EXECUTIVE MEETING

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WEDNESDAY, JULY 31, 1974

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United States Senate,
Committee on Rules and Administration,
Washington, D. C.

The Committee met, pursuant to call, at 10:15 a.m., in Room 301, Russell Senate Office Building, the Honorable Howard W. Cannon, Chairman, presiding.

Present: Senators Cannon, Pell, Byrd, Allen, Williams, Scott, Griffin, and Hatfield.

Staff present: William M. Cochrane, Staff Director; Hugh Q. Alexander, Chief Counsel; Joseph E. O'Leary, Professional Staff Member (Minority), John P. Coder, Professional Staff Member, Jack L. Sapp, Professional Staff Member; James H. Duffy, Chief Counsel, Subcommittee on Privileges and Elections; James F. Schoener, Minority Counsel, Subcommittee on Privileges and Elections; Peggy Parrish, Assistant Chief Clerk; John K. Staff Director, Subcommittee on Computer Services.

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The Chairman. The Committee will come to order.

By way of a report to the Committee I have received a letter from Senator Mansfield enclosing a draft proposal of proposed Senate rule changes in the procedures covering impeachment trial as well as a section by section analysis and I

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1 understand that has been made available to each member of the
2 Committee.
3 In addition, a resolution has been introduced and passed
4 by the Senate directing the Rules Committee to consider such
5 changes as might be deemed necessary to the rules and report
6 back to the Senate on or before September 1 or at such other
7 time as the majority and minority leader might direct.
8 We have also had introduced a proposal for change in the
9 rules to permit the broadcasting of an impeachment trial if
10 it should be held.
11 Accordingly I want to refer both of those matters to the
12 Rules Subcommittee and to Senator Byrd for consideration and
13 a report back to the full Committee at the earliest possible
14 time.
15 I can conceive the fact that we might be called upon to
16 report back earlier than September 1st. But in any event we
17 will have to be ready to report not later than that date. There
18 is still a scheduled recess starting the last week in August
19 and would carry over to September 1st. I do not know whether
20 that will be changed or not. If it is not changed I assume we
21 would want to report back to the Senate before any recess should
22 start at that time in the event that any impeachment should be
23 sent over to us.
24 We also have a comparative print over at the Government
25 Printing Office which will be delivered today which will

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compare the present rules governing impeachment and the proposal from Senator Mansfield.

So if there is no objection then both of those proposals, proposal for the general rules changes as well as the resolution on the broadcasting specifically will be referred to the Rules Subcommittee which consists of Senator Byrd as Chairman and Senator Griffin and myself to consider and report back at the earliest possible time.

Is there objection?

Senator Hatfield. Mr. Chairman.

The Chairman. Yes, Mr. Hatfield.

Senator Hatfield. I have no objection to the procedure you have outlined. I am just wondering under the circumstances, the magnitude of these matters, that this should be maybe handled by the full Committee.

The Chairman. Well, in the first place it logically comes under the jurisdiction of the Rules Subcommittee. In the second place, it could be quite cumbersome. I think it is more of a technical drafting, working job, and considering the way we have difficulty in even getting a quorum in the full Committee I think it would be much easier to get a quorum in the three member Subcommittee to do the work and report back to the full Committee.

We will certainly have the opportunity in the full Committee to make any suggestive changes, consider the matter very

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1 thoroughly at that time.

2 Senator Griffin. I would say, Mr. Chairman, I don't
3 think it makes it so awfully much different either. But even
4 in terms of expediting the consideration for example of the
5 resolution on television, it seems as though our Committee is,
6 being as small as it is, could instead of taking two bites at
7 it you just do it in one operation. But I don't care. I'm on
8 the Subcommittee so I'll be actively involved. I wonder how
9 the other Senators not here would feel about it.

10 The Chairman. I anticipate that the resolution would be
11 acted on by the Subcommittee rapidly and reported back to the
12 full Committee so it can consider what is recommended.

13 Senator Griffin. Now, some senators -- I know, for
14 example, Senator Taft yesterday specifically asked me to make
15 sure he had an opportunity to appear. Would you expect or
16 want the Subcommittee to take the testimony and invite the
17 Senators to appear and everything?

18 The Chairman. Yes. I consider this to be an internal
19 matter in the operation of the Senate and I would not expect
20 a Subcommittee would be calling outside witnesses. But I would
21 certainly have the courtesy that we would hear the Senators
22 who want to appear.

23 Is there other discussion?

24 Senator Pell. In this regard, since I am a member of
25 the full Committee but not on the Subcommittee would there be

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1 some sort of way we would be able to participate in the Sub-
2 committee?
3 The Chairman. If I were you I would suggest you relay
4 to Senator Byrd your thoughts on that and then you would be
5 certainly at liberty to pursue it.
6 Senator Pell. In brief and for the record I thought that
7 the precedent would be, that the draft rules suggest that the
8 Chief Justice certainly, the presiding officer's role not be
9 diminished by the rules. My thought then would be to get a
10 number of the, number of important things if there is a trial
11 and that it be general as possible and the Supreme Court Chief
12 Justice has made a rule in it and no matter what, one way or
13 the other, that one of the reasons --
14 Senator Griffin. If I could just add to what you are
15 saying. I think you are making a very important point.
16 I haven't had a chance to study in detail all of the pro-
17 posed changes that came from the majority leader but one thing
18 that concerns me and perhaps some general discussion like this
19 might be of some value to the Subcommittee as we proceed. I
20 don't think what the rules are or whether they're cahnged a
21 little bit here or a little bit there is going to really affect
22 the outcome of whether this president is going to be acquitted
23 or evicted.
24 I do think that if it appears that we're changing the
25 rules in the middle of the game it would have a profound affect

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upon the public's acceptance of the verdict and I sort of start out I guess with the assumption that we would, that we would proceed with the existing rules and precedents with only those few changes that we necessarily and reasonably must make. And I may be talked out of that. I frankly think some of the changes are are suggested in Mike's substitute make quite a lot of sense. But when you take steps like for example instead of voting "aye" or "nay" you vote to sustain or reject the articles of impeachment. I think that's a trivial kind of a thing that only gives others the opportunity to say, "Well, you're just changing the rules here."

The role of the Chief Justice to me was minimized and undercut by the radicals in the Johnson trial in the Senate and we ought to think a long time before we even go further than that because they were criticized for being very political.

I think that we have to recognize that the Constitution sets forth that the Chief Justice of the United States shall preside. I don't know who is going to determine -- the Senate or the Supreme Court -- what the words in the Constitution "preside" means. If we go too far by imposing our own interpretation you open the door to a law suit to the Supreme Court. And I don't think we want to do that.

I think we ought to be very cautious about giving any groun for appeal to the Supreme Court on the Constitutional basis. I used to think the Supreme Court wouldn't take

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1 jurisdiction of such a matter but the House of Representatives
2 has the sole jurisdiction to judge the qualifications of its
3 members and the Supreme Court took the jurisdiction of the
4 Powell case and decided that the House had succeeded its
5 constitutional jurisdiction.
6 So I think we have to be --
7 Senator Pell. I think the point I was trying to make
8 was the impact on the country as a whole.
9 Senator Griffin. I want to expand on it. I see it in
10 other respects, too.
11 Senator Pell. I think there's smidget of different that
12 it would make, whether it would go or not. And the smidget
13 of difference in the outcome would be loss by the feeling
14 that the Congress had got the bit in its teeth and was riding
15 rough shod.
16 Senator Byrd. May I say that if the matter is referred
17 to the Subcommittee on Rules it would be my intention to call
18 a preliminary meeting this afternoon at 4:00 o'clock so that
19 members of that Subcommittee could give some initial considera-
20 tion to the way in which we would hope to proceed. And every
21 Senator would then be notified of his right to appear before
22 that Subcommittee, as you stated on the floor yesterday, that
23 they would be given that right. And the Senator from Rhode
24 Island would certainly be welcome.
25 It would be the desire of this Senator and I am sure of

