

# **Congressional Investigations and Oversight**



# **Congressional Investigations and Oversight**

---

## **Case Studies and Analysis**

**Lance Cole**

PROFESSOR OF LAW, PENN STATE DICKINSON SCHOOL OF LAW

**Stanley M. Brand**

DISTINGUISHED FELLOW IN LAW AND GOVERNMENT,  
PENN STATE DICKINSON SCHOOL OF LAW; PRESIDENT, BRAND LAW GROUP

CAROLINA ACADEMIC PRESS

Durham, North Carolina

Copyright © 2011  
Lance Cole  
Stanley M. Brand  
All Rights Reserved

Cole, Lance.

Congressional investigations and oversight : case studies and analysis / Lance Cole,  
Stanley M. Brand.

p. cm.

Includes bibliographical references.

ISBN 978-1-59460-622-9 (alk. paper)

1. Governmental investigations--United States. 2. Legislative oversight--United  
States. I. Brand, Stanley, 1923- II. Title.

KF4942.C65 2010

328.73'07452--dc22

2010029984

Carolina Academic Press  
700 Kent Street  
Durham, North Carolina 27701  
Telephone (919) 489-7486  
Fax (919) 493-5668  
[www.cap-press.com](http://www.cap-press.com)

Printed in the United States of America

*For my wife Kim and daughter Carina,  
and for my grandmother, Grace Seymour Cole,  
who taught me to love books and learning*  
l.c.

*Dedicated to my dear wife and partner, Ellen  
—and the wisest counsel I've ever had*  
s.m.b.



# Contents

---

Table of Cases	xi
Preface	xv
<b>Chapter One • Background and History: Congressional Investigations at the Beginning of the Twentieth Century—Broad Investigative Powers</b>	<b>3</b>
Introduction	3
The Teapot Dome Scandal	4
<i>McGrain v. Daugherty</i>	5
Notes and Questions	14
Teapot Dome—Continued	16
<i>Sinclair v. United States</i>	16
Notes and Questions	23
The Pecora Wall Street Investigation	25
<i>The Transformation of Wall Street</i>	25
Notes and Questions	31
Senate Resolution 56 and Floor Debate	32
Senate Resolution 84	35
<b>Chapter Two • Mid-Century Developments: Overreaching and New Limits on Congressional Investigative Powers</b>	<b>39</b>
Introduction: After Pecora	39
The Truman Committee	41
“The Job That Made Truman President”	43
Notes and Questions	49
Excess and Abuse of Power: The Dies Committee and HUAC	51
<i>Congressional Investigations Law and Practice</i>	51
Notes and Questions	58
<i>Alger Hiss: How Not to Be a Congressional Witness</i>	60
The Nadir: McCarthyism Holds Sway	62
<i>Introduction to 2003 Printing of the 1953–54 Executive Sessions of         the Senate Permanent Subcommittee on Investigations of the         Committee on Government Operations</i>	63
Notes and Questions	77
Aftermath: The Supreme Court Sets Some Limits	80
<i>Watkins v. United States</i>	82
Notes and Questions	87

<b>Chapter Three • Misconduct and Cover-ups at the Highest Levels of Government: Congressional Investigation of the Watergate Scandal</b>	93
Introduction	93
Overview: A Watergate Primer	94
Star Witness: John Dean’s Nationally Televised Indictment of the Nixon Administration	98
John Dean’s Senate Testimony	103
Notes and Questions	119
The Revelation of the White House Taping System	124
A. The Man Who Asked the Question: The Account of Senate Investigator Donald Sanders	125
B. The Man Who Answered the Question: The Account of Former Nixon Aide Alexander Butterfield	130
Notes and Questions	138
The Battle for the Tapes	140
<i>Senate Select Committee on Presidential Campaign Activities v. Nixon</i>	141
<i>United States v. Nixon</i>	146
Notes and Questions	151
<b>Chapter Four • Separation of Powers and Disputes between the Political Branches of Government: The Reagan EPA and Bush U.S. Attorneys Removal Cases</b>	161
Introduction	161
The House of Representatives EPA “Superfund” Investigation and the Anne Gorsuch Burford Contempt Proceedings	163
Constitutional Confrontations: Preserving a Prompt and Orderly Means by Which Congress May Enforce Investigative Demands Against Executive Branch Officials	164
Prelude to a Showdown: The Reagan Administration Asserts Executive Privilege	165
The White House	165
The White House	167
Office of the Attorney General	168
Office of the Attorney General	169
Office of the Clerk, U.S. House of Representatives	173
Showdown in U.S. District Court	178
<i>United States v. House of Representatives of the United States</i>	180
Notes and Questions	183
Testimony of Stanley M. Brand, General Counsel to the Clerk of the House of Representatives	184
Office of the Clerk, U.S. House of Representatives	195
The Bush Administration U.S. Attorneys Removal Investigation and the Miers/Bolten Contempt Proceedings	196
Background on U.S. Attorneys	197
The House Judiciary Committee Investigates the U.S. Attorneys Matter	199
Office of the Attorney General	201
U.S. Department of Justice, Office of Legislative Affairs	202
<i>Committee on Judiciary, United States House of                 Representatives v. Miers</i>	204
Agreement Concerning Accommodation	214
Notes and Questions	216



