

Sec. 1—The Congress

Legislative Powers

representative of a private organization to disclose the names of all who had purchased such literature in quantity.²³⁷ Still another example of lack of proper authority is *Gojack v. United States*,²³⁸ in which the Court reversed a contempt citation because there was no showing that the parent committee had delegated to the subcommittee before whom the witness had appeared the authority to make the inquiry and neither had the full committee specified the area of inquiry.

Watkins v. United States,²³⁹ remains the leading case on pertinency, although it has not had the influence on congressional investigations that some hoped and some feared in the wake of its announcement. When questioned by a subcommittee of the House Un-American Activities Committee, Watkins refused to supply the names of past associates, who, to his knowledge, had terminated their membership in the Communist Party. He supported his noncompliance by, *inter alia*, contending that the questions were unrelated to the work of the committee. Sustaining the witness, the Court emphasized that inasmuch as a witness by his refusal exposes himself to a criminal prosecution for contempt, he is entitled to be informed of the relation of the question to the subject of the investigation with the same precision as the Due Process Clause requires of statutes defining crimes.²⁴⁰

For ascertainment of the subject matter of an investigation, noted the Court, the witness might look to several sources, including (1) the authorizing resolution, (2) the resolution by which the full committee authorized the subcommittee to proceed, (3) the introductory remarks of the chairman or other members, (4) the nature of the proceedings, and (5) the chairman's response to the witness when the witness objects to the line of question on grounds of pertinency.²⁴¹ Whether a precise delineation of the subject matter of the investigation in but one of these sources would satisfy the requirements of due process was left unresolved, since the Court ruled that in this case all of them were deficient in providing Watkins with the guidance to which he was entitled. The sources had informed Watkins that the questions were asked in a course of investigation of something that ranged from a narrow inquiry into Communist

²³⁷ The Court intimated that if the authorizing resolution did confer such power upon the committee, the validity of the resolution would be subject to doubt on First Amendment principles. Justices Black and Douglas would have construed the resolution as granting the authority and would have voided it under the First Amendment. 345 U.S. at 48 (concurring opinion).

²³⁸ 384 U.S. 702 (1966).

²³⁹ 354 U.S. 178 (1957).

²⁴⁰ 354 U.S. at 208–09.

²⁴¹ 354 U.S. at 209–15.