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1 the members of that Subcommittee to act as expeditiously and as
2 thoroughly as we could, the objective being to present to the
3 full Subcommittee and later to the Senate whatever revisions
4 we feel are necessary in order to reach an objective, fair and
5 correct judgment, entirely apart from partisanship at the trial.
6 That would be my desire. And I would like to assure the
7 Senators who were not on that Subcommittee that they -- that
8 while I may have my own view as to what revisions may be made
9 as we get into the thing, that view may change. And I would
10 certainly subscribe to the will of the majority on the Sub-
11 committee and on the full Committee.
12 I happen to believe as Senator Griffin does that the pre-
13 sent rules don't require too much revision but I am going into
14 it with an open mind and we would try to do a good job, Mr.
15 Chairman, if the Committee desires.
16 The Chairman. Mr. Hatfield.
17 Senator Hatfield. Mr. Chairman, the only thing that
18 bothers me -- and again as a layman -- is that when I go back
19 to the reading of the Johnson impeachment and the question that
20 was raised during that asserting the tenure act upon which
21 they were hanging much of their evidence upon the President
22 and the President's counsel asked that the record be brought
23 to the Senate, the court, the record from the Committee that
24 had considered the Tenure Act. The Chief Justice ruled that
25 was admissible and appeal was taken by the Floor against the

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1 Chief Justice's ruling and they overturned it because the
2 radical republicans at that time were determined they were
3 going to get a conviction and they reduced themselves to a
4 posture of ends justifying the means.
5 And here -- as a layman -- that even the report of the
6 Committee, the Senate Committee itself was not going to be
7 admitted as evidence is the thing that projected the political
8 character of this trial so much to the public and why I feel
9 that whatever we adopt as rules, especially as rules of evidence,
10 that they may be so clearly understood that we are protecting
11 the rights of the President as an individual in this country
12 as much as we are seeking out the necessary rules to govern
13 the case so we do not get into that kind of impeachment situa-
14 tion that happened in the Johnson case.
15 Now, right or wrong, the Johnson case to me was evidence
16 of a political character and political nature.
17 Now, this is political to so degree. We can't escape
18 that. But I think we ought to guarantee by our procedures the
19 right of the President as a person that needs to be tried by a
20 Senate like a person going into a Court of law.
21 Then, Bob, your program on Sunday created an interest
22 among some of my lawyer friends as to what kind of hearsay
23 evidence would be admissible here and I think things of this
24 kind have to be spelled out for us laymen awfully clear of
25 what we're doing; while I am concerned that we as a full

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1 Committee have an opportunity to get a clear understanding of
2 what direction we're moving.
3 Senator Scott. Well, I understand what the issue is,
4 Mr. Chairman. I didn't realize we would get to it so quickly.
5 But it was certainly my contemplation, and I don't think the
6 issue is clear, it was my contemplation in joining in this
7 Resolution, in referring to the Rules Committee that it be
8 done by the full Committee. In fact, I used the phrase in this
9 section about it that justice could be done and it must be
10 seen to be done and if there's anything that we need to be
11 extremely careful about here I think is to be sure that all of
12 us are considered in the contemplation of what are to be the
13 rules. That certainly was my thought in joining in the referral
14 to the Rules Committee rather than the Judiciary or some other
15 Committee at the time.
16 I think it would be extremely unfortunate if in the most
17 important issue to come before the Rules Committee in the
18 history of any of us if it were to be done and locked in in
19 such a fashion by a Subcommittee as to deprive the Senate of
20 the consideration which is contemplated at a later date by
21 the leadership. In other words, a working draft submitted by
22 Senator Mansfield over here contemplates the joint floor leader-
23 ship is to have certain responsibilities not covered by any
24 present rule. And this operates as a limitation on the
25 authority of the presiding officer, of course. But it also

1 puts certain functions in the floor leadership.

2 Now, some members of the floor leadership here are not
3 included in that Subcommittee and yet we are considering our
4 own function and the proposal. I think it would be extremely
5 unfortunate if we give the impression here that we are going
6 to create new rules which do several things. They arrogate
7 to the Senate greater power than they have ever had. Some of
8 that may be necessary in the interest of expediting the proceed-
9 ings and other may be in favor of the procedure, I don't know.

10 But I have read all of the Mansfield's working draft
11 and generally I approve of quite a bit of it. But there are
12 some things there the full Committee, including us who are not
13 lawyers, had a chance to react to. For example, the rule
14 on hearsay. I must admit I didn't see that as clearly on the
15 first reading as the second. But while hearsay is forbidden
16 presumably in this working draft, except as otherwise provided
17 above, what is provided above is the Senate can make its own
18 rules and by separate vote on the evidentiary question decide
19 to admit the rankest kind of guess as evidence. And it doesn't
20 matter to me if most of the Senate is lawyers. What matters
21 to me is that most of the public is not. Since most of the
22 public are not lawyers surely they will not be able to distin-
23 guish between hearsay and truly evidentiary material.

24 I think it would not -- I think it would be an avoidance
25 of our function as the full Committee if we were to simply

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turn this over to the Subcommittee. For example, I know some Senators wish to be heard. We could be deprived of the benefit of testimony of Senators Hart, Kennedy, Javits, and --

Senator Griffin. Taft.

Senator Scott. And Taft and others.

We in the full Committee could be deprived of the opportunity to make this judgment. Are we to be deprived of the opportunity to argue the impact, if any, of the Billy Sols Estes case where it was held that the full and free and fair trial could not be had if it were covered by television? I'm not sure if that applies to a Senate trial or not. It may or may not. But the only impression is the Supreme Court is against this rather than for us.

Now, I don't really think these are matters for a Subcommittee because they directly bear for examply on my future responsibility. They bear on Senator Griffin's, Senator Byrd's, and Senator Mansfield's.

I have to tell you here that Senator Mansfield and I have been working on this thing three months or more privately to avoid any question of anticipation of what might happen, what might come to us over here. And in all of this, certainly so far as I can read in anything he said or anything I said, we never contemplated a Subcommittee proceeding. Certainly I didn't. And I think it would be depriving me of some of my rights as a member of the Committee and I would certainly

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take this to the floor if it is done because I think it is grossly unfair.

The Chairman. I don't quite follow the Senator's reasoning. In the first place the matter was referred to the Rules Committee to review all and any existing rules and review any recommendations, revision if necessary that may be required if the Senate is called upon to conduct such a trial.

We in the establishment of our organization of our Committee have established the Subcommittee. It has jurisdiction over the rules of the Senate and makes recommendations to the full Committee. And I really don't follow the Senator's argument in saying that the Subcommittee should be deprived of its jurisdiction that it is given under our own rules to do precisely this and report back to this Committee and make its full recommendations and those recommendations would be debated, I would assume, just as long and as thoroughly as anyone on this Committee would desire to debate them.

We don't propose to lock anything in. It is a proposal to try to expedite the job we're confronted with. As the Senator well knows it is difficult to get a full quorum of this Committee on many, many instances, and I am sure the Rules Subcommittee consisting of three people would be able to get a quorum and would be able to expedite a draft of any proposed changes they want to recommend and certainly those recommendations would not be binding on the full Committee.

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1 Senator Scott. I don't think you expedite because you
2 have two settings rather than one. In the second place I
3 think all members are entitled to the views of the Senators
4 who wish to be heard, to cross examine them ourselves, and in
5 this third place, you do have precedence for action by the
6 full Committee. There have been instances where the full
7 Committee takes jurisdiction and I cite one as the hearing
8 on the qualifications of the Vice President for confirmation.
9 We didn't send that to Subcommittee. We recognized it was of
10 such major importance that the hearing should be held by the
11 full Committee.
12 I think if we want to make it clear that this had had the
13 maximum opportunity for discussion on the part of all of us
14 that we ought not to send it over to a Subcommittee. I certainly
15 want to disassociate myself with that and reserve the right to
16 impose any and all rules.
17 Senator Griffin. I certainly would like to appeal to
18 Bob Byrd, and to you, Mr. Chairman, to consider that in this
19 kind of a situation where our Committee, full Committee is
20 relatively small -- and there are strong feelings from others
21 who are not members of the Subcommittee -- that we consider
22 operating on the full Committee basis. I rather suspect --
23 and this may not be fair or right to say it -- I rather suspect
24 that Bob Byrd and I and the Chairman are going to be, because
25 of our Subcommittee responsibilities, probably be here all the

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time and I would certainly endeavor to do that and probably take the lead within the full Committee in terms of trying to carry through.

But couldn't we operate just as well in the full committee setting? I agree with you I don't think we probably would not have the full Committee in full attendance all the time but at least they would feel like they were a part of it and it would save one step instead of having to do it all over again in full Committee.

I think the Senate wants expeditious action. And I just think we could accommodate that by acting in full Committee.

Senator Scott. I can pretty well guarantee to you from the Senate on Policy yesterday that the vast majority of the republicans and probably everyone of them would feel that this ought to be taken up by the entire Committee. They asked us to keep them as fully advised as the various executive sessions will permit on a continuing basis of what this Committee did. It becomes even more difficult to keep them so advised, and me as minority leader to keep them advised at all. For example, if I am excluded from a group that would prepare and lock in -- and I repeat it -- because virtually the report of the Subcommittee has the advantage of locking in a great many matters that might not be locked in.

