

## Chapter CLXXXVI.<sup>1</sup>

### THE POWER OF INVESTIGATION.

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1. As interpreted by the courts. Sections 354, 355.
  2. Various instances of the exercise of the power. Sections 356-369.
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#### **354. Review of decisions of the Supreme Court relative to the scope and extent of congressional investigations.**

##### **Decisions of the Supreme Court relating to immunity of witnesses testifying in congressional investigations.**

##### **Decisions of the Supreme Court relating to the punishment of contumacious witnesses.**

##### **Form of resolution providing for a congressional investigation.**

On May 16, 1911,<sup>2</sup> Mr. James R. Mann inserted in the Record, by unanimous consent, the following memorandum on the subject of congressional investigations:

In drafting a resolution or a law creating a committee or a commission and authorizing it to conduct an investigation for the purpose of securing information to be subsequently reported to Congress, certain principles, announced by the courts in cases involving the legality of governmental investigations, should be borne in mind. A review of the decisions of the Supreme Court in this class of cases discloses the fact that previous investigations which have failed met the disapproval of the courts because the acts of Congress authorizing them were insufficient, and not because of any lack of power in that body to make investigations. It is therefore of the utmost importance that mistakes and errors pointed out by the courts in the laws authorizing previous investigations be avoided. The leading cases announce the following principles:

#### SCOPE AND EXTENT OF CONGRESSIONAL INVESTIGATIONS.

Congress may authorize a committee or a commission to obtain information upon any subject which, in its judgment, it may be important to possess. (In re Pacific Ry. Com., 32 F. R., 241, 250; 1887.)

*Interstate Commerce Commission v. Brimson* (154 U. S., 447, 472; 1893) holds, in effect, that the Constitution having given to Congress full power in the matter of regulating commerce that body may investigate the whole subject and in that way obtain full and accurate information; that for the purpose of regulating commerce Congress may invest a commission with authority to require and compel the attendance and testimony of witnesses and the production of papers and documents relating to any matter legally committed to it for investigation.

This case holds also that the twelfth section of the interstate-commerce act is constitutional and valid so far as it authorizes and requires the circuit courts of the United States to use their process in aid of inquiries which it holds Congress may lawfully authorize the Interstate Commerce Commission to make. That part of the draft of the proposed resolution, herewith submitted, which authorizes the same aid, follows the language of that section.

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<sup>1</sup>Supplementary to Chapter LIV.

<sup>2</sup>First session Sixty-second Congress, Record, p, 1231.

But the courts will not permit a governmental investigation to delve into the purely private affairs of the citizen unless it affirmatively appears that such investigation is material to matters over which Congress has jurisdiction and concerning which it may take some lawful action. *I. C. C. v. Brimson*, 154 U. S., 447, 481, et seq., 1894; *Ertick v. Carrington*, 19 Howell's State Trials, 1029; *Kilbourne v. Thompson*, 103 U. S., 168, 190-6, 1880; *In re Chapman*, 166 U. S., 661, 668-71, 1896.)

In *Kilbourne v. Thompson* (103 U. S., 168, 1880) a resolution, appointing a special committee and authorizing an investigation into the matter and history of the real-estate pool and the Jay Cooke & Co. settlement was held defective because it did not appear that the subject matter of the investigation was one concerning which Congress had jurisdiction or with reference to which it could take lawful action (p. 193).

The situation may be summarized thus: While Congress may authorize the collection, in the ordinary way, of information on any subject which it may deem of importance to possess, it may authorize the exercise of the extraordinary power of compelling the giving of testimony and the production of documents and papers only in cases where the information required is material to matters over which Congress has jurisdiction and concerning which it may take some lawful action. It is at this point that the power of the Government and the constitutional rights of the citizen meet, and it is here that governmental investigation reaches its limit.

In order, therefore, to lawfully entitle an investigating commission to forcibly compel the giving of testimony and the production of documents and papers, three things are essential.

First. The subject matter of the investigation must be one concerning which Congress has jurisdiction and with reference to which it may take lawful action.

Second. The resolution or statute creating the commission must describe in express terms the subject matter and should indicate clearly the object or purpose proposed to be accomplished by the investigation.

Third. The testimony, or the information contained in the papers and documents, which the commission forcibly seeks must be material and relevant to the subject matter which it is authorized to investigate.

If, therefore, a law authorizing an investigation contains these essential elements, the information pointed out may be secured notwithstanding it may be of a, private or personal nature, providing, of course, the law contains a clause granting to witnesses immunity from future prosecution with respect to information which might tend to criminate them.

