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CONGRESSWOMAN SHEILA JACKSON LEE
SCRIPT ACCOMPANYING ITEMS FOR THE RECORD
COMMITTEE ON THE JUDICIARY
IN CONSIDERATION OF:

*Resolution authorizing issuance of a subpoena to Acting Attorney General
Matthew G. Whitaker to secure his appearance and testimony at the
hearing of the Committee regarding oversight of the U.S. Department of
Justice; and*



February 7, 2019

Mr. Chairman – Following the President’s proclamations of Presidential Harassment this morning on Twitter, I would like to place **two items in the record.**

The first is an article from November 8, 2010 – the day after the midterm election during the first presidential term of Barack Obama. This is a story from Politico where a former member of this Committee who would serve as GOP Chairman of the Oversight who indicated that he would like to have **“hundreds of hearings – “I want seven hearings a week, for 40 weeks.”**

The second is an article from November 7, 2018, from Bloomberg Business entitled “**Republicans weaponized the House – now Democrats will use it against the President**” and from that article – there is a line I believe is instructive:

“For decades after Joe McCarthy’s Red Scare, the Oversight Committee was run as a gentlemanly partnership between the parties. **To guard against abuse, the chairman typically had to gain the consent of the ranking member to issue a subpoena or else win a committee vote. Republicans changed this rule in 1997 to invest their Oversight chairman, Dan Burton of Indiana, with unilateral subpoena power, something he employed with astonishing zeal as he tried to take down President Bill Clinton. Burton issued 1,052 unilateral subpoenas during his five-year chairmanship, according to a calculation by the committee’s minority staff. In 2015, Republicans changed the rules again, expanding unilateral subpoena power to 14 committee chairmen to help them go after Barack Obama’s administration.**”

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'I want seven hearings a week, times 40 weeks,' Issa said.

Issa plans hundreds of hearings

By **JAKE SHERMAN** and RICHARD E. COHEN | 11/08/2010 05:13 PM EST

California Rep. Darrell Issa is already eyeing a massive expansion of oversight for next year, including hundreds of hearings; creating new subcommittees; and launching fresh investigations into the bank bailout, the stimulus and, potentially, health care reform.

Issa told POLITICO in an interview that he wants each of his seven subcommittees to hold “one or two hearings each week.”

“I want seven hearings a week, times 40 weeks,” Issa said.

Issa is also targeting some ambitious up-and-comers like Reps. Jason Chaffetz of Utah, Patrick McHenry of North Carolina and Jim Jordan of Ohio — all aggressive partisans — to chair some of his subcommittees.

He also wants to organize aggressive oversight beyond his committee and plans to refer inquiries to other House panels, drawing even more incoming GOP chairmen to the cause of investigating the executive branch.

“As Clint Eastwood says, a man needs to know his limitations,” Issa said in the interview. “With other committees, we have good working relationships. Our committees have some areas of primary jurisdiction, including the federal work force, procurement and the Postal Service. We will take care of our core knitting, but we have very narrow legislative jurisdiction.”

While he promises an ambitious — and some say confrontational — agenda, Issa is making overtures to the Obama administration: He already has a meeting scheduled with Vice President Joe Biden to discuss stimulus oversight.

But Issa’s specific plans bring a certain reality to what has been known for months: Oversight of the Obama administration and congressional Democrats will be a central purpose for the new Republican House.

To give an idea of how expansive Issa’s oversight plans are, look at the record of Rep. Henry Waxman (D-Calif.) when he chaired the oversight committee during in the 110th Congress during George W. Bush’s presidency. Waxman held 203 oversight hearings in two years; Issa has signaled he’s prepared to hold about 280 in just one year.

Issa sees the committee’s role as not policy but to “measure failures.” He likens his job to seeing “whether the fuel being consumed meets the specifications.” And he isn’t looking to catch witnesses off guard, saying that “oversight should be done with a balance for the American people and not as a gotcha.”

Issa won’t have a shortage of targets. He’s been hammering for better tracking of the stimulus and has a growing list of other investigative targets, including the housing meltdown and the bank bailout.

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Republicans Weaponized the House. Now, Democrats Will Use It Against

Trump

The president is in the bull's-eye.