Senator Griffin. I don't think they would be locked in,

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1 Hugh. The full Committee would be able to undo what the Sub-
2 committee did but I do think --
3 Senator Scott. That it isn't going to expedite it.
4 Senator Byrd. Mr. Chairman, as Chairman of the Subcommittee
5 I might say I am concerned by the turn of events here.
6 I don't know that anybody in the Senate has a greater
7 reputation for fairness than I have. There may be. But
8 certainly I strive to be fair. Certainly nothing out of the
9 ordinary for that matter to be referred to a Subcommittee which
10 has appropriate jurisdiction over this matter. I do notfeel
11 that referral to this Subcommittee would lengthen the considera-
12 tion of it. As a matter of fact, it might even help to
13 expedite it.
14 I am sure that it would be my desire and intent to move
15 just as quickly as possible to the matter before the Subcommittee
16 and Senators should appear before that Subcommittee to be
17 heard would certainly be welcomed and I think perhaps make
18 their statements so all the members of the full Committee would
19 have access to the viewpoints of the various Senators. And
20 on that subject I would hope that the distinguished Republican
21 leader would not feel and disposed to object to this procedure.
22 It is a normal procedure.
23 I have no particular desire to take on more work. But
24 I happen to believe that a Subcommittee can best expedite some
25 of the preliminary work and in the final analysis that would

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result in expedition of the assignment by the full Committee. Every member of the full Committee would have every opportunity once the Subcommittee had presented its recommendations to go into the recommendations in the most minute detail, to read the evidence of Senators who had appeared, and to ask for additional testimony if they so desire and to move to amend the recommendations to revise them, to add to them, or to delete.

May I say to my friend, and he is my friend, while I am a dedicated assistant majority leader, I shall approach this task if it is assigned to the Subcommittee through my own eyes and I will give the best of my own talents to the assignment. I have not looked over the draft which was introduced by the majority leader but if the republican leader will remember it was I who in our meeting suggested that we join in introducing not that resolution but the simple resolution, resolution of which was and which is now before the Committee.

So I can assure the republican leader that I would be, if the assignment is givn to the Subcommittee, I would certainly bend over backwards to be fair and objective and to press the work of the Subcommittee as quickly as possible so that the full Committee will have before it the reasoned judgment of the Subcommittee and the testimony of other Senators and then the vote can be made and you will then, the full committee would then have every right that would be accorded to it that --

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1 Senator Scott. Except, Bob, you have the right to form
2 judgments, the right to know what is going on, and there
3 really the right to form the resolution, all of which are the
4 essence of legislation.
5 Now, I repeat if the Mansfield working draft -- We all
6 agreed it would not be offered in the Senate because we wished
7 the executive sessions to cover it here. This represents
8 about three months of consideration in a highly informal manner
9 between Senator Mansfield and myself because in it is a great
10 deal affecting the responsibility of the Senate majority and
11 the Senate minority. The first thing that happens here is that
12 I have some reservation of some of this. There may be too
13 much delegation of power to the full leadership rather than
14 too little. I'm not sure.
15 The whole question of evidentiary considerations may be
16 largely decided by a Subcommittee which, if anything, could
17 be decided by the full Committee. That should rather than
18 to bring in here a hearsay rule which the general public
19 will never understand I would like us to work without partisan-
20 ship as a full Committee. I can't speak for my colleagues
21 except for Senator Cook here. But I don't think it would be
22 good before we ever start a straight party line vote on whether
23 or not this is going to be done by part of the committee or
24 the whole committee. I think we ought to talk this out to
25 avoid that if we can.

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1 The Chairman. Mr. Hatfield.

2 Senator Scott. Can I just quickly finish here?

3 The Chairman. Sorry. Go ahead.

4 Senator Scott. I have already wasted a lot of my time
5 evidently since I didn't know this was under consideration in
6 that I have read all of the Mansfield working draft. I have
7 read all of the brief prepared by Senator Sharke and three
8 other Senators. I have done a great deal of work and it appears
9 I have no more work to do except ratify or disagree with the
10 report of the Subcommittee and it is highly distasteful to me
11 since it turns on my own good sense of responsibility.

12 When it comes to that I am prepared to vote and carry
13 Senator Cook's proxy to the full Committee taking this posi-
14 tion. I think we should be united working on this. It is
15 not a criticism of power. I haven't the slightest concern
16 about fairness or anything else. But this is a matter of full
17 Committee jurisdiction if it ever was. This ranks with the
18 hearings on the Vice President. This is no minor thing or a
19 change of Rule 17 or 23. This is a change of all of the rules
20 and this is an alteration in the functions of the minority, of
21 the majority and the minority leaders. If we had anything it
22 ought to be considered by the full Committee including the
23 hearing of testimony. If those not on the Subcommittee are to
24 be excluded, go ahead. But if you want my opposition from here
25 on it that is a very good way to get it. And I think it is

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petty because I'm trying to avoid any position of me here or on the floor of anything like a bipartisan feature.

Now, Senator Mansfield thought and I thought this is what we were doing and if the Committee takes a position different than that then I want the privilege of casting a vote against it because I think it is unfair and I'm going to say so. It is not a question of Bob's unfairness, not for a minute. It is a question of the Committee being unfair if the Committee by a straight party vote makes that decision and rules out all the work I've done on this thing from three months ago to now and as far as I'm concerned you can have it.

The Chairman. I regret that the Senator feels that the Senator attempts to make this a bipartisan matter is attempting to inject a partisanship into it. I think it is unfortunate that it seems to me what he's really saying is that this is goingto be a partisan thing unless I'm doing it.

Senator Scott. No, I'm not at all. I'm saying it will be partisan.

The Chairman. I didn't yield yet.

Now, I would like -- I didn't interrupt you and I would like to finish my statement.

It seems to me he is expressing a lack of confidence in the Subcommittee where the Subcommittee is charged with this responsibility under the rules and if the Senator wants to change the rules then certainly the rules can be changed in that

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1 respect as well as any other.

2 I find it difficult to follow the reasoning that we
3 shouldn't go through the ordinary processes of the Committee.
4 I'm willing to do whatever the Committee wants. That's for the
5 Committee to decide. I thought that following our own rules
6 would expedite this matter and would help get it moving along
7 in a nonpartisan fashion and it certainly should be handled in
8 the utmost nonpartisan fashion. I think that this Committee
9 brought great credit on itself in the hearings on the Vice
10 President and I think they can in the determination of the
11 rules to govern this proceeding.

12 Now, the Senator has referred to several times that these
13 rules have been presented. I'm completely opposed to some of
14 these rules outlined in the suggestion that has been given to
15 us. I think it is poorly drafted and I think it goes far
16 beyond what it should go in some instances. That's my own
17 personal opinion and feeling. And I've given it a lot of
18 study. But I think this is one of the matters we have to
19 resolve and if the committee feels we can do this by a full
20 Committee rather than have the Subcommittee consider it and
21 report it back that's one thing we can determine.

22 Senator Pell. I'm sorry. Senator Hatfield.

23 Senator Hatfield. Two questions I have here.

24 One is, what did we do -- and I don't recall -- in setting
25 forth the procedures that we followed with the Vice Presidental

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1 hearing? How did that develop?

2 The Chairman. That precise matter was not covered in

3 the Senate rules.

4 Senator Hatfield. Yes.

5 The Chairman. It was a new procedure. It was referred

6 to the Rules Committee and we determined that we would hold

7 the hearings on the matter.

8 Senator Hatfield. Did we develop those from a Subcommittee

9 or the full Committee?

10 The Chairman. Full Committee.

11 Senator Hatfield. Full Committee?

12 The Chairman. Right.

13 Senator Hatfield. Number two. On all the other committees

14 that I have served on and where we have subcommittees established,

15 any other member of that committee has always been extended

16 the full courtesy of participation in Subcommittee hearings or

17 discussions on matters that involve that subcommittee.

18 Now, what my question is, Mr. Chairman: If this were

19 referred to the Rules Subcommittee that you have indicated,

20 would not other members of this Committee have that access to

21 and sit in with that Subcommittee in the considerations before

22 it?

23 The Chairman. They would certainly be available to do

24 so. I mean --

25 Senator Hatfield. It is not a closed session?

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1 The Chairman. Absolutely not.

2 Senator Hatfield. And we would have full participation,
3 ask questions of the witnesses, and so forth. Could that
4 happen?

