

**STATEMENT OF DONALD R. WOLFENBERGER
BEFORE THE SUBCOMMITTEE ON RULES
HOUSE SELECT COMMITTEE ON HOMELAND SECURITY
THURSDAY, JULY 10, 2003**

Mr. Chairman and members of the Subcommittee:

I appreciate this opportunity to testify today on possible future House organizational changes to deal with the structural and policy issues surrounding homeland security. I especially want to commend Speaker Hastert, former Democratic Leader Gephardt, and current Democratic Leader Pelosi on working together to devise creative ways to handle both the creation of the new Homeland Security Department in the last Congress and to oversee its early organizational and operational efforts in this Congress. The creation of two different select committees, of different compositions and missions, is a tribute to the flexibility and commitment of the bipartisan leadership to make sure this job is done right at every step of the way, and that Congress plays an ongoing and integral role in the further development of measures to protect this country against future terrorist attacks. This is too important a task to leave solely to the Executive Branch.

The central question confronting this subcommittee, and ultimately the full committee and House, is what new structural mechanism, if any, is needed in the House to perform the policy and oversight functions involved with this vast new undertaking. I agree with the Parliamentarian, Charley Johnson, that the Congress need not, as a matter of course, create a committee system that mirrors, in every respect, the Executive Branch cabinet departments. At the same time, we should recognize that this is precisely how the Appropriations Committee's subcommittee structure is organized (including the new House and Senate Appropriations Subcommittees on Homeland Security), and, to a lesser extent, how many of our authorizing committees are focused. The Armed Services Committee is responsible for the annual defense authorization bill, the International Relations Committees for the State Department authorization, Intelligence for the annual intelligence community authorization, Judiciary for the Justice Department authorization, Veterans' for the VA and its programs, Education for the Education Department, Small Business for SBA, and so on.

It seems to me that there are two key questions you have to ask yourselves. First, is the issue of homeland security important enough to warrant a separate committee focused exclusively on the policies, programs, problems of homeland security? And, secondly, if so, what is the best way to restructure the House committee system to ensure this is done in the most effective manner?

I fully appreciate that there is a third question hanging over this, and, in your minds, it may seem an overriding question that obscures or negates the importance of the other two questions, and that is: Is it politically feasible to create such a committee given the turf sensitivities of existing committee chairmen and members? But I would caution against letting this third question get in the way of proceeding full bore with answering the first two.

Let me give my perspective on all three questions in the order in which I have posed them. First, is a separate committee needed? In my opinion, the answer is an unequivocal "yes." I think the threat of terrorism is going to be with us for a long time to come and is not just some passing

phenomenon. Second, I think the threat is so serious as to warrant a concentrated effort by both the Executive and Congress to combat it. And that in turn requires having intensive coordination of Executive branch efforts internally and with state and local levels of government, and close oversight and policy innovation by the Congress. This is not something you can relegate to a subcommittee of an existing committee, let alone to the existing structure in which dozens of House and Senate committees and subcommittees have a piece of the jurisdiction.

Finally, this is something that will require a change in the bureaucratic culture and norms in the new Executive Branch components of the department as well as a change in the political culture and norms here in Congress. Both branches are still wedded to traditional, pre-9/11 arrangements and relationships internally and with their counterparts in the other branch—what some have referred to in the past as the “iron triangle” of subcommittees, agencies and their private sector clientele. You need a separate committee that is willing to set a new course and way of doing things—exercise tough oversight, employ innovative thinking, and exert constant pressure on the new department to set the right priorities and pursue them vigorously. There is no time nor room for clinging to the old, cozy relationships and standard operating procedures that everyone is comfortable with. This is not a cozy, comfortable age in which live. As Lincoln put it in his second annual message to Congress:

The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty and we must rise with the occasion. As our case is new, so we must think anew and act anew. We must disenthrall ourselves, and then we shall save our country.

