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LEGISLATIVE COMMITTEES AND COMMISSIONS IN THE UNITED STATES

*John A. Fairlie**

IN the Congress of the United States and the legislatures of the forty-eight states committees composed of a limited number of members play an important part and to a large extent the predominant part, in legislation both by making preliminary inquiries and by planning the detailed provisions of measures. While important changes are at times made in the general sessions, the final result is in a large measure determined by the several committees. In most American legislative bodies there are numerous committees of various kinds, such as select committees for limited special purposes, standing committees regularly appointed, conference committees, and other joint committees of both branches, and committees of the whole house; while from time to time special commissions are appointed, often including others than members of the legislative bodies, to carry out more extended inquiries and investigations of particular subjects.

While the committee system of American legislative bodies offers a marked contrast with the later practice in the British Parliament, its beginnings may be traced to the House of Commons. Committees were used in the House of Commons as early as 1340, standing committees from the latter part of the sixteenth century, and committees of the whole from early in the seventeenth century. The last named have continued to the present; and from about 1625 until 1832 there were regularly set up standing committees on privileges and elections, and grand committees on religion, courts of justice, grievances, and trade. But during the eighteenth century, with the development of the Cabinet, the standing and grand committees fell into disuse.

The colonial assembly of Virginia had several active standing committees before 1680, and others were added before the Revolution. Before 1770 the committee of the whole and temporary select committees were used in most of the colonial assemblies; and New York, North Carolina, and several other colonies had provided a few standing committees similar to those in the House of Commons. But these latter were in fact little used. During and after the war for indepen-

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dence, however, there was a notable development of legislative committees; and by 1790 nine of the state legislatures had from three to eight standing committees each.¹

The Continental Congress and the Congress under the Articles of Confederation met from time to time as a committee of the whole, and also organized special committees and boards to consider proposed measures and also to act in administrative matters. The Constitutional Convention of 1787 sat much of the time in committee of the whole, and also made use of select committees — as on the matter of representation, for the detailed drafting of the Constitution, and on style.²

I

THE CONGRESS

House Committees

From the time when the new government was first established under the Constitution, the House of Representatives has made large use of the committee of the whole. Select committees were set up from time to time for collecting information, considering bills, and other matters.³ In the first decade a few standing committees were organized, and others were added from time to time, notably in the period after Clay became Speaker in 1811, until 1825 when there were twenty-five. Additional committees followed in later years until 1922 when a maximum of sixty-two was reached. In 1927, the number was reduced to forty-six.⁴ Of these, however, only about twelve are of large impor-

¹ HARLOW, *THE HISTORY OF LEGISLATIVE METHODS IN THE PERIOD BEFORE 1825* (1917); by 1790, *Massachusetts* had eight committees, *Virginia*, *North Carolina* and *South Carolina* six each, *New York* and *Georgia* five, *Maryland* four, *Pennsylvania* three, and *New Jersey* had one. In each of these states there were one or more committees on financial matters (accounts, claims, ways and means); six states had committees on grievances and petitions and on privileges and elections; four states had committees on courts of justice and on trade or commerce. *North Carolina* had an important committee on public bills. *Connecticut*, *New Hampshire*, and *Rhode Island* had no standing committees. For early use of committees in *Massachusetts*, *Rhode Island*, and *Pennsylvania*, see LUCE, *LEGISLATIVE PROCEDURE* 94-95 (1922).

² I McMASTER, *HISTORY OF THE PEOPLE OF THE UNITED STATES* (1902)—Committees on: the impost, 141; new states, 165; commerce, 207; the States, 209; finance, 358; trade, 360; the constitutional convention, 450.

³ In the Third Congress there were at least three hundred and fifty select committees. By 1813-'15 the number had shrunk to seventy. Nowadays a Congress rarely has more than a dozen. LUCE, *LEGISLATIVE PROCEDURE* 99 (1922).