5 Senator Byrd. Mr. Chairman, I certainly have no objec-
6 tion to that. None. If Senator Scott wishes to be present,
7 he's welcome.

8 The Chairman. Senator Pell.

9 Senator Pell. So as you know I believe in precedent as
10 a rule and am supporting it in this case. As on the Election
11 Reford bill referred to this Committee and which I have just
12 had my memory refreshed, I remember the sessions and the
13 hearings and I though that that was a Subcommittee session but
14 I was informed it was full Committee session. But the chairman
15 who presided over those sessions was myself and I think we
16 could probably have a compromise here and it would still be
17 a precedent and --

18 Senator Scott. It would suit me because I would like
19 to make it abundantly clear that I have no criticism of Bob
20 Byrd handling this or his fairness. I simply feel in all
21 justice, not justice due justice, but to see that justice is
22 done. And it is going to be my intention from now on to the
23 end. I have no objection to a Committee where you have Bob
24 preside over the proceeding but I still think it should be the
25 full Committee. I think it derrogates the most important

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matter ever referred to us unless it be the Vice President hearing but not on the Subcommittee because we are denied to get this information firsthand as it occurs.

I agree with the Chairman that some of the things in the Mansfield resolution I can't agree with. I was originally tempted to say that I should but I decided -- I don't know wheteher it's badly drafted. You can take that up with Charlie. But I thought it was pretty good, except that I disliked some of the things, particularly the evidentiary feature. But the Chairman, I think, will find me with him on some of the changes.

I have no objection whatever if it could be done exactly as it was done with Senator Pell when he presided over the Campaigh Reform legislation because we were all intimately concerned, we were intimately concerned by the reform legislation. It touched everyone of us and this touches everyone of us and I am determined, so far as I can, to the end of this dolorous and grim role handed us, that not only it just be done but it must be seen that it be done.

Now executive session -- I don't know anyway to do it except in executive session because if we don't we're presupposing what the House is going to do and competing with them in the butt of newspaper criticism. But we have already gone as far as we can with the executive session. If we go further and have executive session of the Subcommittee and a

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1 partisanship division here we're off to a very bad start as
2 the Senate of the United States.
3 I would be very happy to see Bob preside over the pro-
4 ceedings if it is done that way.
5 Senator Byrd. I want to say, if it is going to be
6 conducted by the full Committee, why, I see no reason for me
7 to preside. You're the Chairman of the full Committee. I
8 would not consider this any different. My viewpoint is if we
9 are going to have a Subcommittee to conduct this for the
10 Committee they ought -- I'll conduct it and conduct it fairly
11 and we democrats have even a grimmer burden here than our
12 imminent friend here because the burden of being fair and
13 having the appearance of fairness weighs even more heavily on
14 us because we're in leadership than does it upon our friends
15 here. And that's the last thing I want to see happen is for
16 any appearance of unfairness to be provided to the people
17 because I'm going to be held responsible to the people of
18 West Virginia for my conduct in this thing also.
19 Now, if it is going to be the full Committee the Chairman
20 is going to conduct it and I don't have the slightest hesitency
21 in that. It is his job. But I really regret -- May I say
22 this, with the greatest respect, Mr. Mansfield and I arevery
23 fortunate that Hugh Scott and Griffin -- I am sorry and dis-
24 turbed that this question is injected here leaving the
25 inference -- now, I know the leader doesn't mean this but it

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cannot help but leave the inference that those who would see and hear are about to draw the inference that this Subcommittee chaired by me would not be fair and objective and it is not I who is going to insist that we are going to get off to a partisan line. I regret that that idea has been injected. I don't see it that way. So I've said enough. If it is referred to Subcommittee I'll handle it.

Senator Griffin. I have said too much, too. But Bob, I think you take it highly too personal.

Senator Byrd. Not at all.

Senator Griffin. I'm on the Subcommittee and I have a certain amount of loyalty and responsibility to the Subcommittee. And I realize and feel that. But I am conscious of the tremendous importance of almost every decision we make in this process and even though it, if it were other matters, some of the decisions we would make of a procedural nature for example in the Subcommittee would not seem so momentous but I am conscious of the fact that I will be the only minority member of a three member Subcommittee. I can't possible represent all of the views of the minority in that position. If I happened to be sick or something I wouldn't even be there and I suppose that just in the matter of calling witnesses and things of that kind it could be a rather important decision.

I think we would just be better off if we had -- this is not a large group -- this would amount to a Subcommittee on

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other committees and I think there is a certain amount of reinforcement and assurance for the decisions that are made if at least a group of this size were to do it.

So I've come around to the view and there's certainly no reflection on you or certainly not the other members of the Subcommittee that I come to that conclusion.

Senator Scott. I would try to get you to remove that inference, Bob. That is why I suggested you preside over the meetings. I would be happy to see that and entirely satisfied with your fairness. I just think it is so important that the whole Committee consider it ab initio.

Senator Byrd. I don't think you're implying that at all but I think the inference can be drawn by other people. I don't see this majority or minority maxim. I don't see that at all. My friend says he's be the only member ofthe minority. But I don't see in this the slightest in that context. I see it as a group of men sitting down wrestling with the problem and not being republican or democrat. But trying to come up with the best recommendation the Rules Committee can come up with. And it will be conducted as a fair and impartial matter and that judgment will be correct and fair and right. I don't see this as a minority or majority thing at all.

The Chairman. Mr. Williams.

Mr. Willaims. I have no objection to the resolution with the rest of you. But my own situation is personal and it is

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1 practically and perhaps selfish.

2 There is no doubt about it that this question is a matter
3 of great moment before the Nation. But with it all we have a
4 lot of other of the Nation's business before us and I know
5 that I happen to be in the position where I have three con-
6 ferences that are very difficult and have been demanding in
7 time and to be required -- and I'm not on the Subcommittee --
8 it would be the full Committee, and this would be to the full
9 Committee, this would be the highest priority of assignment and
10 this would be a dereliction of duty not to be here and I happen
11 to know I am in position where I have to be other places
12 and it might not get my full attention.

13 If there is any accommodation -- I am impressed with
14 Bob Griffin's position that if he were not there the minority
15 would not be represented in that Subcommittee. And I consider
16 that a real problem. But I agree with you also, Bob, that
17 we've not got partisan in this but the problem would be there.

18 Senator Byrd. There would be no action taken without
19 Bob Griffin being there. There would be no meeting.

20 Senator Hatfield. Mr. Chairman, is there any way on a
21 temporary basis to restructure our Subcommittee system so that
22 we might expand it to five; two republicans -- what would it
23 be? Well, whatever the next increment would be, three to two.
24 But would it be possible on this particular -- as a compromise --
25 to expand the Subcommittee? I am just suggesting this as a

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compromise to temporarily restructure the Subcommittee -- not the chairmanship or ranking member at all -- so we would be covered on that basis so if there were a conflict and Bob could not get on to a meeting? Then after this decision it would return to the present structure.

The Chairman. We could, I suppose, change the rules. The rules now in effect were adopted February 4, 1971 pursuant to Section 133(b) of the Legislative Reorganization Act of 1946 as amended. They provide for increment of the Subcommittee.

Senator Hatfield. Well, I just offered that as a possible compromise.

Senator Scott. I would say for compromise that I am not searching for that. What I am searching for is a vote.

Senator Pell. Would it be all right if one of you moved over to this side and me or one of us over to that side? I'll follow precedent. If one of you will change then I'll change too.

(laughter)

Senator Scott. That would last until in the first one of us got over to the floor.

The Chairman. Senator Allen.

Senator Allen. Mr. Chairman, I might say that I am very much with the job on the presentation and these arguments and as a general rule, general proposition I would say that I favor the full Committee going into this matter but I have so much

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1 confidence in the Subcommittee that I have full confidence
2 in their desires to do the right thing and I feel that in view
3 of that I would be in favor of the matter going that route,
4 going to the Subcomittee and I feel that is the way it should
5 be. As to Senator Byrd's views in this matter, they coincide
6 with my own. But irrespective of what he may have said I know
7 he moves the Senate and he loves the fairness and his method
8 of operation in the Senate Rules and I would feel the Sub-
9 committee would be my recommendation, I feel, to polish up this
10 resolution a great deal. There are some areas there that I
11 think are not right and I feel that the resolution seems to
12 clip the wings of the Chief Justice, that too much be handled
13 by the Chief Justice. And I notice it elevates the members
14 of the Senate from being jurors to being judges. Possibly
15 that's fine. I see no objection to being a juror in the
16 matter. But all in all I feel that the Subcommittee would come
17 back with a much improved resolution and at the final analysis
18 no member of the full committee is bound by the recommendations
19 of the Subcommittee or some other. Senator Scott says as far
20 as open hearing ab initio. I feel that each of us would have
21 the opportunity to put our input into it.
22 So the full committee is not giving up jurisdiction in
23 the matter. It won't get out of the Committee until the full
24 Committee decides. So I am in favor that the Committee would
25 make it's impression on the document as it comes out and I

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feel --

Senator Griffin. Why don't we temporarily increase the Subcommittee size for this purpose?

