

EXECUTIVE SESSION

- - -
THURSDAY, FEBRUARY 3, 1977
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United States Senate,
Committee on Finance,
Washington, D.C.

The Committee met, pursuant to notice, at 10:10 a.m.
in room 2221, Dirksen Senate Office Building, Hon. Russell
T. Long (Chairman of the Committee) presiding.

Present: Senators Long, Talmadge, Byrd, Gravel,
Hathaway, Haskell, Zorinsky, Curtis, Hansen, Roth and
Schmitt.

The Chairman. The Committee will come to order, please.

Gentlemen, these microphones here are a new innovation.
I suggest that we try them with all mikes turned on today
to see how they work. It is supposed to work in such a
fashion that when you speak up, the microphone is activated,
and it turns automatically back off when you stop talking.

We will see how it works.

First, I want --

Senator Schmitt: Would the Chairman yield for a
comment?

Voice-activated microphones have a tradition of mal-
functioning. I hope that these are better than the ones that

1 we had.

2 The Chairman. Let me lay before you gentlemen the
3 first problem.

4 If the President's economic recommendations to try to
5 put more people to work is going to be acted upon by the
6 Congress, it means that we will have to change the budget
7 ceilings, both on expenditures and revenue.

8 I will call on Mr. Stern to explain the information that
9 I believe he made available to everyone here.

10 Mr. Stern. Mr. Chairman, the sheet that is headed
11 "Revenues for Fiscal Year 1977" shows in somewhat more detail
12 what is on the lefthand side of the blackboard. Specifically
13 the Second Budget Resolution which was passed by the Congress
14 last September allows revenues of \$362.5 billion.

15 If legislation is going to be proposed for a tax cut,
16 that figure will have to be reduced, or else the legislation
17 would be subject to a point of order.

18 In addition to the reduction that you allow for legisla-
19 tion that you will be considering, we should mention that
20 President Ford's budget under existing law estimated revenues
21 for fiscal year 1977 at \$360.9 billion. There is reason to
22 believe that the economic assumptions upon which his estimate
23 was based are perhaps optimistic in the light of more recent
24 events. The staff estimate would actually be somewhat like
25 \$3 billion to \$5 billion lower than that figure.

1 Senator Hansen. May I ask a question?

2 That does not take into consideration either the
3 people presently unemployed because of the weather situation.
4 Would that be an accurate statement?

5 Mr. Stern. That is correct. The Ford Budget contains
6 economic assumptions that are more optimistic than present
7 circumstances would allow.

8 So the question before the Committee on the revenue
9 side is what order of magnitude reduction figure do you want
10 to allow for the legislative program you will be working out,
11 perhaps during the month of March.

12 The Chairman. You have the figures here, as I under-
13 stand it, Mr. Stern, that indicate what we would have to
14 suggest to the Budget Committee in order that the Budget
15 Resolution could be amended to reflect the reduction of
16 revenues and the increase in spending to carry out the
17 President's economic recommendation.

18 Mr. Stern. On the first page, the page called "Revenues
19 for Fiscal Year 1977" is the amount related to the reduction
20 in revenues. On the sheet headed "Expenditures Under Finance
21 Committee Programs" which corresponds to the righthand side
22 of the blackboard are the figures on the outlay side.

23 The President's program, as a whole, I believe is
24 \$15.5 billion worth of tax cuts plus outlay increases, almost
25 all under the jurisdiction of the Finance Committee, \$12.2

1 billion reduction is within the Finance Committee's
2 jurisdiction, \$2.3 billion of the outlay side would be under
3 the Finance Committee's jurisdiction.

4 The Chairman. Senator Muskie wrote me forty hours ago
5 that we have our recommendations available to the Budget
6 Committee no later than tomorrow morning so that, trying to
7 give notice to the Committee members, Senator Haskell is
8 going to ask us for a rule for forty-eight hours notice.

9 I was able to give you forty hours notice that we are going
10 to consider this, and basically, what it amounts to is this.

11 We are not going to have time, as a Committee, to write
12 an alternative package in this room to the President's
13 program. If we are going to make any recommendation to the
14 Budget Committee, the only thing I see that we can do is to
15 merely recommend that the figures set forth on this sheet,
16 which are the cost of the President's program should be
17 considered by the Congress and that the Budget Resolution
18 should be amended to reflect those figures.

19 That is what you have here.

20 Mr. Stern. Actually, you would not have that kind of
21 detail. You would simply recommend one overall revenue
22 reduction figure.

23 Senator Haskell. Mr. Chairman, may I make a
24 suggestion?

25 Maybe we have to, by law, respond to Senator Muskie's

1 letter. If I ever saw the cart before the horse, this is
2 it.

3 Conceivably, maybe people have opinions. Conceivably,
4 those opinions may be changed by hearings. But to say now
5 what we think should be the revenue reduction, the expendi-
6 ture increase, is to speak without -- at least for myself --
7 without a great deal of knowledge.

8 If we can do it, I would recommend writing back to
9 Senator Muskie. We will let him know after the hearings.

10 Mr. Stern. If you do so, the decision will be made
11 by someone else, Senator.

12 Under the Budget process, you do not have any choice.

13 Senator Haskell. I would like to reserve, however you
14 do it, Mr. Chairman, sufficient flexibility so that we do
15 not get bound into any one particular thing.

16 The Chairman. Here is the problem.

17 It started with the Budget Committee. As I have said
18 so many times about this, this Budget procedure works in
19 such a fashion that we cannot do any of the things recommended
20 in the President's program unless the Budget Resolution is
21 amended.

22 The Budget Committee is going to move, I assume, to
23 amend that Budget Resolution so that the President's program
24 can be considered. They want our advice by tomorrow.

25 I suspect what is going to happen is that if we advise

1 them, they will act. If we do not advise them, they will
2 act anyway.

3 Senator Curtis. Mr. Chairman, may I be heard on that?

4 The Chairman. Senator Curtis?

5 Senator Curtis. Under this heading of proposed legisla-
6 tion, I would hope that the staff would draw up language
7 broad enough so that if there is an alternative proposal that
8 after the hearings and discussions here that we decide that
9 that would be better law, that we would not be foreclosed
10 from advancing something.

11 In other words, it is conceivable that there might be
12 some dispute on tax rebates versus reductions, or something
13 of that sort. That is one point that I would like to
14 suggest.

15 Another one. There may be some things that we may want
16 to initiate in this Committee. I am thinking of energy
17 conservation.

18 We have not yet enacted into law the tax benefits for
19 someone who insulates their house or public buildings or
20 office buildings, or anything else, and we do not want to
21 be stopped on a technicality of that kind.

22 That is more or less an emergency. I have been impressed
23 by what the distinguished Senator from Georgia, Mr. Talmadge,
24 has accomplished and has advocated over the years in the
25 way of a tax credit on employment. It relates primarily to

1 AFDC, but we may want to use that system in reference to
2 general, hardcore unemployed, or youth who have never found
3 a job, sometimes referred to as "targetted unemployment", but
4 a tax credit to the employer.

5 I am not suggesting that we decide it now. What I am
6 suggesting is that we make our report broad enough so if, in
7 the wisdom of this Committee, after hearings and discussions,
8 that we want to pursue some of these things, that we may
9 do so.

10 The Chairman. Would not this recommendation allow for
11 that? Would that not provide some additional room so that
12 we could consider the kinds of things that Senator Curtis
13 has in mind?

14 Mr. Stern. Yes, sir, depending upon the dollar amount
15 you pick; whatever figure you pick, you are only picking one
16 overall revenue figure. It is up to the Committee to decide
17 what combination of proposals they want to put together to
18 add up to that figure.

19 Senator Hathaway. Which could either be an expenditure,
20 or a tax cut, right. You say we want to increase counter-
21 cyclical to \$14 billion? We can do that. We pick \$14
22 billion as a ceiling.

23 Mr. Stern. What you are coming up with here are two
24 numbers, one number on the revenue side, one on the outlay
25 side. On the outlay side, you may also be breaking down that

1 further between the income maintenance category and whatever
2 category Revenue Sharing falls under.

3 The Resolution has an overall figure for revenue and
4 outlays ^{figure} are broken down into fifteen categories. Each
5 category is separate.

6 Senator Hathaway. We are stuck, to that extent.

7 Mr. Stern. That is right.

8 You have to conform to the nature of the Resolution.
9 As far as, for example, a trade-off between how much for
10 taxes and how much for Revenue Sharing, that is a decision
11 you would have to make at this point.

12 The Chairman. Let me ask this question. What two
13 figures -- could provide adequate revenue and adequate
14 spending for the President's program? What two figures would
15 that have to be?