In this connection it is to be observed that if the information sought is material to the subject matter which the commission is authorized to investigate it may not be withheld on the ground that it is also material to some other subject which it has no right to inquire into. Inquiries of a commission of this character are not narrowly constrained by technical rules as to the admissibility of proof. Its function is one of inquiry, and it should not be hampered by those narrow rules which prevail in trials at common law where a strict correspondence is required between allegation and proof. (*I. C. C. v. Baird*, 194 U. S., 25, 44, 1904.)

#### PROVISIONS SUFFICIENT TO GRANT IMMUNITY TO WITNESSES.

*Counselman v. Hitchcock* (142 U. S., 547, 586, 1892) held that section 860, Revised Statutes, did not supply a complete protection against all the perils against which the fifth amendment to the Constitution was designed to guard, and was not a full substitute for that prohibition; that a statutory enactment to be valid must afford to a witness absolute immunity against future prosecution for the offense to which the question relates. While this case involved an investigation instituted by the Interstate Commerce Commission, section 12 of the interstate commerce act, as it then stood, does not appear to have been passed on. That section followed the language of section 860, Revised Statutes, above referred to, however, and when that provision was declared insufficient and ineffectual that part of section 12 of the interstate commerce act then in force was apparently abandoned. The act of February 11, 1893, was then passed to supply a provision which would be sufficient and effectual. It has so been held in *Brown v. Walker* (161 U. S., 591, 1895). The immunity provision of the draft of the proposed resolution herewith submitted follows the language of that act, which has been passed on and declared sufficient by the Supreme Court.

It is well to note, however, that the jurisdiction of an investigating commission is not extended because the resolution or act appointing it contains a provision granting to witnesses immunity from future prosecution. A statute granting immunity to witnesses does no more than deprive them of their right to refuse to answer questions or produce documents or papers which are material to the subject matter of a lawful investigation. It does not extend the jurisdiction of the commission; it only aids it in conducting investigations which it has a right to make.

PUNISHMENT OF CONTUMACIOUS WITNESSES.

As to the punishment of contumacious witnesses the case of *Interstate Commerce Commission v. Brimson* (154 U. S., 447, 485; 1893), holds that:

“Except in the particular instances enumerated in the Constitution and considered in *Anderson v. Dunn* (6 Wheat., 204) and in *Kilbourn v. Thompson* (103 U. S., 168, 190) of the exercise by either House of Congress of its right to punish disorderly behavior upon the part of its Members, and to compel the attendance of witnesses and the production of papers in election and impeachment cases, and in cases that may involve the existence of those bodies, the power to impose fine and imprisonment in order to compel the performance of a legal duty imposed by the United States, can only be exerted, under the law of the land, by a competent judicial tribunal having jurisdiction in the premises. See *Whitcomb's case* (120 Mass., 118) and authorities there cited.”

In *re Chapman* (166 U. S., 661, 1897) holds that sections 102 and 104, Revised Statutes, for enforcing the attendance of witnesses, etc., are not open to the objection that they conflict with the Constitution; that Congress possesses constitutional power to enact a statute to enforce the attendance of witnesses and to compel them to make disclosure of evidence to enable the respective bodies to discharge their legislative functions; while Congress can not divest itself, or either of its Houses, of the inherent power to punish for contempt, it may provide that contumacy in a witness called to testify in a matter properly under consideration by either House, and deliberately refusing to answer questions pertinent thereto, shall be a misdemeanor against the United States.

In *Interstate Commerce Commission v. Brimson* (53 F. R. 476, 480; 1892), the court said:

“Undoubtedly Congress may confer upon a nonjudicial body authority to obtain information necessary for legitimate governmental purposes, and make refusal to appear and testify before it touching matters pertinent to any authorized inquiry an offense punishable by the courts,” or subject witnesses “to penalties or forfeitures. A prosecution or an action for violation of such a statute would be clearly an original suit or controversy between parties within the meaning of the Constitution.”

This part of the opinion of the lower court was expressly affirmed by the Supreme Court, notwithstanding the fact that in other particulars the decision was reversed. (*I. C. C. v. Brimson*, 154 U. S., 447, 469; 1894.)

That clause of the draft of the proposed resolution herewith submitted follows the language of the provision passed on in these cases, except that it omits the penalty of imprisonment which was stricken out by the *Elkins law*.

ALPHABETICAL LIST OF CASES CITED.

