

RPTS KESTERSON

DCMN BURRELL

BUSINESS MEETING

TUESDAY, FEBRUARY 10, 2009

House of Representatives,
Committee on Energy and Commerce,
Washington, D.C.

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The committee met, pursuant to call, at 4:53 p.m., in Room 2123, Rayburn House Office Building, Hon. Henry A. Waxman [chairman of the committee] presiding.

Present: Representatives Waxman, Pallone, Eshoo, Stupak, Capps, Schakowsky, Weiner, Matsui, Christensen, Sarbanes, Murphy of Connecticut, McNerney, Sutton, Welch, Barton, Upton, Stearns, Deal, Whitfield, Shimkus, Radanovich, Pitts, Walden, Terry, Sullivan, Murphy of Pennsylvania, Burgess, Blackburn, Gingrey, and Scalise.

Staff Present: Phil Barnett, Staff Director; Kristin Amerling, Chief Counsel; David Rapallo, General Counsel; David

Cavick, Minority Chief of Staff; Lance Kotschwar, Minority General Counsel; Alan Slobodin, Minority Chief Counsel; Sharon Davis, Chief Clerk; Carla Hultberg, Deputy Clerk; Caitlin Haberman and Alex Barnett, Amendment Clerks.

The Chairman. The meeting of the Energy and Commerce Committee is called to order. We have three items on the agenda today. We will, one, approve a resolution establishing the Republican membership on the five standing subcommittees; two, vote on issuing a subpoena to the President of the Peanut Corporation of America; and, three, adopt the committee's oversight plan.

None of these issues is controversial. We have consulted with Mr. Barton, his staff, and the subcommittees. So I hope we can proceed fairly quickly.

The first is the resolution on Republican subcommittee membership that Mr. Barton has put forward, and I would like to ask unanimous consent that it be considered as read and be accepted by the committee.

[The information follows:]

***** COMMITTEE INSERT *****

The Chairman. Without objection, that will be ordered and the resolution is adopted.

The second item on the agenda is a motion to issue a subpoena to Stewart Parnell, the President of Peanut Corporation of America, to appear for testimony at tomorrow's hearing before the Subcommittee on Oversight and Investigations regarding the salmonella outbreak in peanut butter products.

[The information follows:]

***** COMMITTEE INSERT *****

The Chairman. And I would ask unanimous consent that the committee agree to that subpoena. Without objection --

Mr. Barton. Reserving the right.

The Chairman. The gentleman is recognized for reservation.

Mr. Barton. I reserve the right to object, Mr. Chairman. I will not object. I do want to expedite this. I do want to point out that we had some discussion in the organizational hearing of the committee about the subpoena powers of the committee and the subpoena authority of the chairman and the ranking member. You and I both agreed that it was one of the most important powers that we have in the Congress and should be used with discretion. So I felt like the first subpoena that needed to be issued by the committee should have some debate and support on both sides of the aisle.

I do support this subpoena. We have the Peanut Corporation of America and we are well aware of this salmonella outbreak. And one of the witnesses did not want to come and one did. They are both probably going to invoke their fifth amendment right against self-incrimination. But I did believe that since this was our first subpoena we should have a vote on it. I will support the vote, Mr. Chairman.

And with that, I remove my reservation.

The Chairman. Thank you, Mr. Barton. The gentleman is correct about the rules. The rules require that we have a vote

whenever the ranking member wants us to have a vote. And I respect the fact that he thinks that the first subpoena issued by this committee in this Congress ought to be voted on.

All those in favor of the motion to issue the subpoena say aye. Opposed no. The ayes have it, and the motion is agreed to.

The third item is the adoption of the oversight plan. This oversight plan has been reviewed by both sides of the aisle. We have taken suggestions by the Republicans and I know of no controversy to it. Let me ask if there is any discussion or questions about the oversight.

Yes, Mr. Barton.

Mr. Barton. Mr. Chairman, on behalf of the minority, we support the oversight plan that is being brought before us today. Your staff has worked with members of the minority staff and shared their agenda. They have included several changes that the minority has requested into the document. So we are supportive of the process and supportive of the plan.

I do wish to point out that we are putting on the President's desk sometime in the near future a stimulus bill that will spend over 100 billion additional dollars into the Medicaid program, and I am hopeful that as a part of the oversight plan we will do some oversight in Medicaid and ways to prevent abuse of that program since we are plussing it up to such a large degree.

With that, I might also point out that we hope that there will be some oversight of the Consumer Product Safety Act. That

is something you and I were on the conference committee in the last Congress and we both supported the conference report. The law of unintended consequences are coming to bear, and there are many small manufacturers and retailers around the country that are being put in an extreme situation since there is no discretion in terms of the testing program regardless of size. That is something that I think we need to do some oversight on and then perhaps tweak the bill at the appropriate time.

The Chairman. Thank you very much, Mr. Barton. I agree with your suggestions, and we want to do the work of oversight, which in my opinion is as important and many times even more important than the legislation.

Let me ask for the vote on the committee's oversight plan. All those in favor say aye. Opposed no. The ayes have it, and the motion is agreed to.

The chairman wants to make an announcement that in 2 minutes there will be a tribute to our longstanding chairman of the committee, John Dingell, who will mark the occasion today of being the longest serving Member in the history of the House of Representatives. So as we adjourn, let us adjourn in his honor and then move as quickly as possible because I think we all want to be there to pay tribute to him.

Mr. Stearns.

Mr. Stearns. Mr. Chairman, I wanted to also bring up -- you and I talked about this. Does the subcommittee still have

jurisdiction over cyber security? Were you able to check on that? Because as I pointed out to you, cyber security was part of the jurisdiction in the last Congress and before that, and I am just wondering if it is still --

The Chairman. Will the gentleman yield to me? It is my understanding that we do maintain jurisdiction over that.

Mr. Stearns. If so, do you mind in the description of what each of the committees has in its jurisdiction to include that? Because right now there is no mention in any of the subcommittees' jurisdiction of cyber security. I think it would be good for --

The Chairman. If there is nothing mentioning that within the jurisdiction of the subcommittees, then it means it is reserved for the full committee. But I think it would be appropriate to have one of the subcommittees --

Mr. Stearns. Well, also I think in terms of having subcommittee hearings, it would be important for us to retain the jurisdiction and not let Homeland Security --

The Chairman. I think the gentleman has made a good suggestion, and let me take it under advisement.

That concludes our meeting and we stand adjourned.

[Whereupon, at 5:00 p.m., the committee was adjourned.]