16 Mr. Stern. On the revenue side, \$12.0 billion for
17 revenues; and on the outlay side, \$1.8 billion for the
18 income security category and \$0.5 billion for the Revenue
19 Sharing category.

20 The Chairman. I am going to suggest that the Committee
21 instruct me, as Chairman, sending a letter over suggesting
22 those figures, because that is what the President's program
23 is. We will need that to be considered.

24 Now, I want to get from Mr. Shapiro, what is happening
25 over there on the other side.

1 Senator Gravel. I am slightly confused. I thought that
2 the President's program was larger than that?

3 The Chairman. This is fiscal year '77 only. By
4 March 15th, you have to make a judgment on what you are going
5 to do in fiscal year '78. The immediate problem is, unless
6 the last year's Second Budget Resolution --

7 Senator Gravel. What was the total for '78?

8 Mr. Stern. The total for fiscal year '78 is \$15.7
9 billion, approximately the same proportion as in the Finance
10 Committee.

11 Senator Gravel. We are talking about \$30 billion?

12 Mr. Stern. I am sorry; in the second year, because they
13 do not have the rebate. A lot more money is in other
14 Committees, under jobs and public works.

15 The Chairman. Now tell us, Mr. Shapiro, what is
16 happening over there in the Ways and Means Committee right
17 now?

18 Mr. Shapiro. The Ways and Means Committee is faced
19 with the same problem that you have. ~~with~~ The Budget Committee
20 has requested of them a figure put in the Budget Resolution.

21 The way that they have worked it out is that the Ways
22 and Means Committee has told the Budget Committee to put in
23 the Budget Resolution the Administration's figure, because
24 the Ways and Means Committee has not begun to mark up the
25 bill.

1 The Ways and Means Committee would anticipate beginning
2 mark-up right after the Lincoln Day recess, when they should
3 hope to finish by the 18th of February. The Budget Resolution
4 is expected to go before the House that Monday, and they will
5 accept a Floor amendment from the Ways and Means Committee
6 to revise their figure in their reported Budget Resolution
7 to conform to the amount that the Ways and Means Committee has
8 in its package.

9 So they are actually giving the actual amount that is in
10 the program now, because that is the only amount that they
11 have.

12 Senator Gravel. Mr. Chairman, perhaps we could take a
13 straw vote and you could make a determination. It would be
14 easy to instruct you that we go along with the Administration,
15 if that is the view of the Committee, that we would not be
16 making a larger package than what the President has
17 proposed.

18 The Chairman. We may want to change it.

19 Senator Gravel. I am talking about the amounts, not
20 the package, which is essentially what we are asking.

21 Senator Hathaway. We have two different amounts:
22 outlays and tax cuts. We might want to increase the outlays
23 at the expense of the tax cut. That amounts to the same
24 net figure As Senator Gravel says, if we do not have a
25 bigger figure, we cannot increase it.

1 The Chairman. Whatever we do, in terms of making a
2 recommendation, there is something we might want to change
3 before that Budget Resolution is finally passed out there
4 in the Senate. We ought to give them an answer right now.

5 To say, based upon what we can foresee at this moment,
6 we would anticipate that the President's program should be
7 considered, that it would require that these figures that
8 we have been discussing here, and then if our deliberations
9 subsequent to this should suggest a higher or a lower figure,
10 we could offer that amendment on the Floor.

11 Senator Hathaway. As I understand it, we have two
12 weeks to do that.

13 Mr. Stern. What I am thinking is that they will try
14 to have this Resolution taken care of within two weeks so
15 that the House can pass it.

16 Senator Gravel. What is the deadline for the Floor
17 action?

18 Mr. Stern. No deadline for '77, because you already have
19 a Budget Resolution. But you would not be able to act under
20 any tax bill under that resolution.

21 Senator Gravel. Why could we not take a waiver, at the
22 same time we bring it to the Floor? I do not see why we
23 have to be committed ahead of time.

24 I do not know what Senator Muskie is thinking. When we
25 take things to the Floor that are out of line, you immediately

1 get on the Floor and ask for a waiver.

2 Why should we precommit ourselves? There is no deadline
3 which there is not, you are right. I do not know why we
4 are going through the exercise other than for the personal
5 information of Senator Muskie.

6 Mr. Stern. It may not be so easy to get a waiver from
7 the Congressional Budget Act if, indeed, the Budget Committee
8 would even agree to a waiver.

9 Senator Gravel. They are under the same constraints
10 as we are. The President is asking for something to give to
11 the nation. Whether we give them a horseback estimate now
12 that meets no timeframe, or whether we just tell them, we
13 are going to consider the President's package when we have
14 information.

15 Here is the trouble you could get into. They may not want
16 to take your figure, then they want to start holding hearings.
17 You are going to get back to the problem you had last year
18 when they want to play Finance -for-a-Week.

19 Senator Haskell. May I interrupt?

20 If you write the letter you are talking about and
21 preserve our rights to offer a Floor amendment to the Budget
22 Resolution, we are home free.

23 Senator Gravel. I agree.

24 Senator Haskell. I think we should authorize the
25 Chairman.

1 The Chairman. Is there any objection?

2 Without objection, that is agreed.

3 I want to lay before you another problem that should be
4 decided in connection with this.

5 Would you mind explaining, Mr. Stern, the problem that
6 we are going to have with the Budget Committee about the
7 refundable tax credit?

8 Mr. Stern. Up until now, refundable tax credits have
9 been considered part of the revenue picture and are just
10 netted out in the revenue figure, and that has been the
11 practice both of this Committee and the Budget Committee.

12 We understand that the Office of Management and
13 Budget is very anxious that refundable tax credit be
14 considered expenditures rather than revenues. This would
15 severely limit your flexibility in dealing with the tax
16 law, because you would not be able, for example, to have
17 a refundable tax credit and then have an additional tax
18 for somebody else to pay for it in the same bill. You would
19 wind up with one being an expenditure program and the other
20 one being a tax increase.

21 While you could increase the taxes with impunity, under
22 the budget procedures, you could not raise the outlays.

23 So we would strongly suggest in your letter you include
24 reference to the fact that refundable tax credits be considered
25 as the overall revenue figure, because you act in the context

1 of revenue legislation.

2 Senator Hathaway. Right.

3 I so move.

4 The Chairman. Without objection, we will urge that
5 to the Budget Committee.

6 Let us consider this next part about our Committee
7 jurisdiction.

8 Gentlemen, we may find it necessary to offer an amendment
9 to the Stevenson Reorganization Proposal with regard to
10 health care legislation. The Stevenson Resolution was
11 not supposed to reduce the jurisdiction of the Finance
12 Committee, but it may be construed as doing that, because
13 the new Committee on Human Resources has the same jurisdiction
14 of the Labor Committee, but in the first provision of the
15 jurisdiction of that Committee, the word "health" is added
16 where it did not appear before.

17 That being the case, I fear, in discussion this with
18 the former Parliamentarian, Mr. Ritich, that there is some
19 basis for having such a fear. It should be contended that
20 any health insurance bill that ordinarily would go to this
21 Committee would go to the Labor Committee instead of the
22 Finance Committee.

23 We might get this matter cleared up by colloquy, but I
24 think that it would be more desirable to make that clear, that
25 health programs under the Social Security Act and health

1 programs financed by a tax or trust fund, would be within the
2 jurisdiction of the Finance Committee. Otherwise, we may have
3 some problems.

4 The Labor Committee, by my view, has already had the
5 authority to consider a major health bill, if they drafted
6 their bill in such a fashion that their bill was an authoriza-
7 tion to be funded by annual appropriations.

8 Some years ago, Senator Kennedy drafted two very ambi-
9 tious health insurance bills, one of them financed by tax,
10 the other one financed by annual appropriations.

11 The one financed by the tax went to the Finance Committee,
12 as I think it should have gone. The other one was referred
13 to the Labor Committee which, I believe, would be an
14 appropriate reference in that situation.

15 But since that word "health" has been added with regard
16 to the new Human Resources Committee, I suspect that we might
17 find it necessary to offer an amendment to make it clear that
18 our jurisdiction does include these health programs.

19 Senator Curtis. Would you yield?

20 The Chairman. Yes, sir.

21 Senator Curtis. On that same point, the Committee on
22 Human Resources is given jurisdiction of private pension
23 plans, and that is clearly a tax matter. Private pensions
24 become possible because the money that goes into a pension
25 plan is free of tax. Historically, that was handled by the

1 tax writing committees, and it should be. We determine
2 what is taxable income and what is a deduction or exclusion.

3 We also have the jurisdiction to determine that pension
4 fund growth is tax-free. For years, it went on with our
5 jurisdiction over private pensions.