Senator Scott. I think since some don't want to serve and some do -- and I make no bones about it -- I want to have something put into this thing from the beginning and if I don't then I reserve the rights that are available to me as a Senator throughout. And I will want this thing expedited and I want not only as I said, not only justice to be done, I want to see that it be done.

There are some who wouldn't want to serve and so on. I think ad hoc you should enlarge the Subcommittee for this purpose. I would ratehr do that rather than have a partisan vote here. I think you all know that I don't want a partisan development here. So there would be no compromise.

Remember what one of the generals said in the War Between the States. If the war is going to be started, let it be done here. And I don't want to go through the Bobby Baker thing again.

Senator Byrd. Speaking of wars, I don't mind if I'm in the front for awhile. I'm sorry that that kind of language is being thrown around here.

Senator Scott. Bob, I'm making the point that all the points are coming from this side. If there are no compromising proposals coming from your side we have to conclude that we're

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1 ridden over.

2 Senator Byrd. Mr. Chairman.

3 The Chairman. Yes.

4 Senator Byrd. I am going to fire the first shot in a
5 war and if the shooting starts I expect I'll be on the battle
6 field with everybody else. And the Senator, my distinguished
7 leader over here on the other side of the aisle refers to no
8 compromise is being given by this side. I'm not sure that's
9 the correct statement. We haven't reached that point yet.

10 I have no objection to increasing the size of the Sub-
11 committee. Now, I regret that we're getting off to a start here
12 where ultimately this is to be done and the reference is being
13 made to go out and at least then give the impression that the
14 majority is unfair and riding rough shod over the minority.
15 That's not my viewpoint of this at all.

16 Senator Scott. Would you yield for that point?

17 Senator Byrd. Yes.

18 Senator Scott. I have not said and I did not intend to
19 go out of this room -- which is an executive session -- to make
20 those statements. What I said was I would vote for partisan
21 agreement and I said that it is extremely important we avoid
22 that. I said compromises have come from Senator Griffin and
23 Senator Hatfield and there have been no comments from your side
24 of the table. That's all I said.

25 Senator Byrd. Well, the meeting isn't over yet.

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Senator Scott. I agree with that.

Senator Byrd. Mr. Chairman?

The Chairman. Yes.

Senator Byrd. Mr. Chairman, I want as much as any member here to cooperate in a way that will best serve the fulfillment of all of our duties on this Committee. I therefore move, if moving is in order --

The Chairman. Moving is in order.

Senator Byrd. -- that the Subcommittee on Rules be increased in membership by the addition of two members, one from the minority and one from the majority. I would also include in that motion that Mr. Scott be the minority member and Mr. Allen would be the majority, he being a lawyer and he not senator Pell has seniority. And in this particular instance I think that the Subcommittee needs -- and it will have -- the testimony in the Subcommittee. But I know that Senator Hatfield, I hope he would understand my expression of the hoep that Senator Scott would be designated from that side and I'm sure Senator Williams would understand that I would hope that Senator Allen would be the majority member.

Senator Pell. Mr. Chairman, I think I'm probably among the lowest in vanity but I think senority does play a role. If it is the will of the Committee that another member be on the Subcommittee that would be acceptable to my view. The fact that I'm not a lawyer, I object to that being taken. And 99

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1 percent of the country is not lawyers and I have every respect
2 to Jim Allen and maybe there are many reasons why he should be
3 on it. But I do not want to be able to vote for the motion
4 but I object to this strenuously on the fact that I'm not a
5 lawyer.

6 Senator Griffin. I would like to suggest another option
7 and that would be the membership of the full committee is
8 five and four, I guess. Five democrats and four republicans.
9 I would like to suggest for this purpose it would be four-three,
10 and each side made their decision as to who. I think on our
11 side, because Mr. Cook is not up for election --

12 Senator Scott. Is up for election.

13 Senator Griffin. Is up for election that he probably
14 couldn't participate. And because of our responsibilities,
15 for example you (Senator Williams) wouldn't be able to fully
16 participate. So let's each side decide.

17 Senator Scott. That's all right with me. I would acept
18 that.

19 Senator Allen. Why not have the whole line --

20 Senator Griffin. I think you've got a compromise here.

21 Senator Byrd. Mr. Chairman, I recommend that the
22 Subcommittee be increased by two members for this assignment
23 alone. That is to consist of three democrats and two republicans
24 and that the chair designate two members to the Subcommittee
25 to serve on the Subcommittee.

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Senator Scott. If the Chairman would consult the wishes of the parties.

Senator Byrd. I second the motion.

The Chairman. If the Chair were given that responsibility he would certainly do it in consultation with respect to the other partie.s I'm just wondering, gentlemen, if the feeling of the body here is that everyone can participate and will participate so that we have a quorum on this matter. I would be tempted to suggest that we consolidate the rules Subcommittee with the full Committee for the purpose of considering this matter and so that we don't have to go through the exercise twice. I just sort of toss that out for consideration.

And if we went from four to three we would be leaving one member out on each side and then we would be coming back here, reporting back to the full committee for purpose of acong on only one member on each side to reconsider and determine whether the action taken was proper.

Senator Byrd. My motion was for the Subcommittee to consist of three to two.

The Chairman. Senator Griffin proposed four to three.

Senator Griffin. I guess I didn't make it a formal motion. I suppose that would be one way of resolving it.

Senator Scott. I like Senator Cannon's proposal. It suits me fine. It meets the concern I had that we all havethe input but it is the Sub/Committee that meets the concern some of

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1 you have.

2 And Bob, I don't criticize the justness of your point of
3 view, from your point of view. But I think our suggestion is
4 that we consolidate the Subcommittee with the membership of
5 the full Committee so that it is the Subcommittee holding the
6 hearings.

7 Senator Byrd. Mr. Chairman, my motion was to the effect
8 that the Subcommittee be temporarily enlarged from a membership
9 of two on the majority and one on the minority to a membership
10 of three in the majority and two on the minority with the
11 Chair designating the third member of the majority and the
12 Chair designating the second member of the minority with the
13 consultation with the minority.

14 I would not waive my proposal and I would withdraw it.
15 And I leave it entirely with the Chairman and leave him my
16 proxy to cast whichever way he feels.

17 Senator Scott. Are you satisfied?

18 Senator Byrd. I'm satisfied with the decision of the
19 Committee and I don't say that I would bow out entirely. I
20 have another meeting waiting for me.

21 Senator Scott. I would be against that, Bob. I would
22 be against it because --

23 Senator Byrd. Mr. Chairman, do whatever you like. I'm
24 a reasonable man and I will bow to the rule of the majority.
25 I don't carry anything on my shoulder whatever.

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1 You have my proxy.

2 The Chairman. If there is no objection we will consoli-
3 date the Rules Subcommittee with the full Committee for the
4 purpose of considering the proposed rules and we will have the
5 first meeting here at 4:00 o'clock this afternoon.

6 Senator Griffin. Just for clarification, Mr. Chairman,
7 can you tell me what that means to have it consolidated --
8 for get it.

9 The Chairman. We have an agenda here that I think we
10 can move on quite fast.

11 The first one is S. Res. 359, increasing the limitation
12 on expenditures by the Committee on the Judiciary.

13 The situation here is that the Subcommittee overspent
14 the amount that was authorized but there was a turn back of
15 funds. So this would simply authorize the payment out of last
16 year's authrized funds.

17 I am advised by the fiscal people that this is the correct
18 way to handle the matter. It does not involve the expenditure
19 of additional funds over and above those authorized for this
20 year.

21 Senator Hatfield. Mr. Chairman. They received no authori-
22 zation for overspending, did they?

23 The Chairman. Received no authorization?

24 Senator Hatfield. To overspend. There was no formal
25 authorization extending them this authority to overspend. Is

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1 that correct?

2 The Chairman. That's right.

3 Now, they inadvertently overspend this by the Subcommittee,

4 not full Committee.