<b>Chapter Five • The Fifth Amendment Privilege against Self-Incrimination and Congressional Grants of Immunity: The Iran-Contra Investigation</b>	229
Introduction	229
Background on the Fifth Amendment and Immunity Grants	230
Procedure for Congressional Immunity Grants	231
“Use” Immunity Compared with “Transactional” Immunity	233
Iran-Contra and the Immunized Testimony of North and Poindexter	235
Background	235
Final Report of the Independent Counsel for Iran/Contra Matters	235
The Oliver North Phenomenon	240
North’s Congressional Testimony	243
Joint Hearings on the Iran-Contra Investigation	243
Notes and Questions	305
The North and Poindexter Use Immunity Grants in the Courts	310
The Initial Decision in <i>United States v. North (North I)</i>	310
<i>United States v. North</i>	310
Notes and Questions	315
Application of the <i>North</i> Decision	316
Final Report of the Independent Counsel for Iran/Contra Matters	319
Notes and Questions	322
Historical Perspective and Final Observations on Iran-Contra	323
Final Report of the Independent Counsel for Iran/Contra Matters	324
Notes and Questions	330
<b>Chapter Six • The Attorney-Client Privilege in Congressional Investigations: The Whitewater Notes Dispute</b>	333
Introduction	333
Overview: The Attorney-Client Privilege and the Work Product Doctrine	333
Revoking Our Privileges: Federal Law Enforcement’s Multi-Front Assault on the Attorney-Client Privilege (And Why It Is Misguided)	334
Notes and Questions	343
The William Kennedy Whitewater Notes Dispute	347
Refusal of William H. Kennedy, III, to Produce Notes Subpoenaed by the Special Committee to Investigate Whitewater Development Corporation and Related Matters	347
Notes and Questions	360
Aftermath: Production of the Kennedy Notes to the Whitewater Committee	368
Investigation of Whitewater Development Corporation and Related Matters	369
Notes and Questions	386
<b>Chapter Seven • Impeachment: The Nixon and Clinton Presidential Impeachment Proceedings</b>	391
Overview of the Impeachment Process	391
<i>Walter L. Nixon v. United States</i>	394
Notes and Questions	401
Impeachment and Parallel Criminal Proceedings: President Richard M. Nixon	409
Notes and Questions	419

The Constitutional Grounds for Presidential Impeachment:	
President Bill Clinton	422
The Starr Referral	424
Referral to the United States House of Representatives pursuant to Title 28, United States Code, § 595(c), Submitted by the Office of the Independent Counsel	424
The Clinton Articles of Impeachment	430
Articles of Impeachment against President William Jefferson Clinton	430
The “Closing Argument” of Senator Bumpers in the Senate Impeachment Trial	433
Post-Impeachment: Final Resolution of the Independent Counsel	
Investigation of President Clinton	436
Notes and Questions	441
<b>Chapter Eight • Special Independent Investigative Commissions:     The Roberts Commission, the Warren Commission,     and the 9/11 Commission</b>	455
Introduction	455
Overview of American Investigative Commissions	456
The Roberts Commission and Pearl Harbor	460
Notes and Questions	464
The Warren Commission and the John F. Kennedy Assassination	465
Notes and Questions	476
The 9/11 Commission	479
Notes and Questions	490
<b>Chapter Nine • Concluding Observations: The Challenges of Representing     Clients in Congressional Investigations and the Importance     of Aggressive Congressional Oversight</b>	515
Representing Clients in Congressional Investigations	515
Psychological and Attitudinal Preparation for Congressional Testimony	515
Avoiding False Statements, Perjury, and Obstruction of Justice Charges	519
<i>The Perjury Paradox: The Amazing Under-Enforcement of the Laws             Regarding Lying to Congress</i>	520
Notes and Questions	523
The Importance of Aggressive Congressional Oversight	529
<i>Under Attack: Congressional Power in the Twenty-First Century</i>	530
Notes and Questions	537
<i>A Wake-Up Call for the 111th Congress</i>	543
<b>About the Authors</b>	547
<b>Index</b>	549

# Table of Cases

---

---

Principal cases shown in **bold**.