6 In the ERISA Act, the Labor Committee in both Houses
7 got involved -- good people there, but it became cumbersome.
8 We had four Committees in conference, instead of two.

9 We ended up overregulating. There have been three
10 times as many private pensions discontinued as is normal.
11 There is always something. One would get started and the
12 company has difficulties, or it never gets off paper, so
13 there is discontinuance.

14 In my state, I held an all-day seminar explaining
15 ERISA. They were intensely interested in KEOGH and the
16 Individual Retirement Act, and there was not a question asked,
17 how do we establish a company pension, but there were dozens
18 of questions asked, how do we discontinue it?

19 They fixed certain liabilities in reference to it,
20 over-regulated it, and so on. I do not know what the intent
21 is here, but in this pamphlet on the Committee on Human
22 Resources, item number 11, relates to private pension plans.
23 If they have total jurisdiction, they are going to be
24 writing tax law.

25 I think we should give it attention.

1 Senator Schmitt. Would the Senator yield at that
2 point?

3 Senator Hathaway. When was the last time the Committee
4 had jurisdiction with the Finance Committee on ERISA, but the
5 Labor Committee's primary function was to protect the rights
6 of the worker. They did not get into the financing part of
7 it.

8 Senator Curtis. It made a cumbersome operation. We
9 ended up with a terrible law, one that instead of advancing
10 the cause of pensions for workers, more companies are discon-
11 tinuing their pension plan, and fewer are starting it.

12 Senator Hathaway. A lot of that is because of the
13 paperwork involved and the amounts they have to pay
14 attorneys and so forth, to understand the law. Just because
15 the law is complicated does not mean that the rights of the
16 workers were not protected.

17 Senator Curtis. If they do not get a pension at all,
18 their rights are certainly jeopardized, and then this
19 Committee, I think, had to make certain decisions because of
20 the veto power of the other committee in the quest of getting
21 something passed.

22 Senator Gravel. We should not let that happen. I think
23 we should go to the Floor with an amendment, and see that
24 we fulfill our responsibilities on private pension plans.
25 If they affect taxes, there should be a referral.

1 Senator Hathaway. They are saying that it should be
2 taken from Labor altogether.

3 Senator Gravel. I misunderstood.

4 Senator Curtis. That would result in a lot of pension
5 plans that help more workers.

6 Senator Gravel. Did you say that under the present
7 proposal that they have total jurisdiction?

8 Senator Curtis. I do not know. Does someone have the
9 language of the present law?

10 Mr. Stern. The jurisdiction does not change with
11 respect to the Internal Revenue Code.

12 Senator Curtis. What does it say about pension plans?

13 Mr. Stern. The new language on the Committee on
14 Human Resources is, private pension plans. At the same
15 time --

16 Senator Curtis. What committee?

17 Mr. Stern. Human Resources.

18 Senator Curtis. What does that say about private
19 pension plans for Finance?

20 Mr. Stern. In the Rules Committee Report, they made it
21 clear that there is no change in Finance Committee jurisdic-
22 tion, except with respect to the Renegotiation Act, to the
23 extent that the Finance Committee is involved in private
24 pension plans.

25 Through the tax law, there is no change.

1 The Chairman. Is this language that refers to private
2 pension plans under the jurisdiction of the Human Resources
3 Committee? Is that new language?

4 Mr. Stern. Yes, that is right.

5 The Chairman. If that is the case, we could have the
6 same problem that I am talking about with regard to health,
7 where one could introduce a bill that has to do with private
8 pension plans and say that under the rules, this goes.

9 Senator Gravel. You could get that cleared up in
10 colloquy, or in an amendment.

11 Senator Curtis. Your rule will stand long after the
12 colloquy and report have disappeared.

13 Mr. Shapiro. Let me make an observation.

14 There are a number of items. You have to be careful
15 not just to look at pension plans, because the list also has,
16 for example, aging, child labor. You do not want to give any
17 indication, if you pick out one and talk about taxes, that
18 that means this committee not talk about the tax treatment of
19 the aging or tax treatment of child labor or tax treatment of
20 foreign laborers.

21 I think that it is clear -- and I agree with Mike. The
22 Finance Committee really does have jurisdiction of the tax
23 aspects of all of these areas.

24 If you have any colloquy, you have to be careful not to
25 limit it to one area. Then you have to leave gaps in the

1 others.

2 Senator Schmitt. Mr. Chairman?

3 The Chairman. Senator Schmitt.

4 Senator Schmitt. Just to comment, what relates to this,
5 there have been a number of intriguing suggestions about how
6 we can get out of our longterm projection, the difficulties
7 relative to Social Security. We are going to find that
8 private pension plans are going to be suggested, at least, as
9 one of the major ways of doing that with a high return on
10 the investment that the normal individual will get from
11 Social Security.

12 That relationship also, not just taxes and Social
13 Security. The concern is a very real one, independent of
14 tax, also related to Social Security.

15 The Chairman. Well, I would suggest for now that we
16 just hold this matter in abeyance. I can discuss it
17 further with other members of the Committee after we meet
18 today. I do think that, particularly with regard to health,
19 that that is a problem perhaps that we should address our-
20 selves to by way of amendment.

21 Now, let me bring this other matter before the Committee.

22 Senator Clark had proposed an amendment that would
23 say as follows: "All standing Committees establish at least
24 three legislative subcommittees and all bills be referred
25 to subcommittees, unless the full Committee, with a majority

1 of members present votes not to do so."

2 Now, I can see all sorts of problems with that, insofar
3 as this Committee is concerned. It was my thought, when
4 other Senators approached me, about putting further legisla-
5 tive authority in the subcommittees, that we ought to discuss
6 that as soon as we are organized under the Rules, that there
7 is a Rule about who the members are going to be, and have
8 this reorganization thing behind us and decide how we are
9 going to deal with these things.

10 I can live with any sort of arrangement that the Committee
11 wants to make, but just for starters, let me suggest under
12 this, if we are required to put all our bills in subcommittees --
13 which the rules do not require now -- then we have the
14 problem of working against a time limit, which is frequently
15 the case with these big revenue bills, of getting the bill
16 back out of the subcommittee.

17 Now, every Senator here will want to participate with
18 regards to a tax reform act. They will all want to partici-
19 pate with regards to a welfare reform act. If we have a
20 major trade bill, as we had a few years ago, they are all
21 going to want to participate in both hearings and in the
22 sessions.

23 In my judgment, this could give us problems, especially
24 when a Senator can only be appointed to three subcommittees.
25 That would limit the number of Senators that could be appointed

1 to a certain subcommittee With regard to some of these
2 major bills, two-thirds of the members of this Committee would
3 be foreclosed from participating in the hearings, or partici-
4 pating in the first markup session.

5 It presents us with a problem of what happens when we
6 only have so much time to get something done. If we are
7 going to have to cover the same ground two times, it will
8 make it difficult for us to meet these deadlines that we are
9 constantly being confronted with because we cannot initiate
10 legislation here. It must be initiated over in the House of
11 Representatives, and frequently we have these important bills
12 that have to be acted upon promptly.

13 Now, if we are going to have a subcommittee make its
14 decision with regard to every item in those bills, and then
15 duplicate that action in the full Committee, that is going
16 to very much slow down the process.

17 For example, the tax reform bill that we had last year
18 could have taken an extra six weeks if we had had to make
19 the decisions twice, once in subcommittee and once in the
20 full Committee.

21 Now, I would think that the best answer to this would
22 be for the Committee to resist this amendment and take the
23 view that this Committee, and any other Committee, for that
24 matter, ought to shape their committee procedures and their
25 subcommittees to meet the problems in their committees.

1 Now, last year -- two years ago -- I went before the
2 Rules Committee on behalf of this Committee. I asked to
3 provide us additional staffing. They gave us about half of
4 what we asked for.

5 Since that time, Senator Gravel sponsored a resolution
6 that asked the Senate to provide that any Senator who did not
7 have someone working for him, or under his direction, as a
8 member of the Subcommittee, should have someone assigned to
9 him. That is Resolution 60, as I recall it.

10 Senator Gravel. Yes.

11 The Chairman. We may need additional staffing. If so,
12 I will seek to ask for it on behalf of this Committee, if that
13 is what the Committee wants. I do think that that is something
14 that the Committee should decide.

15 Senator Talmadge. Would you yield at this point?

16 The Chairman. Senator Talmadge.

17 Senator Talmadge. In addition to having our markups
18 twice, as you pointed out, in lieu of once, we have subcom-
19 mittees in Agriculture, and we refer, not all the bills
20 to subcommittees, but a good many of them.

21 Another difficulty that you have not mentioned is the
22 problem of trying to get a quorum for a subcommittee. About
23 half the time, we have to refer the bill from the subcommittee
24 to the full Committee in order to get a quorum to act on
25 it.

