

RULES & ADMINISTRATION SPECIAL SUBCOMMITTEE ON ETHICAL CONDUCT

January 3, 1996
Room 15 Capitol

The subcommittee was called to order at 1:10 p.m.

PRESENT: Senators Frederickson, Novak, Reichgott Junge, Terwilliger

Also present: Special counsel Justice Douglas Amdahl and Justice Robert Sheran

Sen. Reichgott Junge; preliminary comments; introduction of members, Justices Amdahl, Sheran, and staff. Provided background on subcommittee investigations and subcommittee procedure.

Peter Wattson, Senate counsel; introduction of written materials.

Sen. Frederickson; further introductory comments.

Solon Complaint

Peter Wattson; presented guilty plea, court action and Senate complaint. Answered questions from members.

Sen. Neuville; statement of complainants' position.

Discussion followed.

Paul Rogosheske, attorney for Sen. Solon; opening statement.

Sen. Solon; presented attached statement.

Questions and discussion followed.

Paul Rogosheske; closing statement.

Pat Flahaven, Secretary of the Senate; answered members' questions regarding Senate phone use, billings, and the repayment of funds.

*The subcommittee recessed from 3:10 to 3:40 p.m.

Chandler Complaint

Peter Wattson; presented the complaint.

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Sen. Reichgott Junge; presented attached letter from Sen. Chandler.

Discussion followed regarding subcommittee procedure.

Sen. Terwilliger moved that the subcommittee Rules of Procedure be amended as follows:

#16: Delete "fact" and insert "the subcommittee"; delete "a fair preponderance of the" and insert "clear and convincing"

Delete all references to "Committee" and insert "Subcommittee"

The motion passed by voice vote.

Further discussion followed regarding subcommittee procedure.

*The subcommittee recessed from 4:35 to 6:20 p.m.

Bertram Complaint

Sen. Reichgott Junge; opening remarks.

Peter Wattson; presentation of Senate complaint and facts of the shoplifting conduct.

Sen. Neuville; questions regarding the availability of testimony from the prosecuting attorney.

William Drager, Chief of Police, City of Paynesville; responded to members' questions regarding the petty misdemeanor plea.

Phillip Resnick, attorney for Sen. Bertram; opening remarks.

Sen. Reichgott Junge; response, comments and background of events leading up to the Senate complaint. Discussion followed regarding subcommittee procedure.

Discussion continued regarding the petty misdemeanor conviction and the police report.

Sen. Bertram; answered questions by members and Sen. Neuville; provided statement regarding the guilty plea. Further questions and discussion followed.

Peter Wattson; presentation of allegations regarding offer of money to the store owner.

Charles Koshiol, Zapf's Leather Goods, Paynesville; testimony regarding allegations of offer of money. Answered questions from members, Mr. Resnick and Sen. Neuville.

Peter Wattson; comments and clarification regarding the complaint verses the testimony. Discussion followed.

William Drager; answered members' questions and provided testimony regarding the alleged offer of money to Mr. Koshiol.

*The subcommittee recessed from 8:30 to 8:50 p.m.

Sen. Bertram; testimony regarding allegations of offer of money; answered questions from members, Mr. Resnick and Sen. Neuville.

Peter Wattson; answered members' questions; presented clarification of bribery statute.

Phillip Resnick; closing statement.

Further discussion regarding the bribery statute; comments from Justices Sheran and Amdahl.

Discussion followed regarding the future proceedings.

The meeting adjourned at 9:30 p.m.

The meeting was taped.

Respectfully submitted,

Marcia Seelhoff, Secretary

Sen. Ember Reichgott Junge, Chair

RULES & ADMINISTRATION SPECIAL SUBCOMMITTEE ON ETHICAL CONDUCT

January 9, 1996
Room 15 Capitol

The subcommittee was called to order at 10:25 a.m.