⁴ On elections, from the first Congress: claims, 1794; unfinished business, commerce and manufactures and ways and means, 1795; public lands, 1805; District of Columbia, 1808. From 1811 to 1825 sixteen new standing committees were created,

tance — appropriations, ways and means, banking and currency, interstate and foreign commerce, judiciary, post offices and post roads, rivers and harbors, agriculture, insular affairs, military affairs, naval affairs, and rules. Some committees formerly of importance (as that on territories) have now little to do. But from time to time other committees come into prominence for a short period.

The number of committees seems still to be larger than is necessary, and the existing committees are not well correlated, either as to the existing administrative units, or to any systematic arrangement of the problems of legislation.

As regards number of members, the House committees have varied; there has been a tendency to increase membership with the increasing size of the House. Even after the Civil War the important ways and means committee had only from seven to nine members. In 1913, the membership of committees ranged from three to twenty-two. At present, twenty-one is the prevailing number, with extremes of two and thirty-five, the latter for the enlarged committee on appropriations. Many members of the House are assigned to only one committee; by recent practice those on the more important committees have no other assignment; and most members serve on not more than three standing committees.

By custom both of the major parties are represented on every committee, roughly according to the distribution of party strength in the House. Sometimes third parties are also represented.

including: judiciary and pensions, 1813; six committees on expenditures, 1816; private land claims, 1816; manufactures, 1819; agriculture, 1820; foreign affairs, military affairs, naval affairs and Indian affairs, 1822; and territories, 1825. Some of these were in existence before being formally recognized in the rules. Later additions up to the Civil War include: roads and canals, 1831; public buildings and grounds, 1837; patents, 1837; printing, 1846; coinage, weights and measures, 1864. In 1865 new committees on appropriations, banking and currency, and Pacific railroads took over these subjects from ways and means. From that year until 1893 eleven new standing committees were provided: for rivers and harbors, labor, mining, irrigation, immigration, reform in the civil service, the liquor traffic, and ventilation. After the Spanish-American War additional committees were established on insular affairs and industrial arts.

One factor in the creation of committees was that offices were furnished to each committee; after an office building had been erected with rooms for all members of the House, six committees were abandoned (1909). In 1880 five existing committees were authorized to report appropriation bills in their field, but after the passage of the Budget and Accounting Act of 1921, control over all appropriation bills was restored to an enlarged committee on appropriations.

HARLOW, *THE HISTORY OF LEGISLATIVE METHODS IN THE PERIOD BEFORE 1825, 214-216* (1917); D. A. S. ALEXANDER, *HISTORY AND PROCEDURE OF THE HOUSE OF REPRESENTATIVES* (1916).

Until 1911 standing committees were appointed by the Speaker of the House. Since that time, the committee members are elected by the House itself at the beginning of each Congress; but in practice this formal election merely ratifies lists prepared by party committees and approved by the party caucuses. Until 1919 both of the major parties used their party members on the committee of ways and means (chosen by the party caucus) as a committee of selection. Since that year the Republicans have had a special committee of selection composed of one member from each state with Republican members in the House, each member of the committee having as many votes as the number of Republican representatives from his state.

Long tradition, however, imposes other limitations on the choice of committee members and chairmen. By the seniority rule members are regularly reappointed to committees on which they have served, and new members are added at the end of the list. The member who by this process comes to the head of his party list becomes chairman of the committee when his party has a majority, and when not, is recognized as the ranking member of the minority. At times a member who has shown a tendency to depart from party regularity is penalized by reduction in rank or importance of committee assignments.

General control over the business of the House is exercised by the committee on rules, and in recent years by an unofficial steering committee of the majority party. The committee on rules was a select committee from 1789, and for nearly a century was of minor importance. In 1880 it became a standing committee, and after that gradually acquired a large measure of control by its right to introduce special rules for the consideration of particular measures. Until 1910 it was a small committee of five members, dominated by the Speaker, who served as chairman, and the two other members of the majority party selected by him. In that year the number of members was increased to ten (later twelve) and the Speaker ceased to be a member; this broadened to some degree the basis of control. Since then the unofficial steering committee of the majority party caucus and the majority floor leader have come to be recognized as the general planning agency; but the committee on rules remains the official organ through which their plans are effected.