1 Senator Hansen. Mr. Chairman?

2 The Chairman. Senator Hansen.

3 Senator Hansen. May I be heard on this?

4 I think one of the real problems that we face in the
5 whole experience that has brought about the demand for
6 reorganization has been the proliferation of subcommittees.

7 Frankly, in my judgment, I would say that we could do
8 away with more than half of the ones that we now have and
9 the net result of it would be to advance a wider awareness
10 among members of the Senate as to what is going on.

11 I am on subcommittees of four Committees: Interior,
12 Finance, Health and Aging, and gosh, some of the full Committees
13 I do not even get to because I will have three or four, often-
14 times three or four meetings, either Committee or subcommittee
15 meetings scheduled at the same time. And I just think that
16 if we pursue this direction, it occurs to me that there
17 will be fewer of us afforded the opportunity to consider
18 very important legislation.

19 I think this Committee, among all others, is very
20 important. Indeed, as the Chairman has pointed out, most
21 of the bills upon which we operate have to come from the
22 House anyway -- not that we do not initiate a lot of things
23 here too.

24 But I think that that is going to go in the wrong
25 direction.

1 Senator Hathaway. I think the apprehensions of the
2 Chairman and other members of the subcommittee can be taken
3 care of very easily by saying that the subcommittee shall have
4 legislative jurisdiction over all matters referred to them
5 by the full Committee, which would take a vote of the full
6 Committee in order to have the subcommittee get the bill in
7 the first place.

8 In the course of the discussion that you and I had,
9 at the time of markup, the subcommittee chairmen ought to
10 offer the full Committee the opportunity to consider it in
11 markup. As you say, the health care bill, the tax reform
12 bill -- naturally, you do not want to have a subcommittee
13 spend two or three months on that and then have the full
14 Committee spend two or three months on it. It is ridiculous.

15 If it is just a modification of the Social Security Act,
16 which is something we would be taking up this year, I would
17 think that that would be a matter that you would want to give
18 to a subcommittee to hold hearings on, while the full
19 Committee is doing something else.

20 Probably the bill, as reported out, would go through
21 the full Committee without very much difficulty at all.

22 So the full Committee always has control of it by
23 majority vote. We could cut out the subcommittee from holding
24 any more hearings, if we wanted to.

25 That is true in any committee, as I understand it -- any

1 one that I serve on.

2 The Chairman. Let me spell out the problem as I see
3 it, and how I might suggest we would resolve it.

4 The subcommittees have very much assisted the full
5 Committee in moving along the legislative workload by holding
6 the hearings. Now, it is not at all unusual -- in fact, I
7 think it is par for the course -- that a subcommittee chair-
8 man especially will become completely familiar with what
9 the problem is and what he thinks the answer is to be. He
10 will have staff working with him, and some assistance from
11 other members of his committee. Sometimes, he has to hold
12 most of those hearings by himself, and when he is through
13 with his hearings, if he has the type thing that Senator
14 Haskell was working on, for example, he pretty much has in
15 mind what he thinks the answers to the problems are.

16 If he has difficulty in obtaining enough attention from
17 the other subcommittee members for them to fully participate
18 and propose a legislative answer, sometimes he will just
19 draft it up himself or with the aid of the staff people
20 assigned to him. He will offer that as an amendment to a
21 revenue bill, as Senator Haskell did with regard to the
22 Tax Reform Act.

23 Now, there will be other times when he will want the
24 subcommittee to join with him in making a legislative
25 suggestion. We have seen some of that done, where Senators

1 who are Chairmen and Ranking Members will join and cosponsor
2 a measure that they believe meets the problem that they have
3 held hearings on, and discussed.

4 There are going to be other times when they will have a
5 more complicated bill, where other members of the Committee
6 would like to participate and make those suggestions in
7 marking a bill up.

8 In that case, it would be appropriate for the full
9 Committee to meet and discuss the various suggestions that
10 can be made, and to act. I do not anticipate this being
11 any real problem.

12 The one thing that I would want to avoid is what I
13 believe to be a mistake made by the House Ways and Means
14 Committee already, and that is to put bills in the subcom-
15 mittees and then the bills never see the light of day again.

16 So that we over here on the Senate side, scream, please
17 send us something in the way of health insurance, and it
18 never comes over; and then we say, please send us something
19 on welfare reform, and it never comes over.

20 And so we just sit and wait and wait, and sometimes
21 they give the impression that the subcommittee chairman feels
22 very powerful because he never let the bill emerge from
23 his subcommittee. He just sits there.

24 If anybody wants to talk about that particular
25 problem -- he is the only man to see it, because nothing is

1 going to happen until the bill emerges from his subcommittee.
2 In view of the fact that nothing ever comes out of the
3 subcommittee, his power has not been diminished for a moment.
4 If it ever gets beyond his subcommittee, then someone else
5 is in a position to have some say about what happens to that
6 bill.

7 The leadership on the Floor or those in the other House
8 have an opportunity to act on it. At that point, people are
9 no longer beating a path to his door. They are beating a
10 path to the door of the other people who are further down
11 the legislative process.

12 And I believe that we would be well advised to do
13 business in such a way that we simply do not foreclose the
14 full Committee from acting on measures on which it wants to
15 act. That puts the subcommittees in a position that they
16 are pressing for action and trying to persuade the full
17 Committee on answers they are developing, but not an impedi-
18 ment from answers to meet the nation's needs, but an
19 instrument to bring them about.

20 Senator Haskell. I had not heard of this until you
21 brought it up. Did you not read there that the full
22 Committee could take over anything it wanted to? Is that
23 not a part of what Senator Clark had?

24 Obviously, in a tax reform bill, such as the thing we
25 are going to discuss here, I wonder if the problem is not

1 moot, even under Senator Clark's proposal.

2 The Chairman. This would say all bills -- I believe
3 he is going to offer this on the Floor -- all bills be
4 referred to subcommittees unless the full Committee, by a
5 majority of members present, votes not to do so.

6 The tradition in this Committee has been that our most
7 significant bills remain with the full Committee and are
8 acted upon by the full Committee, and I think that is how
9 we will want to do it.

10 I expect to participate in some of these subcommittee
11 proceedings, as a member of the full Committee. I do not
12 want to have any problem with wounding the feelings of any
13 individual Senator by saying that we want to act in this
14 area and we want to discharge your subcommittee.

15 I think we would be a lot better off to simply let the
16 bill be referred to the full Committee. The Committee has
17 the bills, then the subcommittees can go on ahead and make
18 whatever investigations they want to, whatever suggestions
19 they would like to make, but leave the full Committee the
20 option at all times if they want to act on some subject
21 that they can act.

22 The alternative is to see some of the ridiculous
23 situations that I have seen in my experience in the Senate
24 where the entire Congress would like to act on something but a
25 single Senator, chairman of a subcommittee, would be saying,

1 I am sorry, we are not ready. We want to think about this
2 matter further. We have conducted some hearings, but we
3 might want to conduct further hearings. I will let you
4 know when I am ready.

5 Senator Haskell. There has to be a happy medium between
6 two extremes. I agree with you certainly -- the major health
7 bill, goodness knows, that should be in the full Committee,
8 a major tax bill ought to be in the full Committee.

9 There were certain bills, such as Bill Hathaway mentioned,
10 that should go to a subcommittee. How to implement it, I do
11 not know.

12 The Chairman. Here is what I think we should do. I think
13 that we should insist that the full Committee on Finance
14 ought to work this matter out among its own members, that the
15 Senate should not try to solve this problem for us.

16 We are a small enough body that we have flexibility.
17 We can consider all of these things.

18 Up until now, we have had no problem. I do not think
19 that we will, if we work it out among ourselves. I do not
20 see how the Senate, however, can give us any better judgment
21 than we, as a Committee, are capable of generating ourselves.

22 Senator Hathaway. It would be better if we could work
23 it out this morning so that it if it comes up this afternoon --
24 we are the only committee you are talking about, working it
25 out.

1 I think some of us would be compelled to vote for the
2 Clark amendment, absent any action taken by the full Committee
3 here, because we do not know what the votes are here, to get
4 any legislative authority whatsoever.

5 Senator Curtis. I think that if anything on the Clark
6 amendment is undertaken, it should apply to all committees.

7 Senator Hathaway. It does apply to all committees.

8 Senator Curtis. Certainly, there is nothing gained by
9 that. Committees have different problems and different
10 things, just like they have had to make some exceptions for
11 the Appropriations Committee.

12 Here is another problem. The new Rule is going to pro-
13 vide that a Senator cannot serve on more than three committees.
14 Also, the Reorganization Resolution takes one of the Repub-
15 lican spots from this Committee. It reduces the size of
16 the Committee from eighteen to seventeen, and offering an
17 amendment would be up to the total membership whether they
18 do anything about that amendment.