PRESENT: Senators Frederickson, Novak, Reichgott Junge, Terwilliger

Also present: Special counsel Justice Douglas Amdahl and Justice Robert Sheran (by phone)

Sen. Reichgott Junge; opening remarks; announcement of Sen. Bertram's resignation.

Justice Amdahl; comments regarding the subcommittee process.

Sen. Neuville; requested that the subcommittee forward testimony and other information on the Bertram case to the prosecuting county attorney.

Peter Wattson, Senate counsel; comments regarding the inappropriateness of Sen. Neuville's request.

Sen. Neuville; presented complainants' recommended sanctions against Sens. Chandler and Solon. Answered questions from members.

Paul Rogosheske, attorney for Sen. Solon; comments regarding findings of fact and complainants' recommendations.

The subcommittee then began deliberations regarding possible sanctions against Sens. Chandler and Solon.

Sen. Frederickson moved that the subcommittee adopt the findings of fact regarding Sen. Chandler. The motion passed by voice vote.

Discussion followed regarding possible sanctions against Sen. Chandler. Justices Sheran (by phone) and Amdahl provided recommendations and comments concerning both cases.

Sen. Frederickson moved adoption of the resolution regarding the conduct of Sen. Chandler. A roll call was requested. Sens. Frederickson, Novak, Reichgott Junge and Terwilliger voted in favor of the motion.

*The subcommittee recessed from 11:45 to 11:55 a.m.

Sen. Reichgott Junge; comments regarding the postponement of the complaint against Sen. Chmielewski.

Sen. Frederickson moved adoption of the findings of fact regarding Sen. Solon. The motion passed by voice vote.

Discussion followed regarding possible sanctions against Sen. Solon.

Sen. Novak moved that the subcommittee adopt the resolution regarding the conduct of Sen. Solon, specifying that the resignation of the chairmanship position continue through the end of the 1996 regular session.

Discussion followed.

Sen. Terwilliger moved that item #5 of the resolution be amended as follows: after "open session" insert "and that Sen. Sam G. Solon be reprimanded by the Senate for his conduct." The motion failed by voice vote.

*The subcommittee recessed from 1:20 to 1:35 p.m.

Sen. Novak moved that the subcommittee adopt the resolution regarding the conduct of Sen. Solon, amended with language that the resignation of the chairmanship position continue through the end of his current term.

A roll call was requested. Sens. Frederickson, Novak, Reichgott Junge and Terwilliger voted in favor of the motion.

Sen. Frederickson moved that the resolutions as adopted by the subcommittee be recommended to pass and be re-referred to the committee on Rules and Administration. The motion passed by voice vote.

Justice Amdahl; final comments regarding subcommittee action.

Sen. Reichgott Junge; closing comments.

The meeting adjourned at 1:45 p.m. The meeting was taped.

Respectfully submitted,

Marcia Seelhoff, Secretary

Sen. Ember Reichgott Junge, Chair

PERMANENT RULES OF THE SEVENTY-NINTH MINNESOTA STATE SENATE
Adopted April 27, 1995

ETHICAL CONDUCT

75. The Subcommittee on Committees shall appoint a Subcommittee on Ethical Conduct of the Committee on Rules and Administration consisting of four members, two from the majority and two from the minority.

The subcommittee shall serve in an advisory capacity to a member or employee upon written request and shall issue recommendations to the member or employee.

The subcommittee shall investigate a complaint by a member of the Senate in writing under oath received during a legislative session regarding improper conduct by a member or employee of the Senate. Improper conduct includes conduct that violated a rule or administrative policy of the Senate, that violated accepted norms of Senate behavior, that betrayed the public trust, or that tended to bring the Senate into dishonor or disrepute.

Within 30 days after receiving a complaint, the subcommittee must meet and either make a finding of no probable cause, vote to defer action until a certain time, or proceed with its investigation. If criminal proceedings relating to the same conduct have begun, the subcommittee may defer its own proceedings until the criminal proceedings have been completed.