5 Senator Hatfield. Mr. Chairman, this cannot happen in our

6 respective individual offices because of a disbursing office

7 applying the fiscal control system that it does.

8 Why do we not have the same kind of fiscal control over

9 the committees in terms of allocations and so forth so that this

10 does not happen.

11 The Chairman. This was an obligation for the procurement

12 of consultants.

13 Senator Hatfield. Yes.

14 The Chairman. The Subcommittee itself didn't even over-

15 spend. They turned the money back.

16 Senator Hatfield. Yes.

17 The Chairman. But in this requirement that we have for

18 separate authorizing for consultants, they did make an obliga-

19 tion which they can't pay unless we authorize it in this

20 fashion.

21 Senator Hatfield. Yes.

22 The Chairman. They did not spend, overspend their basic

23 subcommittee authorization.

24 Senator Hatfield. Where did the fiscal control system

25 break down?

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1 The Chairman. They over-obligated for the purpose of
2 consultants only. They were still within the dollar limits
3 and they can't pay the consultants now that they have obligated
4 without the authority of the Committee.
5 Senator Hatfield. Are the committees under the same
6 fiscal control system as the individual personal offices are?
7 This could not happen in my office even if I wanted it to happen
8 because as I understand the fiscal controls I'm under in the
9 disbursing office, this could not happen.
10 Why not apply the same to the committees?
11 The Chairman. But your situation is you have a lump sum
12 figure and you can spend that anyway you like. But you can't
13 go over that.
14 Senator Hatfield. That's right.
15 The Chairman. This subcommittee did not go over the
16 amount. This is not a request to exceed their total. It is
17 a request to exceed the amount authorized for hiring of con-
18 sultants only. But still it is within their dollar limit.
19 Senator Hatfield. But I'm still under the restraints in
20 my office under certain people that I can hire and the category
21 one, two, three, four and so forth, in certain pay scales. I
22 just can't understand why a committee, whether it is a sub-
23 committee or full committee can over-obligate without some kind
24 of fiscal restraint and fiscal control. I am thinking of the
25 system. I'm not against paying this. It is an obligation.
I

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I'm against this happening because to me there is some fiscal system that is lax or some fiscal control that is lacking. That's all I'm saying.

The Chairman. Well, I don't know that I can answer beyond what I have. I'll call on the staff in a moment but I will say that item 2 is in a similar situation on the agenda and I'm going to call on staff.

Could I ask the disbursing officer here.

Mr. Ridgely. On the amount that the committee is authorizend for these resolutions for these consultants they may be authorized $100,000 for overall activity and within that they will be limited to say $10,000 for consultants and experts.

Now, these are people who are put on a daily rate of pay. Appointments come in just like those for your office. But these are services for these people which can only be controlled within the subcommittee because they may use, they may bring a consultant or expert in at the figure of $99.00 a day and they may work them for four days a week or may use them only every two weeks. And we have no knowledge of what they're committing for because these vouchers are not submitted to us until after the services have been rendered, sometimes two or three months later.

Senator Hatfield. Was there something lacking in your present system or your authority to take action?

Mr. Ridgely. There is no way for us to control this.

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It would be almost impossible because once again when they put them on a day to day rate --

Senator Hatfield. What should we do to instruct the committees in order to prevent this? It is a slipshod action.

Mr. Ridgely. The committee clerk controls this because I presume they would know when these people are called in to perform services for the subcommittee.

Senator Hatfield. It seems to me, Mr. Chairman, that we have an example here of very poor fiscal control and either the clerk of the committee or someone -- it seems to me that the clerk of the committee did or someone we ought to hold responsible so when they reach their ceiling or limitation they would come back to this Committee for authorization. I can see this as a very minor thing but the system lends itself to major problems that might arise in the future.

Senator Williams. Could I ask a question?

The Chairman. Yes.

Senator Williams. Now, this limitation, does this arise out of a line item. When the Committees come in they have line items for example expenditures where one is for consultant and one is for travel and then it is broken down.

Are all those barred and fast ceilings? That, I didn't understand. I thought these were in the nature of estimates to get the total figure and there was not, there was flexibility within this.

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1 Mr. Cochrane. On that one subject, sir.

2 Senator Williams. Only on consultants?

3 Mr. Cochrane. Yes.

4 Senator Hatfield. It seems to me we could ask Mr. Ridgely
5 to draft some language for this responsibility to identify the
6 responsibility with the clerk or where it is to be set. We
7 are dealing with $3,000 here and this could conceiveably go up
8 to $30,000 under the system with so little control.

9 Is it possible to tighten the control?

10 Mr. Ridgely. Just a quick thought on these. The committees
11 on these particular type of appointments where they have the
12 sums of money they're restricted to, of those appointments
13 for these experts and consultants take a daily rate of pay,
14 if they were required to put in not to exceed ten days or
15 thirty days then you can develop the gross amount to be
16 expended for that individual.

17 Senator Hatfield. It's an open end thing now?

18 Mr. Ridgely. Yes, sir.

19 Senator Hatfield. It is an open end thing.

20 Mr. Ridgely. Yes. These people are available at the
21 call and command of the committee and we've had them on as
22 long as two years without paying them anything; yet, they're
23 on the payroll available to the committee whenever they need
24 them so we never know when they will be employed or used by
25 the committee and it is always an after the fact thing as far

1 as our office is concerned.

2 Senator Hatfield. There's all sorts of ways -- I can see

3 how they can put limitations on this Committee's views by

4 this consorted route.

5 The Chairman. That's not true because the consultants

6 come within the total amount we authorize and by doing this

7 they can't go beyond the amount we authorize.

8 Now the law -- let me read you the provision here.

9 Any senate committee desiring to procure the services of

10 individual consultants or organizations thereof must first seek

11 and obtain the required authority therefor by authorization

12 resolution and express limitation on the amount of the committee's

13 total funding in such resolution which may be used for that

14 purpose. A committee may not exceed that limitation for the

15 procurement of consultants but it may utilize unexpended funds

16 within that limitation for other authorized purposes.

17 Senator Hatfield. How could we go for two years without

18 paying someone? That's beyond the one year fiscal budget.

19 The Chairman. Yes. This went beyond and that's why

20 they're requesting the additional funds here., where they over-

21 spend. In other words, they overused consultants by $5,000.

22 Senator Hatfield. Without authorization?

23 The Chairman. Without authorization for those consultants.

24 Senator Hatfield. That's right.

25 The Chairman. But they did turn back $49,822.00.

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1 Senator Hatfield. But if they had not returned that
2 money back what would be the situation then?
3 The Chairman. They have to turn it back.
4 Senator Hatfield. No, no. What if they had spent that
5 full amount. We would be stuck with this additional $3,00 or
6 $5,000 or whatever it is.
7 Senator Williams. Back door financing.
8 Senator Hatfield. Are you saying then that we are voting
9 this only because they turned back a surplus?
10 The Chairman. I'm not saying we're doing that. I'm
11 saying that's what they requested.
12 Senator Hatfield. Whatever the case seems to me it is
13 a sloppy procedure. We ought to have some kind of tightening
14 up and if Mr. Ridgely can draw up some suggested language it
15 seems to me the Committee ought to address itself to this.
16 The Chairman. We will request that he do that and certainly
17 if the Committee desires to disapprove this it will be dis-
18 approved. It will not be paid.
19 Senator Hatfield. Well, Mr. Chairman, I think we have
20 an obligation here but what I am saying is I think these
21 should be under direct authorization.
22 Senator Pell. Mr. Chairman?
23 The Chairman. The Senator is correct that it was not
24 authorized.
25 Senator Hatfield. So that's all I am suggesting.

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1 Senator Pell. What Mark is suggesting is a change in
2 the procedure. As far as consultants go. Because the con-
3 sultants are on the payroll then it is an open ended commitment.
4 Senator Hatfield. That's right.
5 Senator Pell. It is rarely abused but if you change the
6 procedure around you may be wasting in the end because the
7 committees would not have consultants upon whom they could call.
8 Senator Williams. Couldn't it be from the disbursing
9 office where you just have a running account of what is per-
10 mitted in amount and how close they're getting to the ceiling
11 at any one point? These people didn't know evidently that they
12 had reached their ceiling and went beyond it.
13 Senator Hatfield. See, we know in our offices because
14 they tell us so we can't go over.
15 Senator Williams. Right. Within a big budget. And
16 it's not like our own budget. You have no warning, no early
17 warning for this.
18 Mr. Ridgely. Right.
19 Mr. Cochrane. Mr. Chairman?
20 Senator Hatfield, there is over the years a very careful
21 coaching of the committees by Mr. Ridgely and his predecessor.
22 And what it boils down to is simply it did not keep track and
23 control of obligations as they were made in this particular
24 case.
25 Senator Hatfield. Who does?