19 If we only have six members, we may have some problems
20 assigning Senators to subcommittees and end up with some
21 subcommittees with legislative jurisdiction and with no
22 Minority members on them.

23 The Chairman. May I make this suggestion?

24 Senator Gravel. What is going to be the distribution
25 of the Committee, Mr. Chairman?

1 Senator Curtis. I would hope that everyone would help
2 us on raising the committee number back to eighteen.

3 The Chairman. That is all right with me.

4 First, let us try to decide this matter about the
5 subcommittees. Why do we not simply agree among ourselves,
6 if it meets with the view of those present, that our
7 subcommittees may make legislative recommendations, if they
8 desire to do so. That is what we are talking about.

9 Senator Gravel. That is no different than what you have
10 right now. You can hold hearings and make a recommendation.
11 If you have only been one person holding hearings, essentially
12 the full Committee is co-opted.

13 There is a benefit -- let me speak to the benefits of
14 the Clark proposal. I do not know if this is the only
15 Committee involved, but on the Public Works Committee, we
16 have subcommittees, everything goes to subcommittees. There
17 is no big rhubarb over it all. They handle important things,
18 like we handle important things.

19 Take the experience of last year where under a one
20 track deal, we could have several things going on at the same
21 time. We line up. We all do taxes together, trade
22 together. Essentially, you have one little orifice we are
23 all crawling through. The nation is stymied and
24 does not have the benefit of our full spectrum.

25 If you have the subcommittee and there is an energy

1 problem, they can go out and do something on energy and
2 bring it to the full Committee, but with no legislative
3 power at all, they cannot bring anything to the Committee
4 but a recommendation. That is about as much weight as it
5 has, the weight of a recommendation.

6 The Chairman. What I am suggesting is that the committee
7 can bring a legislative recommendation to me if you want
8 to, you can draft a bill however you want to draft it,
9 put anything in there you want to.

10 Senator Gravel. You know as well as I do, the only
11 time it gets any attention when you have somebody sending you
12 a bill and they want it out, and that is the old political
13 game. Now that we have everybody's attention, we will do
14 something on energy, something on pension reform and that
15 happens.

16 Our committees have been languishing. We have had
17 hearings in my subcommittee this high (Indicating). It gets
18 treated in a very perfunctory matter. When we talk about
19 energy, the totality of the Committee, nothing formal that
20 came out of the Committee.

21 The Chairman. If you cannot muster the votes to get
22 the full Committee, or to get the Senate to vote for
23 your proposal, then that is not the fault of the subcommittee
24 and it is not the fault of the full Committee, not the fault
25 of the Senate.

1 All you are doing at that point is just experiencing
2 a frustration that I felt for twenty-eight years around here
3 when I thought I had some good idea and I could not persuade
4 the Senate to agree to it.

5 Senator Gravel. On the Public Works Committee, I chair
6 the Water Resources Subcommittee. I have a great wisdom in
7 that area, but not great wisdom when I am chairing the
8 Energy Committee. I do not want to take it personally, but
9 we can bring things to the Floor that involve a billion or
10 more dollars, that involve every state in the Union, and
11 carry it all the way through.

12 I have not seen something come from an individual
13 subcommittee in the Finance Committee to do it.

14 The Chairman. The Senators who have been chairmen of
15 subcommittees have submitted measures to us that they felt
16 were the answer to the problem and we have voted those
17 things through on occasion.

18 For example, Senator Talmadge held hearings with regard
19 to rip-offs involving Medicaid and Medicare. He proposed
20 the bill to us to meet the problem. We added it to one
21 of our revenue bills and passed it. The House did not act,
22 but that is their fault, not ours.

23 We will act on that measure again. We will add it to
24 some revenue bill, and it will become law.
25

1 Senator Bentsen had some ideas in the area of capital
2 formation. After he conducted his hearings, he proposed that,
3 and we acted.

4 If you want to propose something else, you can.

5 Having served on other committees and having, on
6 occasion, found that you could not get the full Committee to
7 meet, you did not have a quorum there, sometimes I find it
8 necessary to ask that the full Committee meet and act on a
9 bill.

10 We have, in many cases, measures that must be acted
11 upon by deadlines, and when we do, we should not be fore-
12 closed from doing that because the bill is stuck in the
13 subcommittee.

14 Senator Gravel. Every other committee has deadlines,
15 too.

16 Senator Hathaway. What are you worried about? If the
17 full Committee, by majority vote, can take anything away from
18 a subcommittee, the majority can give it to the subcommittee,
19 the majority can take it away from the subcommittee.

20 In most cases, subcommittee chairmen are going to act
21 responsibly, hold hearings, and mark up as soon as they
22 can. I do not think you are going to run into the same
23 problem.

24 The Chairman. I would hope that when the time comes
25 that we are going to act on something that we would not have

1 to move to discharge the subcommittee and the best way to
2 avoid ever having to discharge a subcommittee is simply
3 not to go through a formality of assigning the bill or
4 committing it to a subcommittee, call upon a subcommittee
5 to hold hearings.

6 Senator Gravel. Make a trigger time limit. Everything
7 is automatically referred to subcommittee; everything
8 automatically has to come back within a given period of
9 time. That is a good discipline.

10 You will have subcommittees, everybody working, taking
11 an interest and making a contribution.

12 The Chairman. I honestly think, if we are going to
13 have bills -- for example, let us look at our major bills.

14 Do we want, if we have another tax reform bill -- that
15 consumed a great deal of our time last year -- do we want to
16 put that in a subcommittee and wait until the subcommittee
17 acts?

18 Senator Gravel. We could vote not to do it.

19 Senator Haskell. Let me make a suggestion. I think
20 maybe there is a practical medium, using language inter-
21 preted in good faith.

22 What we are talking about is that major, broad legisla-
23 tion obviously should be the full concern of the full
24 Committee. When you are talking about something specifically
25 zeroed in to Social Security, it should be in the subcommittee.

1 Surely we can work out some language, if that concept is
2 acceptable to the Committee, surely we can work out some
3 language to put into the Rules.

4 I do not know if that concept is acceptable.

5 Senator Gravel. A vote of the full Committee would
6 do it. It is obvious that this legislation would be handled
7 by the full Committee. We have a timeframe; we do not need
8 to go through a subcommittee.

9 We convene. We say, here we have a bill that is of
10 national import. The President asked for it. We all vote
11 right now -- keep it in full Committee and get it done.

12 But it is a matter of doing business. We should do
13 business the way the rest of the Senate does business. We
14 have subcommittees, responsibilities, and things should
15 flow that way, and we could even get a triggering mechanism,
16 make them flow back. Thirty days -- no Committee could hang
17 onto something for more than thirty days; report back the
18 progress to the full Committee, or report the bill.

19 Then it is automatically up for a vote before the
20 Committee whether or not -- you are not placed in the
21 situation of embarrassing the subcommittee by discharging
22 it. It is automatically discharged.

23 Senator Hansen. Mr. Chairman, the problem that I think
24 we may not fully appreciate right now -- while I did not
25 vote for Governor Carter, he was elected. One of the

1 observations he made, he was running against the establish-
2 ment up here.

3 I think we ought to keep in mind that a heck of a lot of
4 Americans think that they have better answers than we have
5 here, and one of the things that results from this prolifera-
6 tion of subcommittees is that every guy on earth is in the
7 wheel every day. He thinks he has a new idea that has not
8 been heard of before.

9 I do not think that our ideas are all that sound. If
10 we have one of the things that does happen by having
11 fewer subcommittees is that more people get to examine closely
12 what some of these ideas are. I do not know how many
13 subcommittees we have on energy. You and I happen to be on
14 that one.

15 I think you and I have better answers than they have
16 had in Interior, Public Works, someplace else. Nevertheless,
17 we have not been able to sell them.

18 It occurs to me that if you want to speed -- speedgetting
19 legislation, as you suggest, having to report back at a time
20 certain on a vote on it, you are going to get more bills
21 that more people will not know anything about.

22 I voted for OSHA -- nobody is going to be against health
23 and safety. We did not know what was in that bill. We are
24 finding out now that a heck of a lot of people throughout
25 the United States do not think that the regulations that

1 have been drafted are really that good.

2 What I am saying is, maybe we do not need 19,000 bills
3 introduced and considered and voted on in every session of
4 Congress. I happen to think that we do not.