The subcommittee has the powers of a standing committee to issue subpoenas pursuant to Minnesota Statutes, Section 3.153. In order to determine whether there is probable cause to believe that improper conduct has occurred, the subcommittee may, by a vote of three of its members, conduct a preliminary inquiry in executive session to which the requirements of Rule 58 do not apply. The executive session may be ordered by a vote of three of its members whenever the subcommittee determines that matters relating to probable cause are likely to be discussed. The executive session must be limited to matters relating to probable cause. Upon a finding of probable cause, further proceedings on the complaint are open to the public. To minimize disruption of its public proceedings, the subcommittee may require that television coverage be pooled or be provided by Senate media services.

If, after investigation, the subcommittee finds the complaint substantiated by the evidence, it shall recommend to the Committee on Rules and Administration appropriate disciplinary action.

Members shall adhere to the highest standard of ethical conduct as embodied in the Minnesota Constitution, state law, and these rules.

A member shall not publish or distribute written material if the member knows or has reason to know that the material includes any statement that is false or clearly misleading, concerning a public policy issue or concerning the member's or another member's voting record or position on a public policy issue.

**COMMITTEE ON ETHICAL CONDUCT
RULES OF PROCEDURE**

1. All proceedings of the Committee will be conducted in accordance with Senate Rule 75.
2. Upon receipt of a properly executed complaint, the chair will notify the accused and the other members of the Committee.
3. The Committee will try to complete its work and report to the Senate before adjournment.
4. While the Committee is proceeding in executive session, all members, staff, and witnesses shall keep the proceedings of the Committee in confidence, except that after each meeting the chair shall make available to the public a brief statement about the general subject of the Committee's inquiry for that meeting.
5. Witnesses will be called at the request of any member of the Committee.
6. As soon as the agenda for a meeting has been finalized committee members and the public will be notified. If a meeting will be in executive session, the notice will so state.
7. All evidence provided by witnesses will be under oath.
8. Evidence presented at hearings conducted by the Committee will be in the following order:
 - a. Evidence provided by complainant.
 - b. Evidence provided by accused.
 - c. Evidence requested by Committee.
 - d. Rebuttal evidence by complainant or accused.
9. The order of procedure on the testimony of each witness will be as follows:
 - a. Testimony by the witness either in the form of a statement or in response to questions by the party calling the witness.
 - b. Examination of the witness by members of the Committee or Committee counsel.
 - c. Cross-examination of the witness by the accused or in case of witnesses for the accused, by the complainant.
 - d. Additional examination in the same order as a, b, and c.
10. The committee will consider all evidence that is competent, relevant, and material, and will not be strictly bound by the rules of evidence applicable to judicial proceedings.

11. All parties and witnesses are entitled to appear with counsel.
12. Tape recordings and minutes of proceedings in executive session shall be kept confidential until the Committee has concluded the confidential portion of its inquiry and shall then be made available to the public through the Legislative Reference Library and the Secretary of the Senate as provided in Rule 65.
13. Relevant portions of the taped record of Committee proceedings will be transcribed at the request of any member of the Committee, subject to the requirements of confidentiality while the Committee is meeting in executive session.
14. A witness will be furnished a certified transcript of the witness' testimony upon request and at the witness' expense.
15. The Committee, after hearing all evidence, will make findings of fact and recommendations to the Senate in accordance with Rule 75.
16. Findings of fact will be based upon a fair preponderance of the evidence.
17. The burden of proving a violation of Rule 75 is on the complainant.
18. After action by the Senate on recommendations of the Committee, all evidence will be returned to its proper owner.