Senate Committees

Early in the first session of the first Congress under the Constitution the Senate voted "that all bills on a second reading shall be considered by the Senate in the same manner as if the Senate were in a committee of the whole, before they shall be taken up and proceeded

on by the Senate, agreeably to the standing rules, unless otherwise ordered.”⁵ This provision has been continued as one of the standing rules; and under it the practice in committee of the whole differs little from the formal sessions of the Senate.⁶

Select or special committees were also used. Until 1816, only three standing committees had been established — on enrolled bills, engrossed bills, and contingent expenses. On December 10, 1816, twelve new standing committees were created — on foreign relations, finance, commerce and manufactures, military affairs, the militia, naval affairs, public lands, claims, the judiciary, the post office and post roads, and on pensions. New committees were added from time to time until a maximum of seventy-four was reached. In 1921 the number of standing committees was sharply reduced to thirty-three. The number of members on Senate committees, as on House committees, has tended to increase;⁷ it now ranges from three to seventeen for the committees of most importance. Most members of the Senate are on five committees.

In contrast with the former methods in the House, Senate committees have usually been formally elected by the Senate. For short periods between 1823 and 1838 committees were appointed by the president *pro tem*. For a long time the practical selection has been made by committees of the party caucuses, ratified by vote of the Senate. With the relatively slower change of membership the custom of seniority is more closely followed than in the House, and the chairmen of the important committees are the members with longest service. Formerly a few such members were chairmen or members of several of the most important committees, but criticism of this led in 1919 to a rule that no senator should be chairman of more than one of the ten most important committees, or a member of more than two such committees.

The most important Senate committees are those on appropriations, finance, foreign relations, interstate commerce, and judiciary.

Joint and Conference Committees and Commissions

Congress has only a few standing joint committees. These are provided mainly to exercise administrative powers, as the committees on printing and on the Library of Congress, or for certain matters of a

⁵ 1 ANNALS OF CONGRESS 40 (May 21, 1789). Before this only one bill had been passed by the Senate.

⁶ The yeas and nays may be demanded and entered in the JOURNAL; a motion to adjourn, or take a recess, or postpone, may be made. LUCE, LEGISLATIVE PROCEDURE 89 (1922).

⁷ GILFRY, PRECEDENTS . . . IN THE UNITED STATES SENATE 194 (1914).

formal nature, as the committee to notify the President that Congress is in session. Joint standing committees intended primarily to consider proposed legislation are exceptional, but such committees are used to a considerable extent in the New England states and a few others.

On the other hand, special conference committees to reconcile differences between the two houses at the concluding stage of legislation are very common; they exercise an important influence on the final form of enacted laws.⁸ Conference committees of the two houses of the English Parliament were used from early times, and were of especial importance in the seventeenth century. With the development of the cabinet system their importance declined, but they continued to be used in minor matters down to 1850. Conferences were also used in the American colonies, and from the first Congress under the Constitution. By 1850 the conference committee system was well established. Since then there have been further developments which have increased the influence of conference committees, and in recent years have strengthened the control over such committees by the Senate and the House.

The large part played by conference committees may be indicated by the fact that there were 165 such committees in the sixty-fifth Congress. They usually consist of three members (sometimes more) from each house, ordinarily the ranking members of the two parties from the committees which have dealt with the measure in question. Reports from such committees are highly privileged, are given prior consideration, and in most cases are voted on as a whole.

There has been severe criticism of conference committee action in introducing new matters into bills not previously authorized by either house; but under the present rules this may be prevented by raising a point of order.