By
Joshua Green
Bloomberg Businessweek

November 7, 2018, 4:36 PM EST Updated on November 8, 2018, 7:13 PM EST



House Minority Leader Nancy Pelosi (D-Calif.) speaks during a midterm election night party hosted by the Democratic Congressional Campaign Committee on Nov. 6, 2018, in Washington.

PHOTOGRAPHER: BRENDAN SMIALOWSKI/AFP/GETTY IMAGES
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The Nov. 6 elections ended two years of unfettered Republican control of Washington and brought the curtain down on what will likely be—despite its exhausting, near-constant chaos—the

smoothest period of Donald Trump's presidency. Really. Things will get even rockier from here.

The Democrats coming to Washington are younger, more diverse, more female, and more liberal than before. They'll control the U.S. House of Representatives and the subpoena power it grants them—and they'll be mindful that voters sent them to Congress to act as a check on Trump.

The Republicans who survived the midterm purge are older, whiter, and Trumpier than before. They were sent to Washington not to check Trump, but to supercharge his agenda. The new Republican senators who defeated red-state Democrats in places such as North Dakota and Missouri won't forget that the president's closing message of angry nativism propelled them to victory. Even in the House, the far-right, pro-Trump Freedom Caucus expanded its power within the GOP caucus, because practically every Republican with bipartisan inclinations—and there weren't many—was defeated. Come January, it will be as hard to spot a moderate Republican on Capitol Hill as a yeti.

Featured in Bloomberg Businessweek, Nov. 12, 2018. [Subscribe now.](#)
PHOTOGRAPHER: WILLIAM MEBANE FOR BLOOMBERG BUSINESSWEEK

Predicting the political future can be a futile endeavor, especially in the age of Trump, when the national agenda can hinge on the morning's Fox & Friends panel. But one certainty apparent even to the president's most ardent supporters is that Trump alone will no longer set that agenda, as he's been accustomed to doing since he jumped into the presidential race in the summer of 2015.

The Democratic House will make sure of that. “Between appropriations and oversight, between the gavel and the subpoenas, they’re going to grind the Trump program to a halt,” says Steve Bannon, Trump’s erstwhile chief strategist. “It’ll be the Moscow Show Trials every day. It’ll be Stalingrad.”

That could greatly aid the Democratic cause, but it could backfire if, instead of exercising accountability, they use their subpoena power to haul Trump officials before Congress simply for the purpose of political theater. Already, Democrats have signaled their plans to investigate Trump’s tax returns, Russian election meddling, and White House interference with the U.S. Department of Justice—a subject that will rocket to the fore if Trump tries to halt Robert Mueller’s special counsel probe (which became a little more exposed after the forced resignation of U.S. Attorney General Jeff Sessions). A damning report from Mueller that exposes Russian collusion with the Trump campaign could touch off impeachment proceedings. But even short of that, Trump’s administration offers a bounty for Democrats to pursue. “The waste, fraud, and abuse is plain to see,” says Democratic Representative Elijah Cummings of Maryland, who’s in line to become chairman of the powerful House Oversight Committee, which has an almost unlimited purview to launch investigations and demand documents and testimony from the administration.

One reason Trump supporters such as Bannon fear Democratic oversight is that Republicans have spent years broadening and

weaponizing the already formidable powers of the House majority party. For decades after Joe McCarthy's Red Scare, the Oversight Committee was run as a gentlemanly partnership between the parties. To guard against abuse, the chairman typically had to gain the consent of the ranking member to issue a subpoena or else win a committee vote. Republicans changed this rule in 1997 to invest their Oversight chairman, Dan Burton of Indiana, with unilateral subpoena power, something he employed with astonishing zeal as he tried to take down President Bill Clinton. Burton issued 1,052 unilateral subpoenas during his five-year chairmanship, according to a calculation by the committee's minority staff. In 2015, Republicans changed the rules again, expanding unilateral subpoena power to 14 committee chairmen to help them go after Barack Obama's administration.

