



Mr. Oversight

Henry Waxman discusses his plans for tough oversight of the Bush administration.

Rep. Henry Waxman, D-Calif., may have a reputation as an aggressive—and often partisan—government watchdog. But as he discussed his potential chairmanship next year of the House Government Reform Committee, during a recent interview with *National Journal*, he didn't exactly sound like a pit bull.

Sure, Waxman railed against his GOP colleagues for their refusal to conduct any oversight of the Bush administration that could prove "embarrassing." Yet he also said that it would be "presumptuous" to plan his committee agenda now, that he would "reach out" to work with fellow Republicans, and that the 110th Congress will have no room for "autonomous chairmen." Edited excerpts of that August 4 interview follow.

■ **NJ: What would it be like next year if Democrats have a narrow majority?**

■ Waxman: It would be difficult to get legislation. But I never accepted the way that Republicans operated, of doing things solely on a partisan basis. I would want to do hearings, look for solutions, and act on a bipartisan basis. You can get a list of all the bills that I have passed into law. I can't think of a single one where we passed it solely on a partisan vote. If we control the agenda, hopefully we can get support for it.

Some of our successes have turned out not because legislation has passed but because we continued to push an issue. The tobacco issue [featuring high-profile hearings before a Waxman subcommittee in 1994] is a good example. I was very disappointed that we didn't get stronger legislation. But at least we were able to highlight the issue so that people understand the problem.

■ **NJ: What frustrations have Democrats felt, without control of the committee gavels?**

■ Waxman: We have tried to spotlight the issue of the enormous amount of waste, fraud, and abuse by giving out monopoly contracts in the military. We occasionally got the majority to agree to hearings. But whenever it has gotten close to potential embarrassment for the White House, the Republicans won't hold hearings. I don't think that should be the basis for Congress to decide whether to do oversight. In fact, if it's potentially embarrassing, hearings are potentially self-correcting. That's the time to give a spotlight—when people see that an administration may be doing things wrong.

■ **NJ: If you become chairman of the House Government Reform Committee, what will your priorities be?**

■ Waxman: This committee has oversight over everything that the government is involved with. It could be health and environment issues. Or it could also be on military contracting. But it would be presumptuous to think what I would want to do in January. We won't know what will be the big issues at that moment.

I am stunned by the waste, fraud, and abuse in government

spending. The three big areas have been Iraq reconstruction, the damage from Hurricane Katrina, and homeland security. In all three of these areas, we see the same mistakes: big monopoly contracts, no bidding, no competition. So, there are a lot of abuses.

■ **NJ: Can Congress legislate a solution to these problems?**

■ Waxman: Yes, we have some legislation that we might want to advance. I don't object to government contracts. But I do object to government not planning or having clear oversight. The best focus of oversight is to prevent a waste of taxpayer dollars. This is a serious constitutional responsibility.

I want to do it in a rational way and definitely want to avoid what the Republicans did. They misused their oversight affirmatively by going after President Clinton in a very partisan way. And they misused it by not even looking at anything on the Bush administration. As an example, they spent 10 days of hearings looking at whether Clinton misused the White House Christmas card list for political purposes, but they would not have a single day of hearings on what are the practices for dealing with people who leak security information, like [White House aide] Karl Rove.

■ **NJ: Should oversight always have a legislative goal?**

■ Waxman: Often you use oversight to try to gather support behind ideas for legislation to solve a problem. But sometimes you are just exploring a problem. An important part of oversight is for Congress to keep the executive branch honest, and to provide the checks and balances that the Constitution envisioned.

Sometimes, oversight is used to push ideas forward. An example was [our committee's] investigation of steroids in baseball. I would have thought that Major League Baseball would have done an investigation. Kids were using steroids because their role models were using them. And the hearings became a way to push the sports leagues to act on their own. As long as the testing policy was a good one, that was what we wanted. It didn't have to be legislation, as far as I was concerned.

■ **NJ: If Democrats control the House next year, will oversight be a more practical tool than legislation?**

■ Waxman: Even with a narrow majority, oversight can bring about support on a bipartisan basis for certain positions. It can bring more of a public focus to certain issues.

I will give you an example. When [the first] President Bush was in office, he issued an executive order banning any research using fetal-cell transplants, which resulted from abortions. Despite the unanimous decision of a National Institutes of Health panel, he stopped it. Well, we held hearings to have a spotlight on this, and we ended up with overwhelming bipartisan support to resume the research. We had legislation that President Bush vetoed. We were successful in getting an override in the Senate but not in the House.

When President Clinton came into office, we passed the legislation and he signed it, allowing the research to go forward. That was a situation where I could call a hearing, set that agenda item, call public attention to it, and get another perspective out.

■ **NJ: What have been your most successful oversight efforts?**

■ Waxman: In terms of legislation, there were the hearings that we had after the Bhopal explosion [at a chemical plant in India in 1984]. We went to West Virginia and looked at the impact of toxic pollutants. At the time, the Environmental Protection Agency was not even asking about the level of toxic emissions into the air from industrial facilities.