While the use of select committees for preliminary inquiries on proposed legislation has declined with the development of standing committees, at occasional intervals special joint committees or commissions have been set up to conduct investigations on particular problems. Such commissions bear some resemblance to royal commissions in Great Britain. In the national government they are usually authorized by Congress, and include members of both houses, sometimes former members of Congress continuing to serve on the commissions after they cease to be members of Congress; and at times persons not members of Congress are members of such commissions. Examples of such agencies which have published voluminous reports are the Industrial Com-

⁸ McCOWN, *THE CONGRESSIONAL CONFERENCE COMMITTEE* (1927).

mission at the end of the nineteenth century, the Monetary Commission, and the Efficiency and Economy Commission of 1912. The last named was appointed by President Taft; it included no members of Congress, though it received an appropriation; its report had little immediate effect. A later joint congressional committee held hearings on proposals for executive reorganization. Recent examples of such agencies are the joint committee on internal revenue taxation, the joint commission on insular reorganization, and the joint commission on public buildings. There are also set up from time to time temporary joint commissions for administrative purposes, such as those on enlarging the capitol grounds and on the new Supreme Court building.

II

STATE LEGISLATURES⁹

Standing Committees

In the state legislatures the earlier practice of appointing select committees for particular purposes continued in some states;¹⁰ but this gradually gave way to a system of standing committees for classes of problems, though special committees on particular matters are also formed from time to time. In 1873 a new Pennsylvania constitution provided that: "No bill shall be considered unless referred to a committee, returned therefrom and printed for the use of the members." Similar provisions have been made in ten other later state constitutions.

Although state legislatures have less than half as many members as Congress, there is the same tendency to an excessive number of committees. About half of the states have thirty or more senate committees and nearly two-thirds have thirty or more house committees. Only five states have less than twenty senate committees, and only two states have less than twenty house committees. The smallest total number is in Rhode Island with 11 senate and 14 house committees. Massachusetts has only five senate and seven house committees, but has thirty joint committees. Wisconsin has only nine senate committees, and twenty-two house committees. Iowa and North Carolina have each fifty-one senate committees, while Florida, Kentucky and Michigan, with fewer senate committees have respectively sixty-nine, sixty-six, and sixty-two house committees.¹¹ In Illinois, where in 1913 there were fifty-one senate committees (as many as members) and sixty-seven

⁹ See 12 AM. POL. SCI. REV. 607 (1918).

¹⁰ In Iowa, admitted as a state in 1846, select committees were used in the early Assemblies.

¹¹ WINSLOW, STATE LEGISLATIVE COMMITTEES (1931).

house committees, a sharp reduction was made in 1915 to twenty-six senate and thirty-two house committees; but by 1921 there were forty-three senate committees.¹²

In several New England states and in Wisconsin most legislative work is handled by joint committees. Massachusetts, Maine, and Connecticut have from thirty to thirty-eight joint committees, Vermont has eleven (but also a large number of separate committees) and in Rhode Island joint meetings of the corresponding committees of both houses are held, especially for public hearings on important bills. In several other states joint committee sessions are held from time to time; and a number of states provide for some joint committees for visiting state institutions and for investigating and procedural purposes.

The number of members on committees varies widely. In practically all of the states there are some small committees with from three to seven members, and in some states all of the committees are small. In Nebraska and Wisconsin, legislative committees have from three to eleven members each; in Michigan from three to fifteen members. The average number of members of senate committees in most states is from three to nine; of house committees from five to fifteen. But in a number of states there are committees of twenty-five to thirty members, and in a few cases forty or more. In Illinois in 1929 the average number on a committee was twenty-five; one senate committee had fifty-one members, and one house committee fifty-eight. Four other states had senate committees of more than twenty members. In Pennsylvania the average number was eighteen in the senate and thirty in the house. The maximum number was respectively thirty-seven and fifty-two. In Georgia the average of house committees was thirty-five, with a maximum of seventy-five. In such states, where there are many large committees, each member of the legislature will be on a considerable number of committees and this makes it impossible to give attention to all of them.¹³ A smaller number of committees, each of moderate size would be more effective.

¹² The growth in number of committees may be indicated by the following table for Illinois:

1820—	4 senate committees,	7 house committees.
1840—	16 senate committees,	17 house committees.
1871—	29 senate committees,	41 house committees.
1901—	38 senate committees,	58 house committees.
1913—	51 senate committees,	67 house committees.
1915—	26 senate committees,	32 house committees.