5 Senator Gravel. I do not disagree with that. I would
6 add that we presently have eleven subcommittees. I think
7 that we could sit here right now and discuss it and shake
8 that down to seven subcommittees. Seven subcommittees, four
9 subcommittees, whatever the natural lines of attack in this
10 area are, and if there are not enough subcommittees to go
11 around at the seniority level, so be it. If there is, so
12 be it, too.

13 I would be prepared --

14 The Chairman. I would personally hope that we are not
15 going to adopt a rule to put all of our bills into subcom-
16 mittees. I just think that the most significant bills that
17 we have are major bills. We are going to want to conduct
18 a hearing with everybody present and we are going to want
19 a markup session with everybody present, because every
20 Senator is going to want to participate equally anyway.

21 Senator Gravel. The hearings are open now, in subcom-
22 mittee. You have a good rule -- the Early Bird Rule is an
23 excellent rule. You have a subcommittee -- first come, first
24 served.

25 Senator Curtis. I think that takes twice as long to

1 legislate, with subcommittees. Either the members of this
2 Committee are going to know what we report out, or they are
3 not.

4 If we have to familiarize ourself with the legislation,
5 it means two rounds rather than one. You have to educate
6 the subcommittee and then you have to educate the full
7 Committee.

8 It is twice as many meetings for the staff, twice as
9 much time for witnesses and much more time for Senators.

10 Senator Gravel. Senator Hansen is right. If we had
11 had two rounds on OSHA, maybe we would have had two shots
12 on it, rather than one.

13 Senator Curtis. It might be.

14 I still think that the jurisdiction of this Committee is
15 so important to the economy of the country that it should not
16 be delegated to subcommittees.

17 Senator Gravel. Really, what has happened, to be very
18 candid -- certainly in no personal way, because the Chairman
19 knows the respect I have for him, and I think a lot of time
20 he catches heat because he has more than he can say grace
21 over and he cannot cover it all adequately.

22 We are talking, essentially, in this proposal about a
23 diffusion of responsibility. I think that would be a good
24 form, and very acceptable to the people, to put him in a
25 command position and oversee it all and have more of it at

1 arm's length and do a better managerial job.

2 Senator Curtis. Is not this proposal exactly contrary
3 to the whole idea of the reorganization resolution?

4 Senator Gravel. It is very much in concert.

5 Senator Curtis. I do not think so.

6 Senator Gravel. The idea of reorganization is to
7 diffused power so that the younger members, more members of
8 the Senate, share a greater power.

9 Senator Hansen. That was not the impression that I
10 had.

11 Senator Curtis. The exact opposite.

12 Senator Gravel. You think the reform is to congregate
13 into the few people in the Senate --

14 Senator Hansen. Make the orifice smaller; fewer
15 crawling through it.

16 Senator Schmitt. Of course, I am new and almost certainly
17 temporary, and I have to look at the forest, and I have to
18 look at it and generalize.

19 It seems to me that a subcommittee is a creature of a
20 full Committee: you either have them, or you do not have
21 them. You assign them based on what the Committee decides,
22 presumably by majority vote, with great influence wielded
23 by the Chairman.

24 What needs to be done by that Committee -- public works,
25 finance, energy, what have you -- and I am reluctant, not

1 having studied the issue in detail -- to see the Senate now
2 start to determine what subcommittees do, as they used to
3 determine what standing committees do.

4 I think that I have to agree with Senator Curtis. Really,
5 what we are trying to do is reduce the number of committees
6 that have overlapping jurisdiction. I think that applies to
7 subcommittees, as well as full committees.

8 Senator Gravel. Senator, this proposal is totally
9 irrelevant to the number of subcommittees. You can still do
10 what you want.

11 Senator Schmitt. You are trying to transfer more
12 power down to the subcommittee level.

13 Senator Gravel. That is right. If you can do it
14 to ten subcommittees, you can do it to two subcommittees.

15 Senator Schmitt. In some Committees, that transfer
16 may be appropriate.

17 Senator Gravel. This is the only one that does not.

18 The Chairman. Senator Roth?

19 Senator Roth. I would like to speak from my own point
20 of view.

21 Number one, I do personally feel, in most of the
22 significant areas in taxes, reform, trade, even Social Security
23 and health, those are the things I want to be involved in,
24 and I think they are of extreme importance to my constituency
25 and I feel that it is important that the Committee as a

1 whole act on it.

2 Now, there may be areas where there are small pieces
3 of legislation that, for one reason or another, there should
4 be some flexibility.

5 I have a couple of questions. Have there been any cases
6 where pieces of legislation have not come up because we acted
7 as a whole -- and let me ask you this question, Mr. Chairman.
8 Would this be possible. If I had a particular bill of not
9 broad impact that I wanted to have considered, would it be
10 possible to bring that up to the whole Committee and have
11 them act and decide whether or not to direct it to a subcom-
12 mittee.

13 I am saying, using reverse English, rather than giving
14 all the authority to the subcommittee, why not leave it in
15 the full Committee? If, from time to time, we want to
16 direct that bill to Subcommittee, that the whole Committee
17 decide that.

18 The Chairman. That is basically how we have been doing
19 business.

20 It will be a very substantial departure if we are going
21 to take the view that these bills are all assigned to
22 subcommittees, that we are not going to act upon them until
23 those subcommittees act.

24 I just do not think that the majority on this Committee
25 is going to want the occasion ^{to} the inconvenience involved in

1 that.

2 A man like Bill Roth here has an idea -- a very far-
3 reaching idea -- about education, so it is something that
4 cannot be initiated here. It has to be an amendment to a
5 House-passed bill. If he waits until he has a big tax
6 reform bill before us, then he brings the bill up and offers
7 the amendment.

8 If that had been assigned to a subcommittee, you still
9 could not keep it from offering his amendment. He could
10 offer the amendment to the full Committee. But one could
11 well contend, at that point, that the Subcommittee should
12 act on it and take a position on it before the full
13 Committee acts.

14 It probably would not change the votes of anybody on
15 the full Committee.

16 I would think, Senator Haskell, your suggestion would
17 probably be as appropriate a procedure as any of them we
18 have been talking about, to say act on these major bills and
19 keep the major bills in the full Committee, and we will
20 assign to subcommittees these various bills that we would
21 like the subcommittees to consider.

22 Senator Haskell. I think obviously, Mr. Chairman, it
23 means somebody has to use, obviously, good faith in
24 interpreting the word "major." I am sure that we will.

25 It seems to me that the tax reform act, or a major

1 piece of health legislation, that these things are clear.

2 I would hope -- and perhaps we do not want to decide
3 now. What we are talking about, Mr. Chairman, is making these
4 subcommittees a reality as opposed to something on paper.
5 That is basically what is behind all of our discussion.

6 And I think that such a rule as I have suggested, saying
7 except for major pieces of legislation, legislation will go
8 to subcommittee. Retaining in the full Committee the right
9 to take something out of the subcommittee after a certain
10 period of time, as Mike suggested, would be a reasonable
11 compromise, looking towards the objective.

12 It would seem so to me.

13 Senator Curtis. May I suggest right there that items
14 that do not fall within your definition of major pieces of
15 legislation may be very far-reading from the standpoint of
16 precedence. We allow or do not allow certain things in the
17 Internal Revenue Code. The issue involving one item may
18 have quite a downhill effect on a lot of other requests
19 for treatment in situations that can be shown to have some-
20 what similar characteristics.

21 The same thing is true in the Social Security Act.

22 The Chairman. Why do we simply not do it this way.
23 The Committee will decide which bills it will assign to
24 subcommittees. Implicit in that is that the Committee is
25 in doing so, deciding which bills remain with the full

1 Committee.

2 Senator Gravel. If we do that, Mr. Chairman, I think
3 it would be acceptable that the full Committee has to act.
4 In other words, when bills are referred to the full Committee,
5 then the full Committee has to have a record vote on it.

6 In other words, it is just not automatic. Either you
7 make it automatic, you have a flow-through, you make it
8 automatic, you have a disposition.

9 The Chairman. Most decisions we make in committee, just
10 like most decisions we make in the Senate, are by unanimous
11 consent. I would think that we would want to continue it
12 that way.

13 Usually you will discuss it. It is a matter that would
14 be appropriate for your subcommittee. You discuss it with
15 your Chairman. He tells you what he thinks the others would
16 do.

17 Oftentimes I will discuss it with the Ranking Member;
18 you discuss it with the Ranking Member of your subcommittee,
19 and when the matter comes up, it is usually decided by
20 unanimous consent.

21 So if we do it in that fashion, I can indicate to you
22 which ones would appear to me to go to the subcommittee and
23 which ones the full Committee would want to consider.

24 Senator Gravel. It is a question of English, whether or
25 not the burden of proof is on the full Committee or the burden

1 of proof is on the subcommittee.

