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Foreword, Congressional Investigations

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Congressional Investigations:

FOREWORD

EDWARD H. LEVI†

THE CONGRESSIONAL investigation is an important phenomenon of American life. It performs many functions. Few would deny that the power to investigate is essential to the independence of the legislature. Few would deny also that the power to investigate is a great power which has sometimes been abused. The legislative investigation constitutes an official forum which so far has escaped a codification of rules designed to enforce a minimum fairness. It is natural, since legislative investigations seem frequently to be concerned with the lives of particular individuals, that demands for restrictions on the procedure or the subject matter of inquiry should be made. The demand presupposes that it is possible to define proper procedure or proper subject matter for legislative inquiries.

But the uses of legislative inquiries are so numerous and different that it is not at all clear that one workable definition of proper procedure or one workable definition of proper subject matter can be set forth. A congressional investigation educates legislators, informs the public and makes legislation possible. It is not a scientific fact-finding expedition; it is a political instrument. A commission which discovered the same data would not perform the same service if legislators were not involved in it and so educated by it. Congressional committees have discredited and punished individuals, and occasionally have given wide publicity to what would otherwise be libelous writings. It is sometimes urged that such activities are by-products or abuses, quite separate from the main purpose of drafting legislation. The legislative process, however, is not bill drafting. The prepara-

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tion of legislation includes the stimulation of public opinion and it may include the conduct of political warfare. The legislative inquiry functions in such a world.

An appraisal of the legislative investigation must take into account the manifold uses of such inquiries and must recognize the indigenous quality of the congressional committee. This issue should constitute a useful step in the examination of the functions and rules of legislative inquiries in this country.