

**Investigations in Aid of Legislation**

**Purpose.**—Beginning with a resolution adopted by the House of Representatives in 1827,<sup>209</sup> the two houses, when necessary to enlighten their judgment on proposed legislation, have asserted the right to collect information from private persons as well as from governmental agencies. The first case to review this assertion established a narrow view of the power, with the Court holding that the inquiry's purpose was to pry improperly into private affairs without any possibility of legislating on the basis of what might be learned. The Court held further that the inquiry overstepped the bounds of legislative jurisdiction and invaded the provinces of the judiciary.<sup>210</sup>

Subsequent cases, however, have afforded Congress the presumption that the object of an investigation is legitimate and related to the possible enactment of legislation. Shortly after *Kilbourn*, the Court declared that, for an inquiry to be a lawful exercise of power, "it was certainly not necessary that the resolution should declare in advance what the Senate meditated doing when the investigation was concluded."<sup>211</sup> Similarly, in *McGrain v. Daugherty*,<sup>212</sup> the investigation was presumed to have been undertaken in good faith to aid the Senate in legislating. Then, in *Sinclair v. United States*,<sup>213</sup> on its facts presenting a close parallel to *Kilbourn*, the Court affirmed the right of the Senate to carry out investigations of fraudulent leases of government property after suit for recovery had been instituted.

In *Sinclair*, the president of a lessee corporation had refused to testify on the ground that the inquiry was not actually in aid of legislation, but was related to his private affairs and to matters cognizable only in the courts in which they were pending. The Senate had prudently directed the investigating committee to ascertain what, if any, legislation might be advisable. Conceding "that Congress is without authority to compel disclosures for the purpose of aiding the prosecution of pending suits," the Court declared that the authority "to require pertinent disclosures in aid of its own constitutional power is not abridged because the information sought to be elicited may also be of use in such suits."<sup>214</sup>

<sup>209</sup> This resolution vested the Committee on Manufactures "with the power to send for persons and papers with a view to ascertain and report to this House in relation to a revision of the tariff duties on imported goods." 4 CONG. DEB. 862, 868, 888, 889 (1827).

<sup>210</sup> *Kilbourn v. Thompson*, 103 U.S. 168 (1881).

<sup>211</sup> *In re Chapman*, 166 U.S. 661, 670 (1897).

<sup>212</sup> 273 U.S. 135, 178 (1927).

<sup>213</sup> 279 U.S. 263 (1929).

<sup>214</sup> 279 U.S. at 295.