PSW:lar

MINNESOTA STATUTES 1995

3.153 LEGISLATIVE SUBPOENAS.

Subdivision 1. **Commissions; committees.** A joint legislative commission established by law and composed exclusively of legislators or a standing or interim legislative committee, by a two-thirds vote of its members, may request the issuance of subpoenas, including subpoenas duces tecum, requiring the appearance of persons, production of relevant records, and the giving of relevant testimony. Subpoenas shall be issued by the chief clerk of the house or the secretary of the senate upon receipt of the request. A person subpoenaed to attend a meeting of the legislature or a hearing of a legislative committee or commission shall receive the same fees and expenses provided by law for witnesses in district court.

Subd. 2. **Service.** Service of a subpoena authorized by this section shall be made in the manner provided for the service of subpoenas in civil actions at least seven days before the date fixed in the subpoena for appearance or production of records unless a shorter period is authorized by a majority vote of all the members of the committee or commission.

Subd. 3. **Counsel.** Any person served with a subpoena may choose to be accompanied by counsel if a personal appearance is required and shall be served with a notice to that effect. The person shall also be served with a copy of the resolution or statute establishing the committee or commission and a general statement of the subject matter of the commission or committee's investigation or inquiry.

Subd. 4. **Attachment.** To carry out the authority granted by this section, a committee or commission authorized by subdivision 1 to request the issuance of subpoenas may, by a two-thirds vote of its members, request the issuance of an attachment to compel the attendance of a witness who, having been duly subpoenaed to attend, fails to do so. The chief clerk of the house or the secretary of the senate upon receipt of the request shall apply to the district court in Ramsey county for issuance of the attachment.

Subd. 5. **Failure to respond.** Any person who without lawful excuse fails to respond to a subpoena issued under this section or who, having been subpoenaed, willfully refuses to be sworn or affirm or to answer any material or proper question before a committee or commission is guilty of a misdemeanor.

HIST: 1971 c 227 s 1; 1986 c 444; 1988 c 469 art 1 s 1; 1992 c 385 s 1



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January 26, 1995

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To: Senator Ember D. Reichgott Junge
Senator Dennis R. Frederickson
Senator Steven G. Novak
Senator Roy W. Terwilliger

From: Peter S. Wattson, Senate Counsel *PW*
296-3812

Subj: Past Proceedings of the Special Committee on Ethical Conduct

The predecessor of the Special Committee on Ethical Conduct, known as the Lobbyist Registration Committee, met in 1974 to consider a complaint by Senator Charles A. Berg that a lobbyist, Gordon Forbes, had exerted undue influence on Senator Berg's secretary, Ms. Betty Henry. The committee held several hearings in closed session but did not conclude its proceedings before the 1974 session adjourned. The committee asked for authority to continue its investigation during the 1974 interim, but did not hold any further hearings or take any action.

The Special Committee on Ethical Conduct met in 1975 to consider a complaint by Senators Nicholas D. Coleman and Robert Ashbach that Senate employees had been improperly soliciting campaign contributions. The committee conducted several hearings and found that improper conduct had occurred. It issued recommendations to curtail solicitation of campaign contributions by Senate employees.

In March of 1987, Senators Gary W. Laidig and Fritz Knaak filed a sworn complaint that Senators Douglas J. Johnson and Ron Dicklich had failed to disclose to the Senate their knowledge that the FBI had been investigating a firm named Endotronics, Inc., before the Senate voted on a bill that would have made the firm eligible for a \$24 million loan from the State. The two senators withdrew their sworn complaint before the committee met to consider it.

In April of 1987, the committee met to consider a letter from Senators Duane Benson and Fritz Knaak requesting an advisory opinion on the conduct of Senators Johnson and Dicklich in the Endotronics case. The committee issued an advisory opinion as follows:

A member of the Senate who asks another member to support a proposal should, to the best of the member's ability, inform the other member of all relevant, extraordinary and significant facts the first member knows that directly affect an individual or company benefiting from the proposal.

Later in April of 1987, the committee received a complaint from former Senator Carl Jensen that Senator Knaak's campaign workers had stolen Mr. Jensen's lawn signs during the 1986 campaign. Mr. Jensen was pursuing essentially the same complaint in a civil action in Ramsey County District Court. No member ever filed a complaint, and the committee did not pursue the matter further.