¹³ In Illinois, in 1913, one senator was a member of thirty committees, and in 1919 seven senators were on twenty committees. In 1929 one senator was on thirty-eight committees, two on twenty-nine, and one on twenty-eight. The average that year for the senate was 18.5.

In most states, house committees are appointed by the speaker, but in Nebraska and Oklahoma there are committees on selection. On the other hand, in a majority of the states, where the lieutenant governor presides over the senate, committees are elected by the senate (in eleven states) usually after selection by a committee, or are appointed by the president *pro tem*. In fifteen states committees are appointed by the lieutenant governor; in three states subject, however, to the approval of the senate. As in Congress, established customs influence selection — the majority party will have a majority on each committee, the practice of seniority prevails, and the preferences and qualifications of members for particular committees will be given some consideration.

Committee work varies widely in amount, depending on the relative importance of different committees. Those of most importance deal with appropriations, finances (revenue or ways and means), judiciary, education, municipalities, highways, public utilities, public institutions, and rules.

Conference Committees

In at least thirty-one state legislatures, the rules make provision for conference committees.¹⁴ In fifteen states, there is definite provision for a steering committee; in other states the committee on rules may serve this purpose by proposing special rules to advance particular measures. The committee on rules is usually a small committee, frequently of three to five members, but in several states it has from ten to a maximum of thirty-nine members (in Georgia).

Special Investigations

Extended special investigations on legislative subjects by state legislative and other commissions have been numerous and have increased rapidly in recent years. From sixty to eighty have been authorized during each biennial period since 1909; in the larger states several may be under way at the same time. Most attention has been given to the subject of taxation, for which more than a hundred special commissions have been set up since 1832. Other subjects which have received special attention have been education, social and industrial problems, crime, administrative reorganization, and data for constitutional conventons. Since 1910 there have been special commissions on state administration in about half of the states, notably Illinois (1915), Massachusetts (1912-'16), New York (1913-'26), and Wisconsin

¹⁴ Constitutional provisions in the first New York constitution (1777) and in the present Missouri constitution.

(1912-'17). Special commissions have made studies and published important material for state constitutional conventions in New York (1894 and 1915), Michigan (1907), Ohio (1912), and Massachusetts (1917).¹⁵

Such special investigations are sometimes made by regular legislative committees. More often they are made by special or joint committees of one or both houses, sometimes with other persons not members of the legislature, and in some cases the whole commission may be of the latter class. Their inquiries may be made by oral hearings attended by public officials, representatives of voluntary organizations and private individuals, and also by direct research by agents of the commissions.

III

COMMITTEE FUNCTIONS AND PROCEDURE

Committees may perform one or more of several distinct functions in connection with the work of legislative bodies. Under the American practice, with free right of individual members to introduce bills, the normal function is that of considering the thousands of bills presented: conducting hearings or inquiries, approving or disapproving particular measures, often modifying and altering details, and reporting approved measures for further consideration by the legislative bodies as a whole. In practice these activities may be taken up in a different order. And other functions are also exercised, in some cases dealing with matters outside the field of legislation.

Hearings, inquiries, or investigations may be held on matters of public policy in the preliminary stages with a view to making recommendations, either general or special, as to legislation considered desirable. Preliminary hearings have become the usual method in connection with changes in the tariff laws. These are held by the members of the majority party of the committee on ways and means of the House of Representatives. In some cases they have been held by the hold-over committee members of the majority party before the new House has been formally organized. Such inquiries or investigations of other subjects are also carried on from time to time by other committees sitting while Congress is not in session, and at times by special commissions including persons not members of Congress. Similar practices are followed by state legislative committees.

Inquiries and investigations may also be made as the conduct of administrative or judicial officials, which may lead to further legisla-

¹⁵ 24 AM. POL. SCI. REV., Supplement, 83 (1930).

tive regulation of administrative organization and methods, to impeachment proceedings, or merely to the moral effect on public opinion. Some committees deal with administrative affairs of the legislative body; some are in fact administrative agencies for affairs controlled directly by the legislature.