Moving to the second question as to how such a committee should be constituted, I think the answer is self-evident if you agree with the underlying premises of my answer to the first question. This must be a permanent, standing committee, not a select committee. It should be a major committee for assignment purposes, if not an exclusive committee. It must have primary legislative as well as oversight authority over the Homeland Security Department, its agencies, programs and activities. It should also have secondary legislative and oversight jurisdiction over homeland security responsibilities lodged elsewhere in the government. It should be tied closely to the leadership in coordinating its oversight activities with that of other committees—meaning the oversight agendas adopted by committees at the beginning of a Congress should be superintended by the leadership, as the House rule intends, but also on an ongoing basis as new areas for oversight arise during the course of a Congress.

Much is made of the need to avoid taking all the time of the Secretary of Homeland Security or his key principals in appearing before a host of congressional committees and subcommittees, and that is one important argument for a central or primary committee coupled with leadership coordination of the others. But the convenience of Executive Branch officials is not, nor should it be, the principal driving force behind creating such a committee. The principal rationale for such a committee is to better ensure the protection of the American people against terrorist threats, and if the committee is dedicated solely to that it will both assist and prod the Department to do the best

job it can. But it cannot be justified simply on grounds of being a one-stop hearing shop or convenience store for the Executive Branch officials. I suspect if the committee is doing its job well, the Department will often not find it a very "convenient" venue to testify, but that it will find the committee a very vital and helpful ally in our war against terrorism.

Finally, to the third question, which is whether creating a new standing House Committee on Homeland Security with primary legislative jurisdiction over the Department and its activities is politically feasible. My answer is that winning approval for such a committee will be a very difficult, contentious, and perhaps even bloody challenge, but that it is politically feasible because it is good for both the House and for the country. Most worthwhile endeavors are not easy, but that does not mean that you turn your backs on them at the prospect of defeat or rejection.

Much has been made by me and others about the lessons of past attempts to make jurisdictional changes in our committee system, and why and how most of these have gone down in flames—particularly the two efforts to create a House energy committees in 1974 and 1979. As one of my colleagues on this panel has cautioned me, analogies are imperfect, at best, and I agree. The times change, the players change, the institution changes, the relative powers of party leaders and committee chairs change. But one thing that does not seem to change, in my opinion—the one thing that seems to have an almost universal aura about it—and that is "turf," with a capital "T," and, as the Music Man might put it, "that stands for trouble." The title of David King's book, "Turf Wars," sums up nicely what happens when committees' jurisdictions are threatened by other committees.

So, why should creating a standing committee on homeland security turn out any differently than past efforts to create a standing committee on energy? I think there are several reasons why this one seems more politically doable than the failed energy committee efforts. First and foremost, terrorism is a more real and tangible threat to the American people than the threat of energy insecurity or dependence on foreign oil. Notwithstanding the Arab oil embargo, the gas lines, the rising prices, and the distant prospect that our way of life might be altered, there was not strong public sentiment that these perceived threats were all that serious, let alone that a new energy department or energy committee would help stave off those threats.

The terrorism attacks, on the other hand, literally hit home and changed our country and its people dramatically overnight. I am not suggesting that the people are clamoring for bureaucratic fixes or congressional reforms to save them from terrorists. But they are, in a general way, depending heavily on their government, all branches and at all levels, to do their utmost to prevent another 9/11 from occurring. Whether or not they appreciate the need for a separate committee in Congress to deal exclusively with the threat is not so important as the perception that Congress continues to care and work closely with the Executive Branch to address the problem. As a young Congressman Don Rumsfeld (R-Ill.) once said, "Congressional reform has no constituency." Nevertheless, as I see it, the results of those reforms can help effect major policy changes that benefit millions of constituents.

Second, the times have changed institutionally in the House from the 1970s. In the early 1970s, notwithstanding some of the House and Democratic Caucus reforms to weaken the power of committee chairmen, the jurisdictional changes recommended by the Bolling select committee ran into a buzz saw of opposition in the Caucus that was led in part by affected committee chairmen who in turn rallied their members to oppose the plan. Even though many of the "Old Bulls" still enjoyed many of the prerogatives of power, the democratizing reforms of the Democratic Caucus had empowered more rank-and-file members both through semi-autonomous subcommittees and as individual policy entrepreneurs. These members were not about to alter a system they had just successfully changed and were learning to game.