*Anderson v. Dunn*, 6 Wheat., 204 (1821); *Counselman v. Hitchcock*, 142 U. S., 547, 586 (1891); *Ertick v. Carrington*, 19 *Howell's State Trials*, 1029; *I. C. C. v. Baird*, 194 U. S., 25 (1904); *I. C. C. v. Brimson*, 53 F. R., 476 (1892); *I. C. C. v. Brimson*, 154 U. S., 447 (1893); *In re Chapman*, 166 U. S., 661 (1896); *In re Pacific Ry Co.*, 32 F. R., 241 (1897); *Kilbourn v. Thompson*, 103 U. S., 168 (1880); *Whitcomb's case*, 120 Mass., 118.

TENTATIVE DRAFT OF PROPOSED RESOLUTION.

Whereas (here state the subject matter or thing to be investigated, the power under which Congress sets, and the purpose of the investigation).

*Resolved*, etc. (This clause should authorize the appointment of a committee; authorize and direct such committee to inquire into and investigate the subject described, and require it to report. Provisions with reference to compelling the giving of testimony and the production of documents, papers, etc., should be included, substantially as follows:

For the purposes of this investigation the committee shall have power to administer oaths and to require, by subpoena, the attendance and testimony of witnesses and the production of all book, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation.

Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. And, in case of disobedience to a subpoena, the committee may invoke the aid of any court in the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this action.

And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before said committee (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

No person shall be excused from attending and testifying or from producing books, papers, tariffs, contracts, agreements, and documents before the committee, or in obedience to the subpoena of the committee, whether such subpoena be signed or issued by one or more of the members of such committee, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before such committee, or in obedience to its subpoena, or the subpoena of any member thereof: Provided, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, tariffs, contracts, agreements, and documents, if in his power to do so, in obedience to the subpoena or lawful requirement of the committee shall be guilty of an offense, and, upon conviction thereof by a court of competent jurisdiction, shall be punished by fine not less than \$100 nor more than \$5,000.

**365. Congress has power to obtain information to be used as an aid in formulating legislation, and may require witnesses to testify for that purpose.**

**Decision of Federal court confirming the right of duly constituted Congressional committees of investigation to inquire into matters pertaining to primary elections.**

**In an inquiry before a congressional committee, testimony relative to contributions made by one candidate to another candidate for nomination in the same primary was held to be within the scope of the committee's power of investigation.**

**Where a subcommittee has been authorized to pursue an investigation, hearings opened and conducted by one member are as legal and authoritative as if all members of the subcommittee were present.**

**For testifying falsely before a congressional committee of investigation a witness was certified to the district attorney and indicted by a Federal grand jury.**

**An instance wherein, under exceptional circumstances, a committee authorized to investigate matters pertaining to a campaign then in progress held hearings prior to the election.**

On May 13, 1931, the Federal court for the Lincoln Division of the District of Nebraska handed down an opinion<sup>1</sup> in the case of *The United States of America v. Victor Seymour*.

The opinion cites the resolution<sup>2</sup> adopted by the Senate on April 8, 1930,<sup>3</sup> providing for the appointment of a committee of five to "investigate the campaign expenditures of the various candidates for the United States Senate."

Under authority conferred by this resolution the Vice President appointed a committee of five Senators, including Mr. Gerald P. Nye, of North Dakota, as chairman. The records of the committee relate that at a regular session attended by four members of the committee—

A discussion of future procedure was had. The chairman was unanimously authorized to act as a subcommittee and to appoint subcommittees of one or more members to hold hearings as in his judgment was desirable.

Pursuant to this authorization, Mr. Nye held hearings at which it was alleged that one Victor Seymour, on July 2, 1930, testified falsely relative to his knowledge of the candidacy of a certain George W. Norris of Broken Bow, Nebr., in the primary election to nominate a candidate for United States Senator on the Republican ticket, in which primary Senator George W. Norris, of McCook, Nebr., was also a candidate.

The discrepancy in testimony being certified by the subcommittee to the district attorney, was presented to the United States grand jury, which returned an indictment charging perjury, and the case coming to trial, Judge Munger delivered the decision of the court.

The opinion confirms the constitutional grant of power authorizing the Senate committee to elicit testimony, in this language:

In the arguments offered upon the demurrer it is conceded that the power of the committee of the Senate to make inquiry of the defendant depended upon some constitutional grant of power, express or implied, whereby the Senate committee was authorized to make the investigation which was outlined in the Senate resolution under which Senator Nye purported to act. This constitutional limitation of such an inquiry is well established.