Legislative Proposals

While bills may not be formally introduced in American legislative bodies by executive or administrative officials, proposals are regularly made by Presidents, governors, and other officials in their messages and reports, and many bills introduced are prepared for or by such officials. In the national government since 1921, and in many states, a carefully prepared budget of appropriations is now submitted by the chief executive. Other bills are often proposed after extended consideration by voluntary organizations and groups interested. Many bills appear to be the work of a single member, or of a few persons.

Since the end of the nineteenth century, legislative reference bureaus have been established in many states, and more recently for Congress, to assist in drafting proposed bills, so that a larger proportion of bills introduced now are the result of some careful consideration.

In hearings on bills introduced, or on appropriations, or in preliminary inquiries, officials are invited or given an opportunity to appear and to explain their views. Other persons may also appear, either by invitation or on their own initiative. Some committees meet at regular intervals and public notice is given, but there have been complaints at times, especially in some states, of committee meetings being held without adequate notice. Proceedings at these hearings are usually informal; no attempt is made to compel either attendance or testimony. Questions will be asked and explanations called for, but there is seldom anything approaching the formal cross-examination of a judicial trial. Proceedings at public committee hearings receive a varying degree of publicity in the press. Detailed records of such hearings are printed for many congressional committees; and committee reports are regularly printed in Congress and to some extent in the states. In many states no formal committee records are kept.

Where members of a legislative body are on a number of different committees, meetings of committees may conflict and some members may not be able to attend. In other cases only a few committee members may attend, on account of indifference or lack of knowledge of the measure to be considered. Nevertheless, the committee system

makes possible more consideration of the details of measures than would be possible in the legislative body as a whole, even if it does promote the mass of detailed regulation in American statutes, as compared with those of European countries.

After the public hearings, private committee sessions are usually held to take definite action on the measures and proposed amendments. In some cases state legislative committees vote on a measure at a public session. In making its decisions, the views of officials have considerable weight with the committee, but not a controlling force. On party measures where the majority of a committee is of a different party than the officials, the latter's views have less weight, and often the majority of the committee disagree with an official of their own party.

Since the introduction of the budget system, the total appropriations conform more closely to the proposals of the Executive than formerly, but minor changes in particular items are frequent. At times larger changes may be made, more often by additions. Tax proposals by the administrative department are still more subject to change, as in the case of the present Congress, where the democratic majority in the House Committee on Ways and Means made important alterations in the proposals of the treasury department, though with its acquiescence, while further changes were made both in the House and Senate.

Complaint has often been made that bills are killed by simple inaction of the committee, or of its chairman. With the enormous number of bills introduced in American legislatures, many with little active support, it seems clear that a considerable proportion cannot receive much attention. But it is urged that at times a measure which has substantial support, and might pass the legislative body if it came to a vote, is held up by a committee chairman or the majority of a hostile committee. To meet this condition, the House of Representatives and some state legislatures have provided by rule for recalling measures from committees. Few cases, however, have arisen where this has been done.

As might be expected, committee reports have a large influence on the action of legislative bodies. Especially in the House of Representatives, where opportunity for debate and amendments from the floor are closely restricted, committee reports are usually accepted, though at times important changes are made. In the Senate, and in most of the state legislatures, there is more discussion and more frequently amendments are made on the floor.¹⁶ This was very noticeable in the Senate in connection with the tariff bill of 1930.

¹⁶ A recent study shows that committee action is final in 83 per cent of cases in

Another criticism of the American committee system is that it lessens the cohesion and harmony of legislation. "Our legislation is conglomerate, not harmonious."¹⁷ Measures from different committees may conflict in details and even in important principles. A recent writer, who has had a long service in the Massachusetts legislature and in Congress thinks this has not been serious; that complete harmony in governmental action is not essential.¹⁸ Nevertheless, the excessive number of committees and the unsystematic distribution of work promote more incongruity than is necessary or desirable.¹⁹ This has been recognized in the recent reduction in the number of committees in Congress, and in the concentration of control over appropriations in one committee. Further improvement could be made by a further reduction in the number of committees, by a more careful and better balanced assignment of measures, and by a greater use of joint committees or at least of joint hearings by committees of both houses. Another proposal is for a general planning committee or council which will meet while the legislative body is not in session, as well as during the session, to formulate a program of legislation and oversee the general conduct of business.