2 If WIN legislation is referred to the Committee, if it
3 automatically went to subcommittee, but if it is major
4 legislation, you obviously would call a meeting, apprise us
5 of the difficulties in time, and then a motion would be made
6 to keep it in full Committee, and then we would vote on it.

7 That would solve the problem.

8 Then, I think we should have in our rules an automatic
9 discharge of thirty days on all legislation.

10 The Chairman. That part of it does not particularly
11 appeal to me, Senator.

12 Senator Gravel. Automatic discharge?

13 The Chairman. We will have some bills sent over here.
14 If they would stay here forever, the country would be just
15 as well off.

16 Senator Gravel. One minute you are afraid to discharge
17 a subcommittee; the next minute, you think the guy should do
18 his duty by hanging onto it. Whatever way you want to play
19 that, I will dance to whatever tune you want to play.

20 In the Alaska Legislature we used to have a deal,
21 little footlockers. People would come in, next to the
22 Chamber, and what some of the chairmen would do is they
23 would scotchtape the bills that never came out to the end
24 of the footlocker, so when you reached in, you would never
25 touch them. They would always be stuck to the end of the

1 creature of the Senate. We must also remember that the
2 subcommittees are a creature of the Finance Committee as a
3 whole.

4 I have been on this Committee now for eighteen years.
5 I have served under two different Chairmen. I have never
6 seen, on any occasion, any Chairman refuse to recognize a
7 Senator, refuse to put to question any motion he makes.

8 I think this Committee needs to continue to maintain
9 its flexibility of action, depending on the question.

10 I am sure that the Chairman would refer any measure to
11 any subcommittee that has appropriate jurisdiction, if he
12 has the votes in this Committee to get it to the subcommittee.
13 I do not think that we should tie up ourselves with foolish
14 procedural questions on measures that might involve our
15 holding two different hearings in the subcommittee and in the
16 full Committee, two different markups in the subcommittee
17 and the full Committee.

18 We ought to maintain our flexibility. The major measures
19 need to be handled by the full Committee; they are going to
20 be handled by the full Committee anyhow. It would be a waste
21 of time to have a subcommittee mark them up and then the
22 full Committee mark them up again.

23 I would suggest that we follow the procedure that
24 Senator Haskell has suggested without any formal rules,
25 without any formal regulations: to wit, matters of major

1 importance affecting the whole country, vital to 217 million
2 Americans, that we retain jurisdiction in the full Committee.
3 Those other matters that are not so important, refer them to
4 the subcommittee with no limitation of time.

5 Let them act, let them make their recommendations as
6 they deem appropriate. If they delay at any time, that the
7 full Committee, if they have the votes, think that they ought
8 to act, vote to discharge the committee and act on it.

9 That, I think, is a reasonable solution without tying
10 down anybody with a whole lot of folderol and rules and
11 regulations. In the final analysis, whatever this Committee
12 does depends on what the votes in the Committee are, not in
13 the subcommittee.

14 Senator Curtis. I certainly approve. We have a quorum
15 here.

16 Senator Haskell. My suggestion was that it be introduced
17 as a Rule, not just a general understanding.

18 Senator Talmadge. I do not think we need a Rule. In
19 the final analysis, it depends on where the votes are in
20 this Committee.

21 Senator Haskell. I realize that we disagree on whether
22 we need a ruling. I think very strongly that we do.

23 Now, I do not know how Senator Gravel feels --

24 Senator Hathaway. I move the Gravel proposal.

25 Senator Gravel. I will restate it again, for the

1 record.

2 On legislation referred to the Committee on Finance
3 would be referred, by the Chairman, to the subcommittee,
4 unless, in his judgment, he felt that the legislation was
5 national in import and had a time problem to it. At that
6 time, he would convene the full Committee, and he would make
7 a proposal that the legislation stay in the full Committee
8 and then a vote of the majority would do that.

9 I would additionally state -- and here I am very
10 arbitrary on this one -- after thirty days the subcommittee
11 should report to the Chairman of the full Committee whether
12 or not it is going to bring out a piece of legislation. If
13 not, and if the Chairman of the full Committee wants to, he
14 can convene the full Committee and give automatic discharge.
15 If he does not want to execute the automatic discharge,
16 then he does not have to do it.

17 That decision would be in the hands of the Chairman of
18 the full Committee, and he would have the power whether or
19 not to discharge something automatically. He would not have
20 to push for a vote.

21 If the Chairman does not automatically want to have
22 something come out, it is up to him. So you do not have
23 a confrontation or embarrassment or that problem. It is
24 up to the Chairman to make a judgment, if he wants a thing
25 to come out in thirty days.

1 Senator Curtis. I ask for yeas and nays.

2 The Chairman. Call the roll.

3 Mr. Stern. Mr. Talmadge?

4 Senator Talmadge. No.

5 Mr. Stern. Mr. Ribicoff?

6 (No response)

7 Mr. Stern. Mr. Byrd?

8 Senator Byrd. No.

9 Mr. Stern. Mr. Nelson?

10 (No response)

11 Mr. Stern. Mr. Gravel?

12 Senator Gravel. Aye.

13 Mr. Stern. Mr. Bentsen?

14 (No response)

15 Mr. Stern. Mr. Hathaway?

16 Senator Hathaway. Aye.

17 Mr. Stern. Mr. Haskell?

18 Senator Haskell. No.

19 Mr. Stern. Mr. Zorinsky?

20 Senator Zorinsky. No.

21 Mr. Stern. Mr. Curtis?

22 Senator Curtis. No.

23 Mr. Stern. Mr. Hansen?

24 Senator Hansen. No.

25 Mr. Stern. Mr. Dole?

1 (No response)

2 Mr. Stern. Mr. Packwood?

3 (No response)

4 Mr. Stern. Mr. Roth?

5 Senator Roth. No.

6 Mr. Stern. Mr. Schmitt?

7 Senator Schmitt. No.

8 Mr. Stern. Mr. Chairman?

9 The Chairman. No.

10 The vote is two ayes, nine no. The nays have it.

11 Senator Hansen. I would like a vote on the Talmadge
12 motion.

13 Senator Haskell. I would like to make a substitute
14 motion.

15 Since the Senator from Georgia referred to my suggestion,
16 I would like to suggest a written rule which says, major
17 legislation of national importance automatically be retained
18 in the full Committee. Other legislation automatically
19 go to subcommittee.

20 The Chairman. You cannot make it automatic. Someone
21 has to take a look at it and decide whether it appears to
22 be an apple or an orange.

23 Senator Haskell. Major legislation of national impor-
24 tance, I would go on the opinion of the Chairman. If you
25 were not fair, I would jump all over you. I think that you

1 would be fair, and that other legislation automatically go
2 to subcommittee.

3 The Chairman. Be referred to subcommittee?

4 Senator Haskell. Be referred to subcommittee.

5 That that be reduced to a written rule.

6 The Chairman. Please understand. If the Chairman
7 makes the decision, the Committee can change that if it wants
8 to. If it takes a mere motion by a Senator to say that
9 that bill be referred to a certain Committee if the majority
10 wants to do it, that is how it is.

11 All in favor, say aye.

12 (A chorus of ayes)

13 Senator Curtis. I ask for the yeas and nays.

14 Senator Roth. May I ask a question?

15 What if it is referred to subcommittee and the subcommittee
16 does not act. Then the whole Committee has the right to bring
17 it up?

18 Senator Haskell. I would say at any time, under normal
19 procedure --

20 Mr. Stern. You are not incorporating the thirty-day
21 feature?

22 Senator Haskell. No.

23 The Chairman. When referred to a Committee, then
24 should we amend your motion to say, refer to a subcommittee
25 that, by a majority vote, the Committee may discharge the

1 subcommittee and act on the bill if it wishes to do so?

2 Senator Haskell. Absolutely.

3 The Chairman. Fine.

4 Call the roll.

5 Mr. Stern. Mr. Talmadge?

6 Senator Talmadge. No.

7 Mr. Stern. Mr. Ribicoff?

8 (No response)

9 Mr. Stern. Mr. Byrd?

10 Senator Byrd. Aye.

11 Mr. Stern. Mr. Nelson?

12 (No response)

13 Mr. Stern. Mr. Gravel?

14 Senator Gravel. Aye.

15 Mr. Stern. Mr. Bentsen?

16 (No response)

17 Mr. Stern. Mr. Hathaway?

18 Senator Hathaway. Aye.

19 Mr. Stern. Mr. Haskell?

20 Senator Haskell. Aye.

21 Mr. Stern. Mr. Zorinsky?

22 Senator Zorinsky. No.

23 Mr. Stern. Mr. Curtis?

24 Senator Curtis. No.

25 Mr. Stern. Mr. Hansen?

1 Senator Hansen. No.

2 Mr. Stern. Mr. Dole?

3 (No response)

4 Mr. Stern. Mr. Packwood?

5 (No response)

6 Mr. Stern. Mr. Roth?

7 Senator Roth. Aye.

8 Mr. Stern. Mr. Schmitt?

9 Senator Schmitt. No.

10 Mr. Stern. Mr. Chairman?

11 The Chairman. Aye.

12 Six yeas, five nays. Under our procedure, we usually
13 let the absentees record themselves. In any event, I think
14 whether the motion carries or not that is substantially what
15 we are going to do.