The right of the Senate to investigate matters pertaining to primary elections with a view to acquiring data in contemplation of the formulation of legislation is sustained as follows:

The inquiries made of the defendant in this case relate to his testimony concerning his knowledge and acts in connection with a campaign preceding a primary election in Nebraska, at which party candidates for United States Senator were to be selected. The seventeenth amendment to the United States Constitution provides for the election of such Senators by the people of each State, by voters having qualifications requisite for electors of the most numerous branch of the State legislature. \* \* \*

In support of the indictment the Government asserts that the inquiries propounded to, and the testimony given by, the defendant was material to the investigation authorized by the Senate resolution and was within the scope of the Senate's right of investigation, because it was in aid of legislation which the United States Senate could enact under section 4 of Article I of the United States Constitution, which reads as follows:

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<sup>1</sup> 50 U. S. 930.

<sup>2</sup> See sec. 353, *infra*.

<sup>3</sup> Second session Seventy-first Congress, Record, p. 6841.

“The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.”

There can be no doubt of the power of Congress to obtain information as to legislation which it is authorized to enact and that it may require witnesses to testify for that purpose.

\* \* \* The right of Congress to legislate with reference to primary elections similar to such primary elections as were permissible in Nebraska in 1930 has been the subject of decisions in adjudicated cases.

In this connection the court differentiates between the Newberry case<sup>1</sup> and the case at bar, and discusses at length various cases subscribing to this doctrine, in this wise:

In view of the decision in the Newberry case, the defendant in this case contends that Congress could enact no valid legislation as to which the testimony given by the defendant could be of any assistance. Section 4 of article I of the United States Constitution authorizes Congress to make or alter regulations as to the times and manner of holding elections for Senators and Representatives in Congress. The decision in the Newberry case dealt with a specific statute, which directly undertook the regulation of primary elections where United States Senators were nominated for election. The inquiry in this case has a much broader scope. The manner of holding elections for United States Senators and Representatives which has been in general use in recent years in the United States has been by the use of written or printed ballots, cast by qualified voters at a designated time and before qualified election officers. Since the adoption of the system known as the Australian ballot law, it has been provided by statutes that the only manner in which an election could be conducted in many of the States for the election of a Senator or Representative has been by the use of a printed official ballot, furnished to the voters by public officers, and that upon such ballots no names of nominees for Representative or Senator could be printed unless such nominee had been regularly chosen, as provided by other statutes, at a primary election preceding the general election. (See Corp. Jr. 140, 141.) It has further been a part of the manner of holding such general elections in many States that the names of those who have been otherwise regularly nominated for public office could not be printed upon the ballots to be used by the voters at a general election unless such nominees should first file a sworn statement of the amount of money which had been received and expended by such nominees in procuring their nominations. Other statutes require similar statements as to money contributed to or disbursed by any campaign committee or others acting on behalf of such nominee.

Congress at different times has exerted the power of controlling the manner of holding elections for members of Congress. In the case of *Ex parte Siebold*, the court was considering the provisions of sections 2011, 2012, 2016, 2017, 2021, 2022, 5515, and 5522 of the Revised Statutes of the United States providing for Federal supervisors of elections and the duties imposed upon them and upon officers of elections and forbidding interferences with such elections. Other acts of Congress have provided for the election of Representatives by districts, and that election should be by ballot or by voting machine.

In view of these decisions, it is not perceived why Congress may not enact valid legislation providing that the manner of elections for Senators and Representatives shall be by the use of a printed official ballot, that upon such ballot there shall be printed the names of those nominees only for such offices as shall have duly made and filed with some public officer a sworn statement of all contributions and expenditures which have been made by or for the benefit of such candidate, to his knowledge, in obtaining the nomination for such office, and the names of those contributing and of those to whom money was paid, also requiring, as a prerequisite to the printing of such nominee's name upon the ballot, that the officers of a campaign committee acting on behalf of such candidate should file a similar statement.

It would relate directly to the manner of holding the elections for Senators and Representatives. As an aid to the advisability and the scope of such legislation, the testimony of the defend-

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<sup>1</sup>256 U. S. 41.

ant in this case as to contributions alleged to have been made by W. M. Stebbins as an alleged candidate for nomination for United States Senator, and to alleged agents of George W. Norris of Broken Bow, Nebr., as an alleged candidate for nomination for United States Senator, was pertinent to the inquiry which was directed to be made by the resolution of the United States Senate. It would be difficult to say that such testimony was pertinent to no other possible legislation that Congress could enact, and it is not necessary to assert such a sweeping negative. In view of the conclusion reached it is not necessary to consider whether the inquiry directed by the resolution was authorized by clause I of section 5 of article 4 of the Constitution, as an investigation of the qualifications of candidates, one of whom might thereafter become a Member elect of the Senate.

