established by the committee which preclude the

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[107] Ibid., p. 23801.

[108] Ibid.

[109] Ibid., pp. 23807-23808.

[110] Ibid., p. 23808.

[111] Ibid., p. 23810.

[112] *Congressional Record*, vol. 118, April 19, 1972, pp. 13497-13498.

[113] U.S. Congress, House Committee on Armed Services, "Full Committee Hearing and Consideration of H.Res. 918, a Resolution of Inquiry Concerning the Bombing in Vietnam by the United States Government," 92nd Cong., 2nd sess., April 18, 1972 (Washington: GPO, 1972), p. 9043.

[114] Ibid., pp. 9057-9150.

[115] U.S. Congress, House Committee on Armed Services, 92nd Cong., 2nd sess., H.Rept. 92-1003 (Washington: GPO, 1972).

release or public use of such information without the consent of the committee."[116] After describing the material available in the committee's sessions, both open and closed, he said that the resolution "is directed to giving the Congress the information which is here printed for them to see. Every question is answered."[117]

Later in the debate, Representative William J. Randall, a member of the Armed Services Committee, noted that the when the committee went into executive session, "[a]ll afternoon the answers to the questions propounded by the Member from New York [Representative Abzug] were spread upon the record. We were given the very latest facts and figures on all of the things asked for in the resolution."[118]

House floor debate on the Abzug resolution, occupying 87 pages in the *Congressional Record*, includes the transcript from the open hearings before the Armed Services Committee and a number of articles on military operations in Vietnam. Some of the Members who voted to table the resolution objected only to one part: the part asking the Administration to give the target date for full independence for Saigon. Otherwise, said Representative Paul Findley, "the resolution seems to deal entirely with facts of past actions that should be available to Congress."[119] The House voted 270 to 113 to table the resolution.[120] Although the resolution was not agreed to, it forced the delivery of information from the Administration to the Armed Services Committee, and from there to individual Members.

A similar pattern emerged in 1973, when the House acted on H.Res. 379, which directed the Secretary of Defense to furnish the House information on military operations in Cambodia and Laos: the number of sorties flown by the U.S. during certain periods, the tonnage of bombs and shells fired or dropped during certain periods, the number and nomenclature of U.S. aircraft lost over Cambodia and Laos, and other statistics.[121] The House Armed Services Committee held a hearing to review the 19 specific questions addressed in the resolution. Chairman Hébert asked the Defense Department "to be as responsive as possible to each of the questions, and to the maximum extent possible provide this information in open session." If necessary, the committee would go into closed session to "receive such additional classified information as may be necessary to permit the Department to be fully responsive to this privileged resolution."[122]

In open session, Deputy Assistant Secretary Doolin provided answers to each of the questions, with two exceptions. He told the committee that he would not be able to provide the answer for Question 10 for another 24 hours, at which time the committee received the information and placed it in the hearing record.[123] He also noted that Question 18, regarding the legal authority for U.S. military activity in Cambodia and Laos since January 27, 1973, would be addressed by DOD

[116] *Congressional Record*, vol. 118, April 26, 1972, p. 14349.

[117] Ibid.

[118] Ibid., p. 14433.

[119] Ibid., p. 14432.

[120] Ibid., p. 14434.

[121] *Congressional Record*, vol. 119, May 9, 1973, pp. 14990-14991.

[122] U.S. Congress, House Committee on Armed Services, "Full Committee Consideration of Privileged Resolution H.Res. 379, Concerning Certain Military Actions in Cambodia and Laos," 93rd Cong., 1st sess., (Washington: GPO, 1973), pp. 1-2.

[123] Ibid., pp. 5-6.