During Trump's presidency, those powers have mostly lain dormant. But Democrats such as incoming House Judiciary Committee Chairman Jerry Nadler of New York have left little doubt that they plan to use them. In April, Nadler put out a report listing all the areas in which he felt the Republican-led committee had turned "a blind eye to gross misconduct" and shirked its oversight duties. "In ordinary times, under the leadership of either party," he wrote, "the Committee would have focused its attention on election security, enforcement of federal ethics rules, obvious breaches of the Foreign Emoluments Clause of the Constitution, allegations of obstruction of justice, and preserving

the independence of the Department of Justice, among other matters.”

To this list, committee Democrats have added concerns about nepotism and conflicts of interest involving senior administration officials, including Trump and his family members; whether the Justice Department has prioritized the prosecution of immigration offenses over other criminal cases; and examinations of the president’s physical and mental fitness. In addition, Democrats will have weapons they previously lacked. Taking a page from Judicial Watch and other conservative litigation shops, which bedeviled the Obama administration, progressives have created their own groups, including American Oversight, that will use lawsuits and Freedom of Information Act requests to pry documents from the Trump administration to aid Democratic investigators. “The power of a congressional subpoena is backed primarily by an administration’s willingness to follow long-standing norms rooted in the Constitution,” says Austin Evers, founder of American Oversight. “The question we need to ask ourselves is whether we think the first norm Trump will obey is a subpoena.” Evers doesn’t think so, noting that both Democratic and Republican administrations have successfully stonewalled congressional subpoenas in the past.

By contrast, outside groups can use FOIA requests to demand the same documents and do so backed by the stronger enforcement power of the courts. Last month, American Oversight filed a flurry of lawsuits designed to bolster House investigators: One

involves the botched responses to hurricanes Maria and Irma; another concerns the influence of Mar-a-Lago members in shaping policy at the U.S. Department of Veterans Affairs; and five complaints involve Trump's interference in plans to redevelop the site of the FBI headquarters near his Washington hotel. "Our goal is to start these conveyor belts of transparency as soon as possible to supercharge congressional oversight in 2019," Evers says.

Oversight isn't just the key to holding Trump accountable. It's also the mechanism by which Democrats will advance a legislative agenda that could come to fruition sooner than most people expect. To understand how, it's helpful to look back to 2006, the last time Democrats retook the House under a Republican president.

Democrats then were no fonder of George W. Bush than they are of Trump. Led by legendary House Oversight Chairman Henry Waxman of California, they aggressively pursued the Bush administration in areas ranging from health care to government corruption to hurricane relief mismanagement—in that case, Hurricane Katrina. (I present a fuller picture of this era in the 2009 book I wrote with Waxman, *The Waxman Report: How Congress Really Works*.) Yet the bitter polarization of that era didn't preclude teaming up on several expansive bills. "We passed significant legislation, from the first stimulus to the Troubled Asset Relief Program," says John Lawrence, who was chief of staff to House Speaker Nancy Pelosi of California and has

written a new book, *The Class of '74: Congress After Watergate and the Roots of Partisanship*. “But of course, the urgency of the financial crisis obligated everyone to behave like grown-ups.”

No one has any illusions about grown-up obligations now. Absent another global crisis—and perhaps even if one should arise—the conventional wisdom that Trump’s Republicans and the Democratic House will find little common legislative purpose is probably correct. Trump still holds a veto stamp, and congressional Republicans, more in thrall to him than ever, have the numbers to enforce it. But here again, as House Democrats showed a decade ago, oversight power can point a path forward and lay the groundwork for legislative gains.

“Part of our strategy was to use oversight aggressively,” Lawrence says, “a task made easier by the fact that we had seasoned chairmen who were very good at it: Waxman at Oversight, George Miller at Education and Labor, and Barney Frank at Financial Services. We knew we didn’t have the capacity to enact legislation, but we were building the basis for the more extensive agenda that would come the next time Democrats took power.”

They didn’t have to wait long. The Democratic oversight of 2007-08 presaged laws that came to fruition just two years later, when Obama won the presidency and Democrats took the Senate. Three major pieces of legislation—led by the trio Lawrence enumerated—had their genesis during this period.