The opinion in this case also decides inferentially questions pertaining to the number of members of a committee or subcommittee required to legally conduct hearings of this character. In the opening the hearings<sup>1</sup> at Broken Bow, Nebr., on July 19, 1930, Mr. Nye announced:

The question may now arise as to the authority for only one member of the committee conducting the hearing here today. That possibility was taken care of by a resolution of the committee itself, providing that a subcommittee of one could conduct hearings upon such occasions as it was found impossible for more than one to attend. So I will conduct this hearing to-day as a subcommittee of one of that Senate committee which is charged with the duties which have been outlined by me in the reading of this resolution.

Mr. Nye at this hearing<sup>2</sup> also called attention to the departure of his subcommittee in this inquiry from the custom of congressional committees of investigations in prosecuting such inquiries prior to election and during the progress of the campaign it was proposed to investigate. Mr. Nye said:

We are establishing here to-day something of a precedent for our committee. Until now it has not been our purpose, nor have we resorted to the holding of hearings in any State prior to the conduct or prior to the holding of the primary election. The committee did not make this a hard and fast rule, yet we had not anticipated what occasion might cause us to want to conduct hearings prior to the conduct of a primary; but in this specific case a new condition presented itself to the committee, a condition which found one candidate for the United States Senate filing for that office as a candidate and then absenting himself completely, so far as was known, from the State of Nebraska itself; and in the face of such allegations as were filed with the committee and conveyed to the committee through other means, the committee has deemed it highly advisable and quite the proper thing to conduct such a hearing as we are about to conduct here to-day.

### **356. Various instances of investigations by the House.**

On March 29, 1910,<sup>3</sup> the House authorized the investigation of changes reflecting on the integrity of Members of the House arising out of the interest of the Merchant Marine League in legislation relating to the American merchant marine.

**357.** On August 21, 1911,<sup>4</sup> the House on recommendation<sup>5</sup> of the Committee on Labor, authorized the appointment of a special committee to investigate systems of shop management, with special reference to their applicability to Government work.

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<sup>1</sup>Hearings on S. Res. 215, p. 2.

<sup>2</sup>Ibid.

<sup>3</sup>Second session Sixty-first Congress, Record, p. 3890.

<sup>4</sup>First session Sixty-second Congress, Record, p. 4364.

<sup>5</sup>House Report No. 52.

The report<sup>1</sup> of the committee, submitted on March 9, 1912, was referred to the House Calendar, and was not further acted upon.

**358.** On April 18, 1921,<sup>2</sup> the House agreed to a resolution creating and empowering a select committee to investigate the escape of Grover Cleveland Bergdoll, convicted by Army general court-martial as a draft deserter and sentenced to confinement in the United States disciplinary barracks.

The report of the select committee accompanied by minority views was submitted on August 18,<sup>3</sup> and was referred to the Committee of the Whole House.

**359.** On March 12, 1924,<sup>4</sup> the Senate agreed to a resolution authorizing the appointment of five Members, three of the majority and two of the minority party, to investigate the Bureau of Internal Revenue.

Thereupon the acting President of the Senate pro tempore appointed as members of this committee Messrs. James E. Watson, of Indiana; Richard P. Ernst, of Kentucky; James Couzens, of Michigan; Andrieus A. Jones of New Mexico; and William H. King, of Utah.

On May 6, 1924,<sup>5</sup> a resolution offered by Mr. Watson proposing to discharge the special committee from the further consideration of the subject under inquiry was indefinitely postponed.

Subsequently Mr. Watson resigned as chairman of the committee and Mr. Couzens was appointed to succeed him.

The committee held exhaustive hearings and submitted a report<sup>6</sup> in the first session of the Sixty-ninth Congress.

**360.** On March 24, 1924,<sup>7</sup> the House agreed to a resolution authorizing the appointment by the Speaker of a select committee of five Members to investigate the preparation, distribution, sale, payment, retirement, surrender, cancellation, and destruction of Government bonds and other securities. Pursuant to the resolution, the Speaker appointed Messrs. Louis T. McFadden, of Pennsylvania; James G. Strong, of Kansas; Edward J. King, of Illinois; Henry B. Steagall, of Alabama; and W. F. Stevenson, of South Carolina.

The committee was subsequently authorized to employ clerical assistance and to incur expenses not exceeding \$10,000.