On April 8, 1993, Senator James P. Metzen and the other members of the Committee on Governmental Operations and Reform filed a sworn complaint against Senator Charles A. Berg. The complaint alleged that at the conclusion of the hearing on Friday, April 2, on S.F. No. 104 Senator Berg had suggested that "some of the committee members got bought off." The complaint charged that Senator Berg's comments were "scurrilous, derogatory, totally false, are unbecoming an individual member of the Minnesota Senate, and bring disrepute to the Minnesota Senate as an institution." On April 27, 1993, all twelve members who had signed the original complaint withdrew the complaint on the ground that Senator Berg's remarks did not constitute a violation of the Senate rules.

On May 13, 1993, one day after he had apologized to the Senate for having tainted it with public ridicule by allowing others to use the Senate's long-distance telephone access code for personal calls, Senator Sam G. Solon submitted himself to the Special Committee on Ethical Conduct for appropriate disciplinary action. A criminal investigation was undertaken by the Attorney General. When it appeared that Jennifer Pruden, an employee in the Attorney General's office, was one of those who had used Senator Solon's office phone to make long-distance personal calls, and that the Ramsey County Attorney's ex-wife was a close friend of Chuck Westin, another person who had used Senator Solon's telephone access code to make personal calls, the investigation was turned over to the Olmsted County Attorney. On February 24, 1994, the Olmsted County Attorney announced that his investigation of persons who had used Senator Solon's long-distance telephone access was complete and that he was filing criminal charges against Chuck Westin and Jennifer Pruden, but not against Senator Solon or the others who had used his Senate telephone access for their personal or private business. On March 21, 1994, the Special Committee on Ethical Conduct, which then consisted of Senators Flynn, Frederickson, Novak, and Terwilliger, recommended to the Committee on Rules and Administration a Senate resolution that Senator Solon

Senators Reichgott Junge; Frederickson; Novak; Terwilliger

January 26, 1995

Page 3

be required to apologize and make restitution to the Senate (which he had already done) and be reprimanded. On March 23, 1994, the Rules Committee recommended the resolution to pass, and it was adopted by the Senate on March 24, 1994.

On November 4, 1993, Senator Duane D. Benson filed a sworn complaint against Senators Betzold, Cohen, Kroening, Luther, Marty, Metzen, Morse, Pappas, and Reichgott that they had misused the nonprofit postal permits held by the State DFL Party and the Fourth Congressional District DFL Party. Both Senator Benson and Senator Marty asked to be removed from the Committee on Ethical Conduct because of this complaint, Senator Benson for that issue only and Senator Marty for the balance of 1994. Senator Frederickson and Senator Flynn were appointed to replace them.

On February 16, 1994, Senator Terwilliger filed a sworn complaint against Senator Chandler. The complaint alleged that Senator Chandler, who during 1993 was employed by the law firm of Opperman, Heins, Paquin, and whose wife, Kathleen Chandler was employed by the firm as a lobbyist on issues before the Senate, had voted to support the interests of his firm's clients and had failed to disclose those potential conflicts of interest. On April 20, 1994, Senator Terwilliger withdrew his complaint, saying he no longer believed that Senator Chandler had had a conflict requiring disclosure or recusal and expressing his regret that he had inadvertently misrepresented Senator Chandler's voting record in several respects and inaccurately stated that he failed to notify the Senate as required by Minnesota Statutes, section 10A.07.

On February 28, 1994, Senator Chandler filed a sworn complaint against Senator Terwilliger, alleging that Senator Terwilliger's complaint contained false and misleading statements about Senator Chandler's voting record and that the allegation that Senator Chandler had "made no disclosure on potential conflicts of interest" was false. On April 21, 1994, Senator Chandler withdrew his complaint, saying that it was now apparent to him that any inaccurate representations made with respect to his voting record were inadvertent or based upon inaccurate information provided to Senator Terwilliger by others.