General Counsel J. Fred Buzhardt, who proceeded to provide a legal analysis.[124] As noted in the following exchange with Representative Charles Wilson, all of the information given by Doolin and Buzhardt was in open session:

> Mr. CHARLES WILSON. There was no difficulty in presenting this to us in open session, was there?
> Mr. DOOLIN. No, sir. I have tried to be as forthcoming as possible.
> Mr. CHARLES WILSON. This information could have been furnished by a resolution asked for by any Members of the Congress, I assume?
> Mr. DOOLIN. Yes, sir.[125]

Toward the end of the hearing, Chairman Hébert noted that the resolution "asks for certain information to be brought to the attention of the Congress. That information is now before the attention of the Congress. Therefore, making, in effect, the resolution a moot question." The sponsor of the resolution, Representative Robert L. Leggett, agreed that "we answered all of the questions I think really very well."[126] When Chairman Hébert said "the resolution becomes moot," Leggett responded: "I concur in that."[127] The committee then voted 36 to zero to report the resolution adversely.[128] The answers to the 19 questions were placed in the *Congressional Record*, at which point the resolution was tabled.[129]

Forcing Other Legislative Actions

Some resolutions of inquiry have caused Congress to take other legislative actions to address the lack of information received from the Administration. The two examples included here relate to the calling of supplemental hearings and the adoption of substitute legislation.

Supplemental Hearings

A resolution of inquiry, after being partially satisfied by answers from the Administration, can trigger supplemental information obtained through congressional hearings. This was the result of H.Res. 552, introduced by Representative Benjamin Rosenthal on June 18, 1975, to seek information about the Administration's proposed sale of Hawk and Redeye missiles to Jordan.[130] On the following day, the House Committee on International Relations forwarded the resolution to President Gerald R. Ford, requesting a prompt reply. The White House responded on June 25, providing responses to the 20 questions put by the resolution.[131]

However, committee chairman Thomas E. Morgan questioned whether the resolution was a bona fide "privileged resolution of inquiry" under House rules. On June 26, the committee voted to

[124] Ibid., pp. 11-12.

[125] Ibid., p. 17.

[126] Ibid., p. 32.

[127] Ibid., p. 33.

[128] Ibid.

[129] *Congressional Record,* vol. 119, May 9, 1973, pp. 14991-14994.

[130] *Congressional Record,* vol. 121, June 18, 1975, p. 19616.

[131] *Congressional Record,* vol. 121, June 21, 1975, pp. 21664-21667.

table the resolution on the ground that it was not restricted to factual answers, but instead required "investigation" on the part of the President to answer several of the questions.[132] Representative Rosenthal, having announced his intention to call up H.Res. 552 for House action because the committee had not reported on his resolution, agreed to withhold that motion in exchange for committee hearings. Representative Morgan advised Representative Rosenthal that the committee "should get the facts regarding the proposed sale, and I will be glad to cooperate with him in making that happen."[133]

The hearings were important because Congress was in the process of deciding whether to block the sale by passing a resolution of disapproval under Section 36(b) of the Foreign Military Sales Act. On July 9, Representative Rosenthal said that information about the proposed sale "was leaked to the press, not formally announced," and that "[n]o attempt was made to inform the Congress about the sale in the past two months, and there would have been none were it not for the questions posed in House Resolution 552, the resolution of inquiry." When the Administration acknowledged the sale, it indicated that formal notice would be reported to Congress in late July or early August. Representative Rosenthal pointed out that "Congress probably will be in recess at that time and unable to act on this very important arms sale and policy decision."[134]

Formal notice of the sale reached Congress on July 10. Under Section 36(b), Congress had 20 calendar days to pass a concurrent resolution of disapproval. Legislative action on the disapproval resolution therefore had to be completed by July 30. On July 14, Representative Jonathan Bingham and 10 other Members introduced H.Con.Res. 337 to disapprove the sale. On July 16 and 17, a subcommittee of the House International Relations Committee held two days of hearings on the proposed sale.[135] Administration officials defended the sale on the first day; eight Members of Congress raised their objections the following day.

With the disapproval resolution moving toward a vote, President Ford withdrew the proposed sale on July 28 and entered into negotiations with Congress. The Administration announced a compromise on September 16, limiting the missiles to "defensive and non-mobile antiaircraft weapons."[136]

Triggering Legislation

In 1991, just prior to U.S. military operations against Iraq, Representative Barbara Boxer and six Democratic colleagues introduced H.Res. 19 to call for certain information regarding casualty estimates, biological and chemical weapons, financial assistance from other countries (burdensharing), and other information.[137]

Members of both parties recognized that the House was entitled to budgetary and other information from the executive branch, but decided on a different approach. After the war began,

[132] Ibid., p. 21664.