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1 Mr. Cochrane. The subcommittee involved. Which was
2 under the control of the staff director. In other words, they
3 simply made a mistake. It has happened once in awhile through
4 the years. But there is plenty of information and procedure
5 and knowledge available and I think Mr. Ridgely would back me
6 up on this that through the years his office and controller,
7 previous controller had and there is a simple system for this
8 which is followed in most cases. Is that correct?
9 Mr. Ridgely. (nods affirmative)
10 Senator Hatfield. Well, it sounds like now we're getting
11 the double shuffleboard treatment. All I'm suggesting is
12 I would like to see that that procedure, whatever it is, some-
13 one has failed to then follow up with it. We ought to know
14 where they failed and how it was. If the procedure lends itself
15 to that then we ought to tighten up the procedure.
16 Mr. Cochrane. I wasn't suggesting you should approve
17 this. I was just saying there is some instruction.
18 Senator Hatfield. But this committee of all committees
19 that gets as much money as it does has the least excuse for
20 fouling up on proper procedure and accounting for no funds as
21 they go along.
22 The Chairman. What is the desire of the Committee?
23 Senator Griffin. Mr. Chairman, I just want to kind of
24 add some support to Senator Hatfield.
25 I think he's raised a very important point. I suppose we

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1 have not too much choice except to go ahead and do this. But
2 somehow or other if we could and tighten our procedure and
3 system I wonder whether we shouldn't take a good look at the
4 practice of utilizing consultants and make sure that in other
5 respects there is no abuse of this practice. Maybe there is
6 no reason for concern but it is kind of a loose area that
7 certainly invites problems, I think. And I think our committee
8 has a responsibility to exercise a rather close oversight on
9 the practice of utilizing consultants and I'm sure, or to
10 be sure it doesn't get out of hand.
11 The Chairman. May I suggest that we pass over items
12 1, and 2, and ask the committees to come in and appear at our
13 next meeting.
14 Item 3. S. Con. Res. 99. Authorizing the printing of
15 additional copies of the National Nutrition Policy Study
16 hearings and panel reports of the Senate Selecte Committee on
17 Nutrition and Human Needs. 5,000 additional copies of each
18 of eighteen 400-page volumes at $650.95 per 1,000 for a total
19 of $58,585.50. That was supported jointly by letter of Senator
20 McGovern, the Chairman, and Senatory Percy.
21 Senator Griffin. How many did they have printed before?
22 These are additional copies?
24 The Chairman. One thousand. We authorized 1,000.
25 Senator Hatfield. These are to give away, Mr. Chairman?
26 These are not for sale?

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1 The Chairman. That's right.

2 Senator Pell. But they can sell them if they want to.

3 The Chairman. GPO can make copies from them.

4 Senator Hatfield. Mr. Chairman, the last meeting I
5 suggested that we come up with some kind of a criteria on why
6 and when we should reprint and how many we should give away and
7 to make available to each member. Have we had any progress
8 on that?

9 Mr. Cochrane. No, sir. It hasn't been forgotten,
10 Senator, but because of other things we haven't gotten started
11 on it.

12 Senator Griffin. It is the biggest item of the various
13 requests that we're going to consider today, I take it, in
14 terms of dollar amount.

15 Senator Hatfield. The Chairman raised this the last
16 time on the question of house request that I recall.

17 The Chairman. The House is back for another request now.

18 Senator Hatfield. And it seems to me we're attacking
19 this piecemeal on whatever the size of the dollar amount.
20 Maybe some of the smaller are less required than the larger
21 requests. It seems to me until we get a criteria maybe we
22 ought to disapprove all of them.

24 Senator Griffin. I notice one down there bby Hatfield.

24 Senator Hatfield. Except for death notice.

25 The Chairman. What is the Committee's desire? Does the

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1 Committee desire to defer action on it?

2 Senator Scott. I defer to Senator Hatfield. Whatever

3 he does.

4 Senator Hatfield. Anything we do would be arbitrary. Say

5 it would be 2,500 instead of 5,000.

6 The Chairman. Is there any reason we couldn't have the

7 committees to come in and justify these requests?

8 Senator Hatfield. I would like to find out more on who

9 gets them.

10 The Chairman. Without objection then Items 3, 4, and 5

11 will be deferred and the committees will be requested to come

12 in and make a presentation of justification.

13 Senator Pell. And shouldn't the guidelines that Bill

14 Cochrane put on, be available at that time?

15 Mr. Cochrane. We might not be able to do it, Senator,

16 until the impeachment matter and other things we are working on

17 but we will certainly do our best.

18 The Chairman. Item 6.

19 Senator Hatfield. I'm going to ask that be deferred,

20 Mr. Chairman.

21 The Chairman. That will be deferred.

22 Senator Pell, on Item 7.

2 Senator Pell. As Chairman of the Subcommittee on the

24 Smithsonian Institution Museum I bring up this legislation. It

25 was proposed by the regents on plans for needed support facilities.

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1 What this basically does is provide for a building just
2 across the river in Suitland or Sweetland, however it is
3 pronounced, where there will be a storage space for the
4 Smithsonian for its various collections. As of now storage
5 space is, as has been said, the Smithsonian is an attic of
6 American. And in fact much of the space in the buildings are
7 being used for storage and people do not benefit by it.
8 In addition to that the need for storage, most have no
9 climate control for humidity. And finally, the museum -- and
10 this came up in hearings held this last year. The need not
11 to actual operating costs would be the need for more conservatories
12 because they were producing each year more objects of art than
13 they could handle. And one of the reasons for the building
14 would be to start an institution of conservation. There will
15 be 50 young people learning how to conserve or keep. In
16 other words, keep the objects of art which we have in good
17 condition. The bill passed before, a previously approved bill.
18 I think it was just approved by the Senate. It amounts to
19 $500,000 and what we're asking for now is $690,00 which is
20 less than 40 percent on inflation factor cranked into it. The
21 GSA estimates for the proposed facility eventually would be
22 $35 million and that would be seventy years off.
23 Clearance and approval have been received from the
24 Administration, National Capitol Planning Commission, Maryland
25 Planning and Park Commission which is in Maryland, and Prince

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1 Georges County Palnning Board. These are to be made because
2 they are interested in the development as a whole.
3 I would hope that my colleages would approve this bill
4 which basically is similar to the one that we approved and
5 passed in 1970.
6 Senator Scott. If the Senator would yield.
7 I think I speak for Senator Fulbright and myself. We
8 have both heard over a period of a number of years now a dis-
9 cussion among the regants for the need for this space for
10 storage. It is not generally understood that there are literally
11 hundreds of thousands of artifacts on shelves which were not
12 normally suitable for display except for some specific
13 occasion or other which need to be stored in order to relieve
14 the actual exhibition area for matters for properly suitable
15 exhibition. So I would join with Senator Pell in support of
16 this measure which I believe is co-sponsored by Senator Fulbright
17 and myself.
18 Senator Pell. That's correct.
19 The Chairman. How much money?
20 Senator Pell. $675 -- $695 -- $690,000. The bill previously
21 approved four years ago, five years ago, four years ago was
22 $500,000 so this is less taking into account inflation.
23 Senator Griffith. It still would require appropriation?
24 Senator Pell. Still would require appropriation.
25 The Chairman. Is there objection?

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1 Without objection it will be approved.

2 Now, youhave on your agenda there H. Con Res. 566 to
3 provide additional copies of hearings and the final report of
4 the Judiciary Committee on the impeachment inquiry. Initially,
5 you will recall, the House requested 20,000 additional copies
6 of its impeachment hearings and 50,000 additional copies of
7 its final report at a cost of almost $1 million. The request
8 was amended by the Senate and that was rejected by the House.

9 Now, they came back with H. Con Res. 566 for proceedings
10 of the House Judiciary Committee with 5,000 additional copies
11 of hearings and 10,000 of additional copies of the report.
12 The House Administration Committee reports that the estimated
13 printing cost thereon is $341,137.5. That is slightly over
14 a third of what the other request was and I might say that the
15 House has accorded similar authority to the Senate Watergate
16 Committee now for the authority to authorize 5,000 additional
17 copies of hearings and 6,000 additional reports.

18 Senator Scott. Mr. Chairman, I think we're in the ball
19 park. I think the Committee can take a great deal of satisfac-
20 tion in the fact that the action of this Committee has saved
21 the taxpayers in this item alone approximately $448,000. So
22 I think the members of the Rules Committee have earned their
23 salary for this year and next.

