

PROCEDURE FOR OBTAINING EXECUTIVE BRANCH TESTIMONY

A congressional committee may request (informally, or by a letter from the committee chair, perhaps co-signed by the ranking Member) or demand (pursuant to subpoena) the testimony of a presidential adviser. However, Congress may encounter legal and political problems in attempting to enforce a subpoena to a presidential adviser.

Conflicts concerning congressional requests or demands for executive branch testimony or documents often involve extensive negotiations, and may be resolved by some form of compromise as to, *inter alia*, the scope of the testimony or information to be provided to Congress. If the executive branch fails to comply with a committee subpoena, and if negotiations do not resolve the matter, the committee may employ Congress's inherent contempt authority (involving a trial at the bar of the Senate or House) or statutory criminal contempt authority in an effort to obtain the needed information. Both of these procedures are somewhat cumbersome, and their use may not result in the production of the information that is sought.

When faced with a refusal by the executive branch to comply with a demand for information, Congress has several alternatives to inherent and statutory contempt, although these alternatives are not without their own limitations. One approach is to seek declaratory or other relief in the courts. Previous attempts to seek judicial resolution of inter-branch conflicts over information access issues have encountered procedural obstacles and have demonstrated the reluctance of the courts to resolve sensitive separation of powers issues. Other approaches may include, *inter alia*, appropriations riders, impeachment, and a delay in the confirmation of presidential appointees.

In addition to the options generally available in the event of a refusal by the executive to provide information sought by Congress, when a presidential adviser who is not serving in a department or agency declines to testify before a committee, Congress might wish to establish the entity in which he serves by law, and subject the head of the entity to Senate confirmation.

CONCLUSION

(1) Legal and policy factors may explain why presidential advisers do not regularly testify before committees. (2) Generally, a congressional committee with jurisdiction over the subject matter, which is conducting an authorized investigation for legislative or oversight purposes, has a right to information held by the executive branch in the absence of either a valid claim of constitutional privilege by the executive or a statutory provision whereby Congress has limited its constitutional right to information. (3) A committee may request or demand the testimony of a presidential adviser. Legal mechanisms available for enforcing congressional subpoenas to the executive branch may fail to provide the committee with the desired information. (4) Negotiations may result in the production of at least some of the information sought.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would once again remind all Members, even though other debate may have intervened, to refrain from personal references to the President.

THE COST OF PRESCRIPTION DRUGS IN THE UNITED STATES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 60 minutes as the designee of the majority leader.

GENERAL LEAVE

Mr. GUTKNECHT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend and include extraneous material on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. GUTKNECHT. Mr. Speaker, I rise and I hope to be joined by some of my colleagues tonight to talk about an issue that I have been coming down to the floor of this House for more than 5 years to talk about.

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That is the price that Americans pay for prescription drugs relative to the rest of the industrialized world, and I have often said that we as Americans are blessed and we should be prepared and willing to subsidize people in developing parts of the world, like sub-Saharan Africa. I do not believe, however, that we should be required to subsidize the starving Swiss, the Germans, the French and other industrialized powers.

In the last 5 years, I remember when we first started doing these Special Orders, and I would come down here, and it was basically just me and my charts and the chorus has been growing around the country and we have been joined by Republicans, by Democrats, by Independents and others.

Another point I always try to make is that this is not an issue of right versus left. It is not conservatives versus liberals. As I say, it is not right versus left. It is right versus wrong, and the issue really is that Americans are being held captive here in the United States; and the net result, very predictable result, is that whenever you have a captive market, particularly for a life-saving product like prescription drugs, it is inevitable that we, the world's best customers, would wind up paying the world's highest price.

I know there are some who believe that the answer is for the United States to have some kind of price controls. I am not one that shares that view.

About 4 years ago or 5 years ago now I guess, and one of the reasons I became very involved in this issue was something that happened that was totally unrelated to the price of prescription drugs. The price of live hogs in the United States dropped from about \$37 per hundred weight to about \$7, and these were the lowest prices for our hog farmers in 50 years. Many of my pork producers started calling me say-

ing, Congressman, can you not do something about these incredibly low prices for these pigs? I said I do not know what I can do, and they said, well, could you at least stop all these Canadian hogs from coming across our borders, making our supply demand situation worse?

So, as their Congressman, I called the Secretary of Commerce, I called the Secretary of Agriculture, explained the situation that thousands of Canadian hogs were coming into our markets making the price of pigs in the United States even lower and can we not do something to at least stop all of these pigs from coming into American markets. The answer I got from both the Secretary of Agriculture and the Secretary of Commerce was essentially the same answer. They said that is called NAFTA. It is called free trade, and all of the sudden a light bulb went on over my head, and I said is it not ironic that we have open markets when it comes to pork bellies, not when it comes to Prilosec.

Literally, at that point, I moved from what Winston Churchill said the difference between a fan and a fanatic is, that a fanatic cannot change their mind and will not change the subject. I have become almost a fanatic on the issue of opening up markets to allow Americans to have world-class access to world-class drugs at world market prices.

I am joined by my friend from Illinois, and I would be happy to yield him some time; but I have a couple of charts.

Mr. EMANUEL. Mr. Speaker, if the gentleman would yield, why do you not do the charts because I think it is always the most informative for our audience.

Mr. GUTKNECHT. Let me talk a little bit about this particular chart. A year ago right now I was in Munich, Germany, with one of my staffers. We were on our way home and stopped at the Munich airport pharmacy. As a matter of fact, the name of the pharmacy, if you want to check it out, is the Metropolitan Pharmacy at the Munich airport. Those of us that travel a lot know if you want to get a bargain, the last place you go to get that bargain is to buy at the airport, but we were on our way out of town. We bought then some of the most commonly prescribed drugs here in the United States, and these are the prices that we paid in April of 2003 in Munich, Germany.

When we returned, we went and asked here in Washington, D.C., what the price for those same drugs in the same dosages with the same number of tablets would be here in the United States, and let me show you some of the examples.

Coumadin is a drug that my father takes. Here in the United States, 100 tablets in the United States, about \$92.66. In Germany, the price was \$28.44.

Glucophage, a very effective drug, been around for a long time for diabetes. Over in Germany, 30 tablets, 850