The report of the select committee was submitted March 2, 1925<sup>8</sup> accompanied by separate minority views signed by Mr. McFadden and Mr. Strong, respectively, and was referred to the House calendar.

**361.** On June 7, 1924,<sup>9</sup> the Senate, without debate or record vote, agreed to the following resolution:

*Resolved*, That a special committee of five Senators be elected forthwith to investigate and report to the Senate on December 5, 1924, the campaign expenditures made by or on behalf of,

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<sup>1</sup> Second session Sixty-second Congress, House Report No. 403.

<sup>2</sup> First session Sixty-seventh Congress, Journal, p. 103; Record, p. 412.

<sup>3</sup> House report No. 534.

<sup>4</sup> First session Sixty-eighth Congress, Record, p. 4023.

<sup>5</sup> Record, p. 7934.

<sup>6</sup> Senate Report No. 27.

<sup>7</sup> First session Sixty-eighth Congress, Journal, p. 363; Record, p. 4817.

<sup>8</sup> House Report. No. 1635.

<sup>9</sup> First session Sixty-eighth Congress, Record, p. 11139.

or in support of, or in opposition to, any and all candidates for President and Vice President and presidential electors; the names of the persons, firms, or corporations contributing to the said candidate or candidates or their party committee or committees, or any other agency, the amounts contributed, pledged, loaned, or otherwise made available for use, the method of expenditure of said sums, and all the facts in relation thereto, not only as to the subscriptions of money and the expenditures thereof but as to the use of any other means of influence, including the promise of patronage, and all other facts in relation thereto that would not only be of public interest but would aid the Congress in any necessary remedial legislation.

The said committee is hereby empowered to sit and act during the adjournment of Congress at such time and place as it may deem necessary; to require by subpoena, or otherwise, the attendance of witnesses, the production of books, papers, and documents; to employ stenographers at a cost of not exceeding 25 cents per hundred words. The chairman of the committee, or any member thereof, may administer oaths to witnesses. Subpoenas for witnesses shall be issued under the signature of the chairman or any member of the committee. Every person who, having been summoned as a witness by authority of said committee, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the investigation heretofore authorized, shall be held to the penalties provided by section 102 of the Revised Statutes of the United States.

The expenses thereof shall be paid from the contingent fund of the Senate on vouchers ordered by said committee, signed by the chairman thereof, and approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

Immediately upon the passage of this resolution, on motion of Mr. Henry Cabot Lodge, of Massachusetts, Messrs. William E. Borah, of Idaho; Wesley L. Jones, of Washington; Henrik Shipstead, of Minnesota; T. H. Caraway, of Arkansas; and Thomas F. Bayard, of Delaware, were elected as members of the special committee of investigation.

Hearings were held by the committee, and on February 12, 1925<sup>1</sup> (legislative day of February 3), Mr. Borah submitted the report of the committee, incorporating itemized records of contributions and expenditures of major political parties, and recommending the enactment of a corrupt practices act.

**362.** On February 10, 1925<sup>2</sup> Mr. Homer P. Snyder, of New York, from the Committee on Indian Affairs, submitted the report from the Subcommittee of the Committee on Indian Affairs, appointed under authority of House Resolution 348 to inquire into and investigate the situation with reference to the administration of Indian Affairs in Oklahoma.

The subcommittee consisted of Messrs. Homer P. Snyder, of New York; Scott Leavitt, of Montana; George F. Brumm, of Pennsylvania; Sam B. Hill, of Washington; M. C. Garber, of Oklahoma; Carl Hayden, of Arizona; and W. W. Hastings, of Oklahoma. Under the authorizing resolution<sup>3</sup> expenses of the investigation were limited to \$5,000.

The report consisted largely of findings of facts relating to the conduct of personal estates of four Indian wards of the Government, with recommendations relating to the administration of the affairs of the Five Civilized Tribes, and was accompanied by minority views signed by Mr. Hill and Mr. Hastings.

The report was referred to the House Calendar and was not acted upon by the House.

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<sup>1</sup> Senate Report No. 1100.

<sup>2</sup> Second session Sixty-eighth Congress, House Report No. 1527.

<sup>3</sup> Journal, 658.

**363.** On January 24, 1925,<sup>1</sup> the House agreed to a resolution authorizing an investigation by a select committee of five Members to be appointed by the Speaker, of the National Disabled Soldiers' League (Inc.), its methods of solicitation of funds, sources of revenue, character and pay of officials, distribution of funds for the benefit of the veterans of the World War, uses of the United States mails, implication of indorsement by the Commissioner of Internal Revenue, and all other matters pertaining to the organization and conduct of said league. The committee was authorized to send for persons and papers, administer oaths, take testimony, and, by later resolution, to incur expenses not to exceed \$1,000.