24 Senator Griffin. May it be taken for granted that each
25 member is going to get a copy of this? What distribution is

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1 there?

2 The Chairman. I understand that the preliminary plans

3 including giving three complete sets to each member of the

4 Senate in addition to the House.

5 Mr. Cochrane. This box is only one set.

6 Senator Griffin. Yes.

7 The Chairman. Is there objection?

8 Without objection the H. Con. Res. 566 will be approved.

9 In Committee Business we have a contract in an amount of

10 $8,000 between the Committee on Finance and William Hsiao, of

1 Cambridge, Massachusetts, for the latter's service as coordina-

12 tor of a panel of economic and actuarial experts to study and

13 to then report to the Committee on the financial status of the

14 social security administration system.

15 You will recall we previously gave them an authorization

16 and this is to the approval of the contract within that

17 authorization.

18 Is there objection?

19 Without objection it will be approved.

20 On Administration Business, item 1 and 2. Mr. Ridgely

21 will you address yourself to those two items?

22 Mr. Ridgely. Mr. Chairman, you will recall that back

23 in 1972 the general pay increase for Federal employees, that

24 date was moved up from October 1, 1972, to January 1, 1973.

25 This was the Executive Order of the President implementing

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1 that and he took the view that this economic situation was such
2 that he had the authority to change that date. And so all
3 of the agencies of the Government followed through on this.
4 The president pro tem of the Senate likewise. Subsequently one
5 of our employees unions brought suit against the President in
6 reality and it went through the Courts and the U. S. Court
7 of Appeals ruled that the President did err in changing that
8 date to January 1 and ruled that the correct date was October 1.
9 So with that it set up a retroactive pay increase period for
10 all of the agencies of the Government.
11 This situation with our subcommittees, of course, comes
12 within the purview of the Rules Committee. And with the
13 language that they proceeded under in the second supplemental
14 Act and to authorize the payment of this, the broad language
15 in this is construed to mean that you can change back to that
16 period whatever amounts are available and then if there is not
17 a sufficient balance there to move into the subsequent period
18 and charge off the remainder there.
19 We have only one committee under this Committee that
20 would require additional funds.n Now all of the subcommittee
21 chairmen have authorized the payment of this retroactive
22 payments to the employees of that time and this $3200 for
23 the Interior Committee is only an additional amount that is
24 required to meet these pay costs.
25 The Chairman. Any questions?

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1 Senator Griffin. I move it be approved.

2 The Chairman. Without objection the request will be

3 approved.

4 Item 2, the request from the Senate Financial Clerk for

5 authorization to increase the long distance telephone allowances

6 of the Senators from the States of Alaska and Hawaii.

7 Mr. Ridgely. On that item, Mr. Chairman, the Subcommittee

8 on Legislative Appropriation approved and included in the

9 legislative bill for 1975 an amount to provide each Senator

10 with a second WATTS line. This is outside of the consolidated

11 office expense allowance and this recognizes that the States

12 of Alaska and Hawaii do not have WATTS line service and they

13 included sufficient funds in the bill to provide the equivalent

14 amount for long distance calls equal to WATTS 6 line.

15 As I said to the Chairman before, while I have the funds

16 to pay this, they can come under control of the telephone calls

17 and I cannot increase the amount of Senators from these two

18 States unless I have the authorization of this Committee to

19 do so. So the funds are available to increase this.

20 The Chairman. Is there objection?

21 Without objection it will be approved.

22 Item 3, a resolution which would increase by $905.00 --

23 from $12,875 to $13,780 -- the authorization for this Committee

24 to purchase U. S. Capitol Historical Society 1975 calendars

25 for the use of the Senate. This would also provide 250

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1 calendars for the use of this Committee.

2 Is there objection?

3 Without objection it will be approved.

4 Number 4, Original concurrent resolution authorizing

5 the printing of 1,000 additional copies of this Committee's

6 hearings of last session on Public Financing of Federal

7 Elections. That's this book right here. We've had an awful

8 lot of requests for it, in fact, the back to press, 1,000 at

9 $5,375.80.

10 Is there objection?

11 Senator Griffin. Mr. Chairman, I don't have any objection.

12 As I understand the topic for high school debate for election

13 reform is what this is for or is it limited? I think it is

14 broader, isn't it?

15 Mr. Duffy. Yes, Senator. And in approving the system

16 in which we nominate and elect our President, general election

17 reform, and public finance, and other miscellaneous things come

18 within the scope of this.

19 Senator Griffin. I don't know that I have any suggestion

20 at this time but I do note that we're only increased -- I

21 don't know for what purpose -- but this would certainly partial

22 it I imagine for that purpose. Aren't we only getting the

23 traditional reprints on one aspect?

24 Mr. Duffy. If I may respond to that. We have an election

25 law guide book which has just come out courtesy of the Committee

1 on Rules and Administration. The Secretary of the Senate
2 issued a book entitled Factual Campaigh Information, dated
3 1974. And those documents contain most of the information
4 that the young debaters are interested in. Moreover, there
5 is information available from the Judiciary Subcommittee
6 on house amendments which they're able to get. But the only
7 document that has exhausted its supply is this Public Finance
8 which is still a current subject since it is still pending in
9 the House of Representatives.
10 We had only 1,000 originally printed and the supply is
11 gone.
12 The Chairman. Is there objection?
13 Without objection it will be approved.
14 Next is the original resolution authorizing the printing
15 of the 76th Annual Report of the National Society of the
16 Daughters of the American Revolution as a Senate document.
17 Senator Scott. That's the one where every year the ques-
18 tion arises whether to do it and we also always do it.
19 Senator Pell. Why should the DAR do it?
20 Senator Scott. I don't know.
21 The Chairman. What is the wish of the Committee?
22 Senator Scott. I move we pay it.
23 Senator Pell. You think we ought to limit it to just
24 this and not another patriotic society?
25 Senator Scott. I think we should keep the question open

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1 as to other patriotic societies.

2 The Chairman. Second the motion?

3 Senator Pell. Second the motion.

4 The Chairman. All in favor say "aye"

5 (chorus of ayes)

6 Opposed?

7 (none noted)

8 The motion is carried.

9 Next is 6, notification by the Sergeant at Arms of a 4%

10 increase in Western Union telegraph service effective June 2,

11 1974, and a proposed additional increase of 6.5% for 1975.

13 That is just for information so that the Senators can

13 live within their means.

14 We have three referrals to the Subcommittee on Standing

15 Rules of the Senate. S.3745 by Mr. Metcalf, S. 3759 by Mr.

16 Proxmire, and S. Res. 362 by Mr. Biden.

17 We have an extension request from Senator Randolph for

18 an extension from August 3 of 1974 to August 1 for contract

19 of the Committee on Public Works relating to health affects

20 of air pollution. There are no additional expenditures involved

21 or they would have to have that authority from the Committee.

2 Without objection it will be approved.

23 Senator Scott. What is Res. 362 which has been referred?

24 Mr. Cochrane. Yes, sir. There's a long statement in the

25 Congressional Record and I will get you a copy of it. It

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1 would authorize among other things that each Senator havea
2 staff person working back in his office for each subcommittee
3 that he is on. That's one of the things. I think the total
4 amount of money was in the neighborhood of $11 million for all
5 reforms proposed. It is fully spelled out in the record.
6 The Chairman. The matter is referred to the Subcommittee.
7 We have one on Willy Lewis. I am advised that it is in
8 proper form. Deceased Willy Lewis was working at the date of
9 his death for the Subcommittee on Commerce. Is there objec-
10 tion?
11 Without objection it will be approved.
12 Senator Griffin. Mr. Chairman, is there a resolution
13 having to do with Committee jurisdiction where there's some
14 members of the Committee who are trying to get, what is it?,
15 energy-matter research?
16 The Chairman. That was referred to the appropriate sub-
17 committee at the last meeting and not been reported back.
18 There's a request from the Space Committee for additio-
19 nal jurisdiction. I may say that the interior Committee is
20 adamantly opposed to the change and I'm sure whatever comes
21 out of this Committee will involve a floor fight.
22 Senator Scott. Could I ask that the record show at the
23 request of Senator Goldwater that I have advised him that I
24 would personally support the request of the Space Committee
25 for jurisdiction.

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The Chairman. Is there anything further.

The Committee will stand in recess then until 4:00 o'clock this afternoon.

(Whereupon, at 12:05 p.m. the Committee recess to be reconvened at 4:00 o'clock p.m. this date.)