Moreover, when the leadership, namely Speaker Carl Albert, saw all the opposition forming against the Bolling plan, he stepped into the shadows and let his members slug it out in the Democratic Caucus. Because the Bolling committee was completely bipartisan, it was suspect among Democrats and thus an easy target for those arguing for retaining the powers and prerogatives of the majority. And, without strong support from the party leadership, the plan was doomed to failure.

Third, an array of special interests was organized and mobilized against the Bolling plan, and the longer the plan was delayed in the Caucus, the more these interests had time to pick it to pieces and grow the opposition to it within the Caucus.

Fourth, there was little if any media support for the plan. It was not sexy, like campaign finance reform, and thus had no legs beyond the beltway, notwithstanding some urgency over the energy issue.

Fifth, the plan had more losers than winners, and was not sufficiently tweaked to ensure that members at least gained something for their losses. To most it was a lose-lose proposition.

Sixth, the bipartisan membership of the Select Committee did not work closely together in building bipartisan support beyond its ranks. Instead, the ranking minority member ended up offering his own substitute which was different from what the Select Committee had reported. They divided and were conquered.

These are some of the lessons past of experience. The Select Committee on Committees in 1979, chaired by Rep. Jerry Patterson (D-Calif.) had no more success than Bolling, even though the Select Committee had carefully chosen to go the incremental route and confine itself to recommending the creation only of a new energy committee. Again, the lack of leadership backing and the opposition of the bulls and their outside allies thwarted any chance for success.

Mr. Chairman, you and your colleagues on this Select Committee have a chance to make this succeed and thereby demonstrate that history does not necessarily repeat itself. You have the benefit of knowing why past efforts failed. You have the time in the next few months to lay the groundwork for the concept and necessity of a permanent committee by educating your House colleagues and

building strong, bipartisan support among party leaders and members alike. Prior to reporting your final recommendation next year, you have the time to make your case in the media and with the American people. But, if you wait until September of next year to get behind a unified plan and work for it, then I suspect it will fail, whether you vote on it in September, October, or the following January.

Your case is good for a standing committee because it is the right thing to do and the necessary thing to do. It is right from the standpoint of ensuring that Congress holds its own as a coequal branch of government. And, more importantly, if you want the best possible partnership between the branches to fight and win the war against terrorism. Do not back down from making the effort because some turf might be torn-up and transplanted. And do not settle for a fallback, permanent select committee with mere oversight responsibilities. Oversight will not matter if it is not directly tied to the ability to change policy. The last thing the House needs is more layers of bureaucracy and processes on top of existing layers. That will only defeat the need to concentrate House resources and efforts for maximum results and success.

Thank you, and good luck!

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Donald R. Wolfensberger has served since June 1, 1999, as director of the Congress Project at the Woodrow Wilson International Center for Scholars. Following his retirement from Congress after a 28 year career on the staff of the House of Representatives, he was appointed guest scholar at the Wilson Center. As a guest scholar he wrote a book entitled, *Congress and the People: Deliberative Democracy on Trial* (Johns Hopkins University Press, April, 2000). In June of 1998, he was appointed public policy scholar at the Center, responsible for organizing public seminars and writing papers on the congressional policy process.

Wolfensberger was chief of staff of the House Rules Committee under Chairman Gerald B.H. Solomon (R-NY) in the 104th Congress (1995-96), and served as minority staff director of the committee in the 102nd and 103rd Congresses (1991-94). He previously served as minority staff director of the Subcommittee on Rules and Organization of the House (1979-80) under ranking Republican John B. Anderson (R-Ill.), and the Subcommittee on Legislative Process under ranking Republicans Trent Lott (1981-88) and Lynn Martin (1989-90). During his career in Congress he was recognized as a leading parliamentary expert on the rules, procedures, and precedents of the House, working closely with the Republican leadership over the years on the party's proposals for reforming the House.

He is a 1964 graduate of North Central College, and successfully completed his course work towards a master's degree in political science at the University of Iowa in 1966. Prior to coming to Congress, he worked as a newspaper reporter, a radio news reporter and newscaster, and a Peace Corps volunteer in Africa.

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