By a letter dated March 28, 1994, Kristina K. Pranke of St. Paul requested an ethics probe of the previous week's meeting between members of the Senate Committee on Environment and Natural Resources and James Howard, Chief Executive Officer of Northern States Power Company (NSP), which she alleged had been closed in violation of Minnesota Statutes, section 3.055. The Special Committee on Ethical Conduct directed Senate Counsel Peter Wattson to conduct an investigation of the complaint and report his findings to the Committee. On June 28, 1994, the Committee held a hearing at which Senate Counsel presented his report and counsel for Ms. Pranke presented his response. The Committee concluded that a quorum of the Environment and Natural Resources Committee had met privately with Mr. Howard on March 23, 1994, but that they had not taken any action regarding a matter within the jurisdiction of the Committee. Therefore, they had

Senators Reichgott Junge; Frederickson; Novak; Terwilliger
January 26, 1995
Page 4

not violated the open meeting law. The Committee reported its conclusion to the Committee on Rules and Administration, along with a recommendation that the Rules Committee request the appropriate standing committee or committees to review the Legislature's open meeting law for possible amendment of the definition of the word "action," to make it more clear what kinds of meetings must be open to the public.

PSW:ph
Enclosure

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To: Senator Carol Flynn, Chair
Special Committee on Ethical Conduct

From: Peter S. Wattson, Senate Counsel *PSW*
296-3812

Subj: Appropriate Disciplinary Action

Senate Rule 75 requires that, "[i]f, after investigation, the [Special Committee on Ethical Conduct] finds [a] complaint substantiated by the evidence, it shall recommend to the Senate appropriate disciplinary action." This memorandum updates my memorandum of December 8, 1993, outlining the choices the committee has when deciding upon "appropriate disciplinary action."

1. Expulsion

The Minnesota Constitution, article IV, § 7, provides:

Each house may determine the rules of its proceedings, sit upon its own adjournment, punish its members for disorderly behavior, and with the concurrence of two-thirds expel a member; but no member shall be expelled a second time for the same offense.

The United States Senate has expelled only 15 members, one during the late 1700s for disloyal conduct and 14 during the Civil War for disloyalty to the Union. The United States House of Representatives has expelled only four members, three during the Civil War for disloyalty and one in 1980 after he was convicted of bribery and conspiracy in office. J. Maskell, *Expulsion and Censure Actions Taken by the Full Senate Against Members*, CRS Report to Congress (1993).

2. Censure

In addition to authorizing the Senate to expel a member, section 7 also authorizes the Senate to "punish its members for disorderly behavior." The United States Senate has used the identical authority in the federal constitution to censure a member. A resolution of censure, adopted by the U.S. Senate, may use that term or others, such as "condemn" or "denounce," to describe the Senate's disapproval of a member's conduct. Maskell, *supra*, at CRS-10.

a. Condemnation

In 1929, the United States Senate condemned Senator Hiram Bingham for placing on the payroll of a committee an employee of a trade association that had a direct interest in the legislation before the committee. The employee was given access to secret committee deliberations because of his position. Senator Bingham was an unsuccessful candidate for re-election in 1932. Maskell, *supra*, at CRS-4, CRS-11 n.53.

Senator Joseph R. McCarthy was removed as chairman of the Permanent Subcommittee on Investigations and condemned by the United States Senate in 1954 for his "contemptuous" conduct toward a subcommittee that had investigated his finances in 1952 and for his abuse of the committee that had recommended his censure. He died in office in 1957. *Id.*

b. Censure

Senator Thomas Dodd was censured by the United States Senate in 1967 for personal use of campaign funds. He was an unsuccessful candidate for re-election in 1970. Maskell, *supra*, at CRS-5, CRS-11 n.53.