The Speaker appointed as members of this committee Messrs. Hamilton Fish, of New York; William D. Boies, of Iowa; Richard S. Aldrich, of Rhode Island; Eugene Black, of Texas; William P. Connery, of Massachusetts.

On March 3<sup>2</sup> Mr. Fish, from the select committee, submitted a report which was referred to the Committee of the Whole House.

The report was received and ordered printed.

**364.** On May 19, 1926<sup>3</sup> (legislative day of May 17), in the Senate, Mr. James A. Reed, of Missouri, moved the following resolution:

*Resolved*, That a special committee of five, consisting of three members selected from the majority political party, of whom one shall be a progressive Republican, and of two members from the minority political party, shall be forthwith appointed by the President of the Senate; and said committee is hereby authorized and instructed immediately to investigate what moneys, emoluments, rewards, or things of value, including agreements or understandings of support for appointment or election to office have been promised, contributed, made, or expended, or shall hereafter be promised, contributed, expended, or made by any person, firm, corporation, or committee, organization, or association to influence the nomination of any person as the candidate of any political party or organization for membership in the United States Senate, or to contribute to or promote the election of any person as a Member of the United States Senate at the general election to be held in November 1926. Said committee shall report the names of the persons, firms, or corporations, or committees, organizations, or associations that have made or shall hereafter make such promises, subscriptions, advancements, or payments and the amount by them severally contributed or promised as aforesaid, including the method of expenditure of said sums or the method of performance of said agreements, together with all facts in relation thereto.

Said committee is hereby empowered to sit and act at such time or times and at such place or places as it may deem necessary; to require, by subpoena or otherwise, the attendance of witnesses, the production of books, papers, and documents, and to do such other acts as may be necessary in the matter of said investigation.

The chairman of the committee or any member thereof may administer oaths to witnesses. Every person who having been summoned as a witness by authority of said committee willfully makes default, or who, having appeared, refuses to answer any question pertinent to the investigation heretofore authorized, shall be held to the penalties provided by section 102 of the Revised Statutes of the United States.

Said committee shall promptly report to the Senate the facts by it ascertained.

The resolution<sup>4</sup> was agreed to and a committee appointed consisting of Mr. Reed, chairman; Mr. Charles L. McNary, of Oregon; Mr. Guy D. Goff, of West

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<sup>1</sup> Second session Sixty-eighth Congress, Record, p. 2437.

<sup>2</sup> House Report No. 1638.

<sup>3</sup> First session Sixth-ninth Congress, Record, p. 9677.

<sup>4</sup> This resolution was supplemented by S. Res. 227, 258, and 324 of the Sixty-ninth Congress.

Virginia; Mr. William A. King, of Utah; and Mr. Robert M. La Follette, jr., of Wisconsin.

The committee was continued in the succeeding Congress<sup>1</sup> by the following resolution:

*Resolved*, That a resolution of the United States Senate, agreed to on May 19, 1926, numbered Senate Resolution 195, of the Sixty-ninth Congress, first session, creating a special committee to investigate expenditures in senatorial primary and general elections, and all subsequent resolutions dealing with the said special committee and agreed to by the United States Senate during the Sixty-ninth Congress (to wit, S. Res. 227, S. Res. 258, and S. Res. 324), have continued in full force and operation since the dates of their respective enactment by the Senate, and do now, as then, express the will of this body.

And that the said special committee appointed pursuant to said Senate Resolution 195 of the Sixty-ninth Congress, first session, shall continue to execute the directions of the said several resolutions relating to the said committee until the Senate accepts or rejects the final report of the said special committee or otherwise orders.

The committee held numerous us hearings and from time to time submitted reports,<sup>2</sup> including reports on the election of Frank L. Smith in the Illinois primary election, with special reference to contributions by Samuel Insull; the election of William S. Vare in Pennsylvania primaries and elections, with particular attention to contributions by Thomas W. Cunningham; the senatorial elections in Arizona; the primary election in Illinois, reporting the contumacy of Robert E. Crow, Daniel T. Schuyler, Samuel Insull, and Thomas W. Cunningham, and the election of a Senator from New Jersey. These investigations were made the basis of various further inquiries by the Senate and gave rise to a number of questions eventually carried to the Supreme Court for final adjudication.<sup>3</sup>

**365.** On April 29, 1922,<sup>4</sup> the Senate agreed to a resolution requesting the Secretary of the Interior to transmit to the Senate copies of oil leases within the naval reserve, with related papers, and authorizing the Committee on Public Lands and Surveys to investigate the entire subject with reference to the rights and equities of the Government and the preservation of natural resources.