16 Senator Hathaway. It makes a difference. What if the
17 absentees voted no, now? I think that we ought to be bound
18 by this rule right now, then we will tell Senator Clark
19 we made a settlement in our Committee, and that is the end
20 of it.

21 The Chairman. Let us understand this. When I say that
22 is substantially what we are going to do, my impression is
23 the difference between Senator Talmadge's view and yours
24 is that there should not be a formal rule. The basic thing
25 you are talking about, essentially, without a difference as

1 far as what we actually do is concerned.

2 Senator Haskell. How about having Mike poll the
3 absontees very, very promptly and let us know, because I do
4 not think that it will change.

5 Senator Hansen. Mr. Chairman, if I may make an
6 observation, it seems to me there is a very fine distinction
7 here between these two concepts, that I appreciate the
8 indecision on the part of some of our brethren to know which
9 way to vote, but if we do poll the absentees, I think that
10 the precise language, that both motions ought to be
11 offered.

12 I certainly think that your counterproposal has much
13 merit over the Gravel amendment, but personally, my preference
14 is precisely the way that Senator Talmadge suggested. I was
15 hoping that we could have a vote on that. I suppose that
16 that is moot, now that this other one has been adopted.

17 I would like to have a vote on that. I think that he
18 articulated what seems to me to be the most reasonable,
19 workable way to proceed.

20 Senator Talmadge. I can give you an example of why you
21 ought not to have a written rule. You may have a little old
22 modest tariff bill that comes over here today and expires
23 tomorrow. You are going to refer it to a subcommittee?
24 That would be ridiculous. Pass it. That is what I am

25

1 talking about. You are tying yourself down to making a
2 rule.

3 Senator Hathaway. Under Senator Haskell's proposal,
4 the Chairman can make that judgment. If we do not like that
5 judgment, we can always rule on it.

6 Senator Talmadge. A little tariff bill is not
7 important. It may affect one man in Colorado, one in
8 Georgia, nobody else.

9 The Chairman. There was a school teacher in Louisiana --
10 I could play it either way.

11 Senator Gravel. We know that, Mr. Chairman.

12 The Chairman. Either way is all right, as far as I am
13 concerned. I voted for it; it is fine with me. I do not
14 think we are going to have that problem. It just means one
15 additional motion. I do not think there is going to be that
16 much difference, just that we discharge the Committee to
17 report the bill.

18 Senator Hathaway. I presume we are going to have
19 another session to take up some other housekeeping matters?

20 Senator Gravel. Should we stay until noon?

21 The Chairman. I thought, at the time that we met, that
22 we should simply inform the Senate that we wanted to work
23 this matter out for ourselves. The way I read it, we have
24 worked it out.

25 As I say, if this motion fails to carry, the Talmadge

1 motion would carry. That would be pretty much the same
2 thing.

3 Senator Haskaway. In polling the absentees, it is
4 another matter. The absentees never have the debate. I
5 think it is a bad procedure.

6 The Chairman. Why do we not just reconsider the vote
7 and let's say the vote is six yeas, six nays. I think that
8 we could -- there might be an inclination to reconsider and
9 make that a rule.

10 Senator Gravel.. Six yeas and six nays now?

11 The Chairman. Yes.

12 Senator Gravel. We have not even approved it.

13 Senator Hansen. It fails. I move the Talmadge
14 amendment.

15 Senator Haskell. Wait a minute; hold on, now.

16 I am not going to lose on one absentee. If you are
17 going to count Packwood, then you have better call Ribicoff
18 and Nelson. I do not know who there is left now
19 on the other side. I thought that we had a pretty good
20 arrangement here.

21 Senator Curtis. I am informed that Mr. Packwood's
22 position is that he would want matters referred to subcom-
23 mittees upon the vote of the Committee. He would also
24 support the Talmadge suggestion.

25 The Chairman. Senator Talmadge, suppose you restate your

1 proposition?

2 Senator Talmadge. Mine is identical with what Senator
3 Haskell stated, except I do not think we should tie our-
4 selves down to a formal rule. I think that it ought to be
5 a policy that if the majority of the Committee, at any time,
6 votes otherwise; like a little old simple proposition that
7 I mentioned a moment ago, you have a tariff bill that comes
8 over from the House today, it expires tomorrow, time is of
9 the essence, it is a triviality.

10 Under the Haskell Rule, it has to go to a subcommittee.
11 Under my proposition, it would not.

12 That is the only difference.

13 Senator Hansen. Let us vote.

14 The Chairman. We can always change it later on.

15 Senator Haskell. I feel very strongly, also, that this
16 type of thing ought to be, as a matter of principle, embodied
17 in the rules.

18 Herman has been able to dream up a very good extreme
19 example --

20 Senator Talmadge. There would be others. That is the
21 trouble with tying yourself to a rigid rule. This Committee
22 has always acted in harmony, most of the time with little partisan-
23 ship, and I have never seen the Chairman, in my life, be
24 unfair on any issue. In the final analysis, whatever a
25 subcommittee does is going to depend on what the majority vote

1 in this Committee is.

2 Senator Hathaway. Even in your case, under the Haskell
3 proposal, a majority of the Committee could take the matter
4 from a subcommittee immediately.

5 Senator Talmadge. That is right.

6 Senator Hathaway. There is no problem.

7 Senator Talmadge. I do not think that it should be
8 taken precipitously away from them. I think that we ought
9 to have time.

10 Senator Hathaway. You would have to, in the case of
11 a tariff bill.

12 Senator Talmadge. That is right.

13 The Chairman. Why do we not do this --

14 Senator Talmadge. An understanding among us as
15 gentlemen.

16 The Chairman. Why do we not do this. Why do we not
17 vote today for the Talmadge proposal and when we meet and
18 have everybody here so you have the full attendance, which
19 will be at the next Executive Session, in all probability,
20 when we consider that big tax bill, at that point, we can
21 vote on your rule.

22 Senator Hathaway. Let's do it the other way. Let's
23 agree on the Haskell one.

24 The Chairman. The Haskell one was not agreed to.

25 Senator Haskell. It was.

1 Senator Curtis. Mr. Chairman, I move that we do not
2 reduce this to a written rule, but that the Committee follow
3 the course of procedure outlined by Senator Talmadge until
4 such time as the Committee votes otherwise.

5 The Chairman. We can change it later on and write a
6 permanent rule, if you want to.

7 Now, this gets you what you have been asking for.

8 Senator Gravel. A voice vote.

9 The Chairman. Call the roll on the Talmadge proposal.

10 Mr. Stern. Mr. Talmadge?

11 Senator Talmadge. Aye.

12 Mr. Stern. Mr. Ribicoff?

13 (No response)

14 Mr. Stern. Mr. Byrd?

15 Senator Byrd. Aye.

16 Mr. Stern. Mr. Nelson?

17 (No response)

18 Mr. Stern. Mr. Gravel?

19 Senator Gravel. No.

20 Mr. Stern. Mr. Bentsen?

21 (No response)

22 Mr. Stern. Mr. Hathaway?

23 Senator Hathaway. No.

24 Mr. Stern. Mr. Haskell?

25 Senator Haskell. No.

1 Mr. Stern. Mr. Zorinsky?
2 Senator Zorinsky. Aye.
3 Mr. Stern. Mr. Curtis?
4 Senator Curtis. Aye.
5 Mr. Stern. Mr. Hansen?
6 Senator Hansen. Aye.
7 Mr. Stern. Mr. Dole?
8 (No response)
9 Mr. Stern. Mr. Packwood?
10 Senator Curtis. Aye, by proxy.
11 Mr. Stern. Mr. Roth?
12 Senator Roth. Aye.
13 Mr. Stern. Mr. Schmitt?
14 Senator Schmitt. Aye.
15 Mr. Stern. Mr. Chairman?
16 The Chairman. Aye.
17 Nine ayes, three nays.
18 Let me make it clear. I am willing to have a written
19 rule. I just want to get this matter decided for now, so
20 that when we meet and have everybody here, by that time we
21 can reduce it to writing.
22 The Committee is adjourned.
23 (Whereupon, at 11:40 a.m. the Committee adjourned.)

24
25