Representative Randy Staten was censured by the Minnesota House of Representatives in 1986 for deliberately and repeatedly failing to file accurate campaign finance reports and for pleading guilty to a charge of felony theft. JOURNAL OF THE HOUSE 7456-75 (1986).¹

¹ The Minnesota Constitution, art. IV, § 6, says that "senators and representatives must be qualified voters of the state" Article VII, § 1, says that a convicted felon is not eligible to vote, unless restored to civil rights. Article IV, § 6, makes each house the judge of the eligibility of its own members. That judgment is made by a majority vote. The House's Select Committee on the Staten Case found that, although Representative Staten was convicted of a felony, his sentence of 90 days in jail was within the limits for a misdemeanor and therefore, under Minn. Stat. § 609.13, was deemed a misdemeanor, rather than a felony. Therefore, he could not be disqualified by a majority vote, but could only be expelled by a two-thirds vote. The Select Committee recommended that he be expelled, but the vote to expel him failed 80-52 (90

c. Denunciation

Senator Herman Talmadge was denounced by the United States Senate in 1979 for converting campaign funds to personal use, claiming excess reimbursements for his expenses, and failing to file accurate financial disclosures and reports. He was defeated for re-election in 1980. *Id.*

Senator David Durenberger was denounced by the United States Senate in 1990 for using a book-selling scheme to evade the Senate's limit on honoraria and for billing the Senate for lodging in a condominium he owned. On September 16, 1993, he announced that he would not seek re-election. Maskell, *supra*, at CRS-6, CRS-11 n.53.

3. Reprimand

On March 24, 1994, the Minnesota Senate reprimanded Senator Sam G. Solon for providing the Senate's long-distance telephone access code to others and for allowing others to use his Senate office and telephone to make calls on their own personal and private business. 1994 JOURNAL OF THE SENATE 7024-27 (daily ed. Mar. 24, 1994).

The United States Senate Committee on Ethics reprimanded Senator Alan Cranston, a member of the "Keating Five," in 1991. S. Rep. No. 102-223, 102nd Cong., 1st Sess. 36 (1991). He did not seek re-election.

The full United States Senate has chosen not to use the term "reprimand" because:

It just does not mean anything. It means what you might call just a slap on the wrist. It does not carry any weight.

Senator John Stennis, Chairman of the Select Committee on Standards and Conduct, 113 *Cong. Rec.* 16984 (June 22, 1967), quoted in Maskell, *supra*, at CRS-18.

The United States House of Representatives, on the other hand, has made a custom of including in a censure resolution a requirement that the censured member to go down before the bar and be publicly "reprimanded" by word of mouth by the Speaker. *Id.*

4. Apology

Senator Solon apologized to the Senate that his "indiscretion in giving out the Senate's credit card number" had "tainted this body with public ridicule." He admitted to the Special Committee on Ethical Conduct that his conduct was inappropriate.

5. Payment of a Fine

Mason's Manual says that, in order to compel attendance at a session, a house "may inflict such censure or pecuniary penalty as may be deemed just." *Mason's Manual of Legislative Procedure*, § 561, ¶ 5 (1989). I presume this broad power to punish a member would apply to discipline for other improper conduct as well as for missing meetings.

The civil fine imposed by the Ethical Practices Board for violations of the campaign spending laws ranges from the amount of the excess spending (for inadvertent violations) to four times the amount of the excess (for more serious violations). Minn. Stat. § 10A.28.

6. Restitution

Senator Solon repaid the Senate the amount of his excess telephone charges. He did not pay the Senate any compensation for the embarrassment it suffered.

7. Loss of Privileges

a. Removal as Committee Chair

One of the most important privileges afforded to a senior member of the Senate is the opportunity to serve as chair of a standing committee. Removal from that position of honor and trust would be a severe punishment to the member removed.