We issued a report, which the chemical industry immediately denounced as exaggerated. But those hearings led to a proposal for an inventory, which the House passed by one vote. So, we built up a record and public understanding so that when we amended the Clean Air Act in 1990, we had a separate section on toxic emissions.

■ **NJ: What lessons do you draw from your tobacco hearings in 1994?**

■ Waxman: The major breakthrough was when we had the CEOs [testify]. Public attitudes changed overnight when they saw the leaders of the industry saying things that people knew not to be true. After that, we started getting calls from whistleblowers in the industry. They were so angry with the CEOs saying that the nicotine didn't cause disease. We had [industry] scientists who discussed their efforts to adjust the nicotine so that people would continue as smokers. After those hearings, the flow of information became a torrent.

Even though we couldn't get legislation, that led to most places around the country banning cigarette smoking in public places. Once it became clear that there was a medical problem for nonsmokers to breathe in second-hand tobacco smoke, it was no longer just an annoyance, it was a health threat.

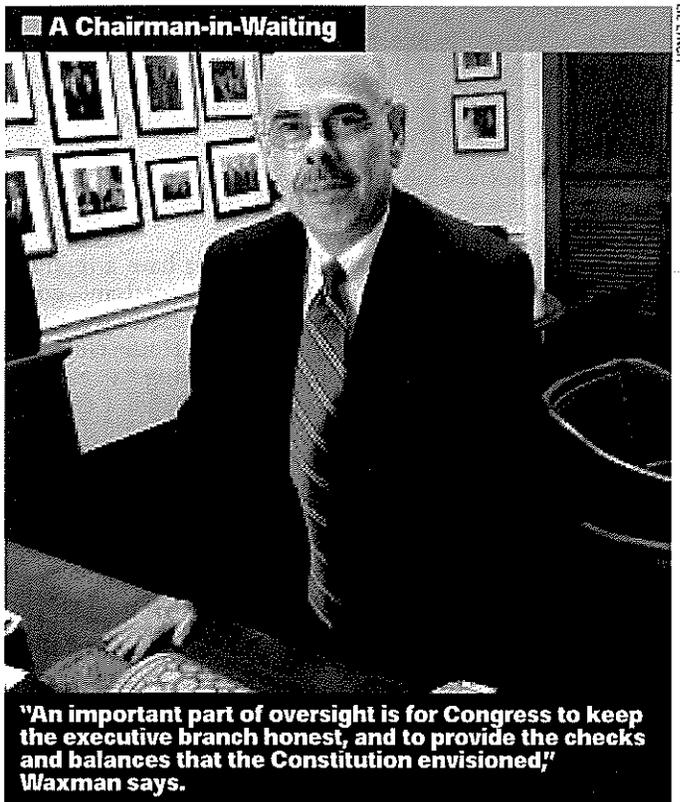
■ **NJ: Why did you never issue a subpoena in the 16 years that you chaired a Government Reform subcommittee?**

■ Waxman: To me, a subpoena is something that you do as a last resort. Even when the tobacco executives came in to testify, they came in voluntarily. They wanted to tell their story. It was a serious mistake in strategy. Most of the hearings that I held over the years, we were always able to get witnesses. Knowing that we would come back with a subpoena often made a witness willing to appear.

I was shocked when the Republicans took over and [Government Reform Committee Chairman] Dan Burton issued subpoena after subpoena [from 1997 to 2002]. That was more power than any single member of Congress ever had. The rules always had had a check on the abuse of power by a chairman. But Republicans on our committee gave the chairman unilateral power to issue subpoenas.

■ **NJ: If you were chairman, would you want that subpoena power?**

■ Waxman: My view is that the Republicans have changed the rules. If they think that those are good rules, we will let them stay. I didn't approve of those rules. But it makes the threat more serious. I would use [subpoenas] if I needed them. But I don't think that I would need them.



■ **NJ: Some Republicans see you as highly partisan. Do you worry about that?**

■ Waxman: The best way to change opinion is for them to see how I operate, if I have the chance. I think that the criticism is not valid. I am offended by how partisan the Republicans have been. I think that it's destroyed a lot of what's important in this institution—that people develop expertise on issues, and operate in a civil and bipartisan way. Republicans have been told that they had to march in lockstep, and they weren't interested in anything that the Democrats had to say.

As chairman, I would want Republicans to join us and to get their input. I would certainly reach out to Republicans who want to work on policy. Partisanship is counterproductive for this institution.

■ **NJ: What kind of speaker would Rep. Nancy Pelosi, D-Calif., be?**

■ Waxman: One of the lessons that I would take from the Republican management of the House is that there is a good side to centralizing more power in the leadership. In the days when we had the majority, there were too many autonomous chairmen. It would be a mistake to go back to those days. I don't think that the leaders ought to dictate to the chairmen, but they ought to work closely with the chairmen to assure that they are responsive.

The priorities, to some extent, have to be set by the leadership. I think that Pelosi would do an excellent job. She has made clear to members that they will be accountable to the Democratic Caucus.

—R.E.C.

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