Administrative Investigations

In addition to the informal inquiries made of administrative officials who appear before congressional and legislative committees in connection with appropriations and legislative measures, special investigations of particular departments or offices or of the administration as a whole have often been made. Such investigations may be made by one of the standing committees, or by a special committee appointed for the purpose.

One class of such investigations deal with charges which may lead to impeachment proceedings. These are conducted by a committee of the House of Representatives and if the charges are upheld by the committee, may lead to impeachment by the House and trial by the Senate. Such proceedings have been rare, and in the national government have been used mainly for charges against judges, who are removable only by impeachment. The impeachment proceedings against President

Pennsylvania and in 92 per cent in Maryland. WINSLOW, STATE LEGISLATIVE COMMITTEES (1931).

¹⁷ WILSON, CONGRESSIONAL GOVERNMENT 113 (1885).

¹⁸ LUCE, LEGISLATIVE PROCEDURE 197 (1922).

¹⁹ As is shown by the many vetoes of bills on account of unconstitutionality, or of conflicting provisions, and the frequent amendment or repeal of statutes.

Johnson were a notable exception, but there have been several cases of successful impeachments of state governors.

More frequent are other investigations of which there have been about three hundred by congressional committees since 1792.²⁰ Most of them were of particular departments or offices, but a number were of much broader application, as that on methods of business in the executive departments in 1888, and on the organization of the executive departments in 1893. Unusual activity of this kind occurred during the administration of President Grant (1869-'77), and in the last two years of President Wilson, following the World War. In both of these periods the control of one branch of Congress by the opposition party was an important factor.

Before the Civil War such special investigations were usually authorized by the House of Representatives, but since that time the Senate has been the more active body. This is due in part to the fact that the House is more likely to be in political agreement with the President, especially during the first half of his term, and less disposed to a critical scrutiny of the administration. In the Senate there has been more often a lack of political harmony, due to the large number of hold-over members and the presence of a group of "insurgent" members, while the absence of cloture and freedom of debate enables a minority to bring pressure for such investigations.

There has been a good deal of discussion both as to the legality and the value of such investigations. The legal question has come before the judicial courts in several cases challenging the power to penalize persons summoned as witnesses for failure to appear or give testimony. It has been held that such inquiries may not be made as to a matter pending before the courts. But the general power to conduct inquiries to obtain information necessary for legislative action, and to punish for failure to appear and testify, has been upheld.²¹

Administrative officers have usually appeared before such investigating committees without objection, and in some cases have asked for investigations to meet criticisms. But in several cases Presidents have declined to furnish information requested, and protested against some proceedings.

While some of these investigations have been deserving of criticism in respect to their indefinite nature and the manner in which they have been conducted, the general power of inquiry seems to be not only

²⁰ 26 MICH. L. REV. 237 (1928); 21 AM. POL. SCI. REV. 47-48 (1927); DIMOCK, CONGRESSIONAL INVESTIGATING COMMITTEES (1929).

²¹ *McGrain v. Daugherty*, 273 U. S. 135, 47 Sup. Ct. 319 (1926).

legally authorized, but it serves a useful purpose in the governmental system.

Such special investigations by state legislative committees have also been made from time to time. Some of the most important have dealt with the conduct of local governments, where the absence of any adequate system of administrative supervision gives more occasion for this method of inquiry. In such investigations both methods and results have been of a mixed character. Complaints of partisan and political motives have been made where the state and local governments are of a different political complexion. At the same time, serious defects in local governments have been disclosed, and in some cases substantial benefits have resulted.

Thus, both in matters of legislation and in administrative inquiries, there is need for important changes in the system of legislative committees and in their methods of procedure.