[133] Ibid., p. 21882.

[134] Ibid., p. 21884.

[135] U.S. Congress, House Committee on International Relations, Subcommittee on International Political and Military Affairs, "Proposed Sales to Jordan of the Hawk and Vulcan Air Defense Systems," 94th Cong., 1st sess. (Washington: GPO, 1975).

[136] Congressional Quarterly Almanac, 1975 (Washington: Congressional Quarterly, 1975), pp. 358-359.

[137] *Congressional Record,* vol. 137, January 3, 1991, p. 105.

Representatives Charles Schumer and Leon Panetta introduced H.R. 586 on January 18, for the purpose of requiring regular reports from the Administration on U.S. expenditures for military operations and the financial contributions from other countries.[138] Action on a bill would avoid the 14-day deadline imposed by a resolution of inquiry.

On February 21, the House moved to suspend the rules to pass H.R. 586. During debate on the bill, several Members discussed that the General Accounting Office had not been given access to any of the costs incurred in connection with the war.[139] Representative Schumer said that until the resolution of inquiry and his bill were introduced, "we just were not getting those answers when we asked questions."[140] Lawmakers received information on what allies had pledged but not "about how much they had actually paid."[141] Representative Boxer announced that she would support H.R. 586 and the tabling of her resolution.[142] In a letter dated February 20, Brent Scowcroft, National Security Adviser to President George H.W. Bush, provided specific information in response to H.Res. 19.[143] After H.R. 586 passed 393 to 1,[144] the House engaged in a brief debate on H.Res. 19 before tabling it by a vote of 390 to 0.[145] In discussing the resolution of inquiry, Representative Dante Fascell said that it "has proven to be a catalyst for the executive branch to be more forthcoming with the Congress in providing necessary and appropriate information in order to satisfy the oversight responsibilities of the Congress."[146]

Mexico Rescue Package

Another use of a resolution of inquiry occurred in 1995, after the Clinton Administration offered a multibillion dollar rescue package for the Mexican peso. As initially introduced by Representative Marcy Kaptur, the resolution (H.Res. 80) did not contain discretion for the Administration. It requested the President, within 14 days after the adoption of the resolution, "to submit information to the House of Representatives concerning actions taken through the exchange stabilization fund to strengthen the Mexican peso and stabilize the economy of Mexico."[147]

The House Banking and Financial Services Committee voted 37 to 5 to report the resolution favorably, but with a substitute directing the President to submit the documents "if not inconsistent with the public interest."[148] The committee explained that its requests for documents "should not be construed to include drafts of documents provided in final form, nor any notes of

[138] *Congressional Record*, vol. 137, January 18, 1991, p. 1910.

[139] *Congressional Record*, vol. 137, February 21, 1991, p. 3900.

[140] Ibid., p. 3902.

[141] Ibid.

[142] Ibid., p. 3903.

[143] Ibid., p. 3904.

[144] Ibid., pp. 3906-3907.

[145] Ibid., pp. 3907-3911.

[146] Ibid., p. 3909.

[147] H.Res. 80, 104th Cong., 1st Sess., February 10, 1995.

[148] U.S. Congress, House Committee on Banking and Financial Services, 104th Cong., 1st sess., H.Rept. 104-53 (Washington: GPO, 1995).

any individual."[149] On March 1, the House adopted the committee substitute and agreed to the resolution, 407 to 21.[150]

Although the resolution established a deadline of 14 days, White House Counsel Abner J. Mikva sent a letter to Speaker Newt Gingrich that the Administration would not be able to provide the documentary material until May 15, or two months after the date set in the resolution.[151] By April 6, the Treasury Department had supplied Congress with 3,200 pages of unclassified documents and 475 pages of classified documents, with additional materials promised.[152] The White House said it was in "substantial compliance" with the resolution.[153]