Miller held extensive hearings on the issue of equal pay for women, after the U.S. Supreme Court ruled against the plaintiff

in a gender discrimination lawsuit. Senate Republicans blocked the resulting bill in 2008. But less than a year later, Obama signed the Lilly Ledbetter Fair Pay Act into law. Frank's inquiries into systemic risk in financial markets and his examination of government-backed mortgage lending informed the landmark 2010 financial reform that bears his name: the Dodd-Frank Wall Street Reform and Consumer Protection Act. Waxman's oversight hearings were a carefully choreographed examination of the financial crisis's causes and malefactors. (Years earlier, he had orchestrated the iconic "Seven Dwarfs" hearing at which the major tobacco company chief executive officers stood and swore under oath that tobacco isn't addictive.) That flair for the dramatic helped build momentum for Dodd-Frank. Summoning Alan Greenspan, the world's most famous free-marketer, to testify, Waxman produced a viral moment by demanding to know, "Were you wrong?" Both hearings produced major legislation: Before Dodd-Frank, Obama signed a law regulating tobacco.

The lesson of that era is one Democrats will heed again. "You set the table when you're in the majority but don't have the White House," says Phil Schiliro, who was Waxman's chief of staff and later head of legislative affairs for Obama. "There were things President Bush wouldn't sign in 2007 that we were able to do in 2009 with President Obama and a Democratic Congress." Where Democrats choose to focus their oversight powers will be a reliable indicator of the legislation that will follow two years from

now if Democrats, running with a much more favorable map, defeat Trump and take full control of Congress.

At least for now, there's little disagreement about party priorities. In light of mounting Republican efforts to impose restrictions on who can vote and other obstacles at the polls, Democrats are expected to introduce as their first House bill a package of reforms that would restore the Voting Rights Act, enable nationwide automatic voter registration, and create nonpartisan congressional redistricting, along with ethics reforms and campaign finance changes.

Health care will be another priority. According to a study by the Wesleyan Media Project, the issue appeared in 57 percent of pro-Democratic ads in the election's closing weeks, making it far and away the top concern among Democratic voters. It also appeared in 32 percent of pro-Republican ads—an indication that health-care coverage is a source of cross-party anxiety, which gives Democrats added motivation to examine how the Trump administration's efforts to undermine the Affordable Care Act have driven up insurance premiums.

Soon enough, however, Democrats could face tough choices about where to pursue Trump and how aggressively—and also whether to emulate Waxman's bipartisan model or adopt the more recent style of Republican Oversight Committee chairmen such as Darrell Issa and Trey Gowdy, who single-mindedly pursued their political foes on all fronts. To date, most Democrats have heeded Pelosi's example and avoided inflammatory talk of

impeachment. “I don’t think there’s any impeachment unless it’s bipartisan,” Pelosi said on election night. But that reluctance could vanish when Mueller completes his Russia investigation and reports his findings to Congress. “If Mueller comes in with a criminal recommendation on indictment,” Lawrence says, “all bets are off.”

With the House lost, Republicans are bracing for the worst from the Democratic majority. “It would fit with their style to want to find everything they can bang on the president for,” says Representative Michael Conaway of Texas, who led the House Intelligence Committee’s investigation into Russian election interference. Democrats strongly criticized that probe, and on election night the incoming chairman, Adam Schiff of California, promised to revisit it. “We’re going to look at the work that the GOP obstructed,” he told MSNBC.

While the Election Day verdict was split, with Democrats capturing the House and Republicans expanding their Senate majority, the biggest effect of the outcome is that it will impose checks and balances absent during the first two years of Trump’s presidency. Democrats lost marquee races in Texas and Florida, and didn’t fare nearly as well in Senate and governors’ races as they’d hoped. But they secured a set of powers that Trump cannot thwart or wrest away.

Watergate may be an apt historical parallel for what’s to come—even if Democrats don’t impeach Trump. That scandal remains the singular example of how oversight can rein in executive

power and bring about reform. “After Watergate, the country learned through congressional investigations how Nixon had abused the IRS, used surveillance powers, and crossed all sort of lines in terms of campaign finance,” says American Oversight’s Evers. This process established a set of political norms that held for the next 40 years—and which the newly empowered Democrats will now try to restore, unless the thirst for vengeance gets in the way. “The whole raft of good-government reforms that flowed from that period,” Evers notes, “are essentially the foundation of what Donald Trump is violating today.” —With Billy House