The only member of Congress I have found who was removed from his position as a committee chair was Senator Joseph R. McCarthy in 1954. COMPTON'S ENCYCLOPEDIA, ONLINE EDITION (downloaded from America Online, November 22, 1993). Two other committee chairs resigned under pressure from their caucus. In 1974, U.S. Representative Wilbur Mills resigned as chairman of the House Ways and Means Committee after he appeared on stage with Fanne Foxe to congratulate her on a striptease performance and it became clear his caucus would not retain him as chair when the next

Senator Carol Flynn, Chair

June 13, 1994

Page 5

Congress reconvened. He did not seek re-election in 1976. CONGRESSIONAL QUARTERLY, CONGRESS AND THE NATION 1973-76, VOL. IV, 764 (1977). In 1976, U.S. Representative Wayne Hays resigned as chairman of the House Administration Committee for employing Elizabeth Ray in a secretary's position to serve as his mistress. Speaker O'Neill had bluntly told Hays he must resign immediately. *Id.* at 779-80.

A disadvantage of removing a member as chair of a committee is that it could disrupt the Senate as other members competed to replace him as chair and proposed various other shifts in committee assignments following his removal.

b. Removal from Committee Membership

A senator who was found to have engaged in improper conduct could be removed from membership on one or more standing committees. However, this too could disrupt the Senate as other members competed to fill the vacancy.

c. Reduce Staff

A committee chair has both a Committee Secretary and a Committee Administrative Assistant. One staff could be eliminated. Other members have a secretary, and perhaps a legislative assistant, one of which might be taken away. But any reduction in staff would depart from the staffing pattern for all other members, increase the burden on the remaining staff, and perhaps make it difficult for the Senate to operate, thus harming the other members of the Senate as well.

d. Reduce Miscellaneous Privileges

Other possible punishments would include reducing the member's postage allowance, curbing the member's out-of-state travel, moving the member's office location, and changing the member's parking space.

PSW:ph

cc: Senator Sheila M. Kiscaden
Senator LeRoy A. Stumpf
Senator Roy W. Terwilliger



Senates

- 3 -

State	Description
Oregon Senate	1988--member was recalled following allegations of sexual abuse of a minor 1993--member resigned following conviction of fraud in conjunction with fundraising
Washington Senate	1990--member was sued for sexual harassment, retaliation and constructive discharge; member resigned 1995--member was reprimanded by Legislative Ethics Board for writing a memo to law partners indicating availability to assist them or their clients during the legislative session
West Virginia Senate	1989--member resigned from leadership position and the Senate following indictment on federal extortion charges

Source: National Conference of State Legislatures, summary of preliminary information from ASLCS comprehensive survey, November 1995

EXAMPLES OF HOW HOUSES HAVE DISCIPLINED THEIR MEMBERS

State	Description
Arizona House	1991--"Azscam" violations of campaign finance laws; House began disciplinary actions against one member, who resigned prior to the conclusion of the proceedings; five other members resigned before any proceedings were initiated
Florida House	1986--member was censured by the House after conviction of making misstatements on SBA loan application 1987--member was charged with bribery and grand theft; member was suspended without pay from all privileges of membership of the House pending appellate action
Louisiana House	1987 and 1991--a member was convicted of federal racketeering; each time, the member was served with notice of expulsion and resigned prior to the hearing
Maine House	1987--member was convicted of ballot tampering, member resigned during House process to expel
Minnesota House	Date not given--member convicted of soliciting a prostitute was required to submit letter of apology to the House for publication in the journal
New Mexico House	1992--member was censured for conduct which impugned the integrity of the House (soliciting a bribe); the member was subsequently convicted in criminal court
Utah House	1993--member was censured for shoplifting; the member resigned during the vote to reconsider for expulsion
Washington House	1985--member was censured for campaign violations
Wisconsin Assembly	1995--an official letter of reprimand was sent to member (and printed in the journal) after his third arrest for various violations, including marijuana possession and drunk driving

Source: National Conference of State Legislatures, summary of preliminary information from ASLCS comprehensive survey, November 1995