Iraq's Declaration on WMD

On February 12, 2003, Representative Dennis Kucinich introduced a resolution of inquiry to give the House access to the 12,000-page Iraqi declaration on its weapons of mass destruction. The declaration had been provided to the UN Security Council on December 7, 2002. In his floor statement on H.Res. 68, Representative Kucinich said that if the Administration was intent on going to war against Iraq, "I believe it is incumbent upon them to make the document which was portrayed as evidence of an Iraqi threat available for all to evaluate." He asked that "the primary documents be transmitted in their complete and unedited form."[154]

The Administration gave a copy of the declaration to the House on March 7, after which the House International Relations Committee voted to report H.Res. 68 adversely.[155] Representative Doug Bereuter, who chaired the committee markup, said that the Administration's release of the document rendered the resolution moot: "I would say, in short, Mr. Kucinich has won his point."[156] When the declaration reached the House on March 7, the Speaker directed the Permanent Select Committee on Intelligence to retain custody because of its facilities for handling classified documents. The declaration was made available for review by Members and to House staff with appropriate security clearances who have executed a nondisclosure oath or affirmation.

Resolutions in the 108th-111th Congresses

While no resolutions of inquiry were introduced in the 110th Congress (2007-2008), the number introduced in the 108th and 109th Congresses (2003-2006) represented a substantial increase over prior years. Between the 102nd and 107th Congresses (1991-2002), an average of one resolution of

[149] Ibid., p. 5.

[150] *Congressional Record*, vol. 141, March 1, 1995, p. 6422.

[151] Carol J. Doherty, "House GOP Considers Stance on Bailout of Mexico," *CQ Weekly Report*, vol. 53, March 25, 1995, p. 880.

[152] Mike Mills, "Treasury Says Congress Given Papers on Mexico," *The Washington Post*, April 7, 1995, p. F1.

[153] Congressional Quarterly Almanac, 1995,(Washington: Congressional Quarterly, 1995), pp. 10-17.

[154] *Congressional Record*, daily edition, vol. 149, February 12, 2003, p. H396.

[155] U.S. Congress, House Committee on International Relations, 108th Cong., 1st sess., H.Rept. 108-38 (Washington: GPO, 2003).

[156] U.S. Congress, House Committee on International Relations, "Markup of H. Res. 68 and H.R 1208," 108th Cong., 1 sess., March 12, 2003 (Washington: GPO 2003), p. 4.

inquiry was introduced in each Congress. In the 108th Congress, however, 14 such resolutions were introduced, and 39 resolutions of inquiry were introduced in the 109th Congress.[157] The 53 resolutions of inquiry introduced in the 108th and 109th Congresses exceed the total number of such resolutions introduced over the previous 25 years combined. In fact, in no Congress since the 76th Congress (1939-1940) were more resolutions of inquiry introduced than the number introduced during the 109th Congress. As of the date of this report, eight resolutions of inquiry have been introduced in the 111th Congress (2009-2010).

Conclusion

House resolutions of inquiry have historically been an effective means of obtaining factual material from the executive branch. In the past, even when committees report the resolutions adversely or succeed in tabling them on the House floor, a substantial amount of information has usually released to Congress. In fact, arguments that the Administration has complied with a resolution are frequently the reason for reporting a resolution adversely and tabling it. On occasion, a resolution of inquiry is reported adversely because it competes with other investigations (either in Congress or in the executive branch) that are considered the more appropriate avenue for inquiry. In some situations, resolutions of inquiry have been instrumental in triggering other congressional methods of obtaining information, such as through supplemental hearings or alternative legislation. Recent Congresses have shown an increase in the use of these privileged resolutions.

Members turn to resolutions of inquiry for different reasons. A Member may introduce such a resolution if he or she has been unable to do so through other channels (e.g., committee investigations and hearings). The committee of jurisdiction might have advised the lawmaker that it had no intention of investigating the matter. Also, a resolution of inquiry is often a useful way for a Member to bring attention to an issue, receive basic information from the Administration, and perhaps trigger more extensive legislative investigations.

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[157] Data from Legislative Information System (LIS) of the U.S. Congress.