The authorization was further supplemented on June 5,<sup>5</sup> by a resolution conferring on the committee power to require the attendance of witnesses and the production of books and papers, with provision for the payment of the expenses of the investigation from the contingent fund.

On January 9, 1928,<sup>6</sup> the Senate by further resolution authorized the Committee on Public Lands and Surveys to continue the investigation with specific directions to inquire into designated phases of the subject. This investigation eventually led to the indictment<sup>7</sup> of Harry F. Sinclair and Robert W. Stewart.

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<sup>1</sup> First session Seventieth Congress, Record, p. 488.

<sup>2</sup> Second session Sixty-ninth Congress, Senate Report No. 1197, parts 1 to 5; First session Seventieth Congress, Senate Report No. 603, parts 1 and 2; Second session Seventieth Congress, Senate Report No. 1861.

<sup>3</sup> See sec. 347 in this volume.

<sup>4</sup> Second session Sixty-seventh Congress, Record, p. 6096.

<sup>5</sup> Record, p. 8140.

<sup>6</sup> First session Seventieth Congress, Record, p. 1185.

<sup>7</sup> See sections 336 and 340 of this volume.

**366.** On October 1, 1929,<sup>1</sup> the Senate passed a resolution<sup>2</sup> empowering the Committee on the Judiciary to inquire into the activities of lobbyists and authorizing the expenditure of \$10,000 in such investigations.

Under the authority thus granted, Mr. T. H. Caraway, of Arkansas, Chairman of the subcommittee, submitted from time to time various reports<sup>3</sup> including reports relating to Senator Hiram Bingham, of Connecticut; Frederick L. Koch, an employee of the Tariff Commission; Joseph R. Grundy, president of the Pennsylvania Manufacturers Association; J. A. Arnold, of the Southern Tariff Association; the Hawaiian Sugar Planters Association; the National Council of American Importers & Traders; the Tennessee River Improvement Association, with regard to its interest in legislation relating to Muscle Shoals; John J. Raskob, a director of the Association against the Prohibition Amendment; Dr. Eugene R. Pickrell, formerly chief chemist in the Customs Service, and representing the General Dye Stuffs Corporation, and others.

**367.** On February 10, 1930,<sup>4</sup> the House agreed to this resolution:

*Resolved*, That a subcommittee of the Committee on Appropriations, specially designated by the committee to conduct hearings and examine estimates of appropriations for the eradication, control, and prevention of the spread of the Mediterranean fruit fly, is authorized to visit the State of Florida and other adjacent territory to obtain information and data in connection with the purposes of such estimates. As a necessary incident to the examination of such estimates of appropriations, the subcommittee is authorized, to the extent it may deem advisable, to investigate expenditures heretofore made and currently being made from Federal funds on account of such fruit fly. For the purposes of this resolution, the subcommittee is authorized to sit and act at such times and places in the District of Columbia and elsewhere as it may determine, to hold hearings, to require the attendance of witnesses, to compel the production of books, papers, and documents, to take testimony, to employ personal services, to have printing and binding done, and to make such expenditures as it deems necessary.

The committee held hearings in the District of Columbia and in Florida but made no formal report.

**368.** On May 22, 1930,<sup>5</sup> the House authorized the investigation of Communist propaganda in the United States with particular reference to such activities in educational institutions. Subsequently, provision<sup>6</sup> was made for payment of the expenses of the investigation from the contingent fund in amount not to exceed \$25,000.

**369.** In 1928,<sup>7</sup> and again in 1930,<sup>8</sup> the House provided by resolution for the appointment of a special committee to investigate campaign expenditures of the various candidates for the House in both parties.

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<sup>1</sup>First session Seventy-first Congress, Record, p. 4115.

<sup>2</sup>Senate Res. No. 20; see sec. 7603 of this volume.

<sup>3</sup>Senate Report No. 43, parts 1 to 10.

<sup>4</sup>Second session Seventy-first Congress, Record, p. 3375.

<sup>5</sup>Second session Seventy-first Congress, Record, p. 9759 temporary.

<sup>6</sup>Record, p. 11099.

<sup>7</sup>First session Seventieth Congress, Record, p. 10688; Second session Seventieth Congress, Record, p. 896.

<sup>8</sup>Second session Seventy-first Congress, Record, p. 11600.