- Abrams v. United States, 250 U.S. 616 (1919), 22
- Alexander v. FBI, 198 F.R.D. 306, (D.C. Cir. 2000), 387
- Am. Standard, Inc. v. Pfizer Inc., 828 F.2d 734 (Fed. Cir. 1988), 352
- Anderson v. Dunn, 6 Wheat. 204 (1821), 10, 11
- Ansara v. Eastland, 442 F.2d 751 (D.C. Cir. 1971), 181, 182, 195
- Armour Packing Co. v. United States, 209 U.S. 56 (1908), 22
- Armstrong v. Trico Marine, Inc., No. 89-4309, U.S. Dist. Lexis 2434 (E.D. Law. Feb. 26, 1992), 353
- Arthur Andersen LLP v. United States, 544 U.S. 696 (2005), 527
- Baker v. Carr, 369 U.S. 186 (1962), 148, 396, 400
- Barclays Am. Corp. v. Kane, 746 F.2d 653, 656 (10th Cir. 1984), 353
- Barenblatt v. United States, 360 U.S. 109 (1959), 87–89, 181, 223, 532
- Bart v. United States, 349 U.S. 219 (1955), 81
- Beck v. Washington, 369 U.S. 541 (1962), 175
- Berger v. United States, 295 U.S. 78 (1935), 439
- Boumediene v. Bush, 553 U.S. 723 (2008), 205
- Boyd v. United States, 116 U.S. 616 (1886), 20
- Braden v. United States, 365 U.S. 431 (1961), 89
- Braswell v. United States, 487 U.S. 99 (1988), 311
- Bronston v. United States, 409 U.S. 352 (1973), 446, 529
- Bush v. Gore, 531 U.S. 98 (2000), 191
- Cent. Nat'l Ins. Co. of Omaha v. Medical Protection Co., 107 F.R.D. 393, 395 (E.D. Mo. 1985), 353
- In re Chapman, 166 U.S. 661 (1897), 10, 12
- Cheney v. United States Dist. Court for the Dist. of Columbia, 542 U.S. 367 (2004), 212, 213
- Chevron U.S.A., Inc. v. Nat'l Res. Def. Council, 467 U.S. 837 (1984), 151
- Christoffel v. United States, 338 U.S. 84 (1949), 91
- Civil Aeronautics Bd. v. Air Transport Ass'n of Am., 201 F. Supp. 318 (D.D.C. 1961), 346, 347
- Clark v. United States, 289 U.S. 1 (1933), 144
- Clark v. United States, 289 U.S.1 (1933), 387
- Clinton v. Jones, 520 U.S. 681 (1997), 211, 426, 429, 437, 451
- Cluchette v. Rushen, 770 F.2d 1469 (9th Cir. 1985), *cert. denied*, 475 U.S. 1088 (1986), 351
- Cole v. McClellan, 439 F.2d 534 (D.C. Cir. 1970), 195
- Comm. on the Judiciary, United States House of Representatives v. Miers**, 558 **F.Supp.2d 53 (D.D.C. 2008)**, 199, 204, 214, 504
- Commodity Futures Trading Comm'n v. Weintraub, 471 U.S. 343 (1985), 339
- Conn. Mut. Life Ins. Co. v. Schaefer, 94 U.S. 457 (1876), 336

- Counselman v. Hitchcock, 142 U.S. 547 (1892), 233
- Delany v. United States, 199 F.2d 107 (1st Cir. 1952), 175
- Dennis v. United States, 341 U.S. 494 (1951), 71, 88
- Deutch v. United States, 367 U.S. 456 (1961), 24, 89
- Dillon v. Gloss, 256 U.S. 368 (1921), 397
- Doe v. McMillan, 412 U.S. 306 (1973), 195, 532
- Dyer v. MacDougall, 201 F.2d 265 (2d Cir. 1952), 321
- Eastland v. United States Servicemen's Fund, 421 U.S. 491 (1975), 181, 195, 223, 224, 532
- Emspack v. United States, 349 U.S. 190 (1955), 81
- Exxon Corp. v. Fed. Trade Comm'n, 589 F.2d 582 (D.C. Cir. 1978), *cert. denied*, 441 U.S. 943 (1979), 177
- Fed. Trade Comm'n v. Owens-Corning Fiberglass Corp., 626 F.2d 966 (D.C. Cir. 1980), 177
- Goland v. Cen. Intelligence Agency, 607 F.2d 339 (D.C. Cir. 1978), *cert. denied*, 445 U.S. 927 (1980), 177
- In re Grand Jury Proceedings, 33 F.3d 342 (4th Cir. 1994), 357
- In re Grand Jury Proceedings, 601 F.2d 162 (5th Cir. 1979), 357
- In re Grand Jury Subpoena Dated Nov. 16, 1974, 406 F. Supp. 381 (S.D.N.Y. 1975), 356
- In re Grand Jury Subpoena Duces Tecum, 112 F.3d 910 (8th Cir. 1997), 363, 364, 365
- In re Grand Jury Subpoena to Francis D. Carter, 1998 U.S. Dist. LEXIS 19497 (D.D.C. April 28, 1998), 389
- In re Grand Jury Subpoenas Duces Tecum, 798 F.2d 32 (2d Cir. 1986), 388
- Gravel v. United States, 408 U.S. 606 (1972), 144, 207, 227
- Haines v. Liggett Group, Inc., 975 F.2d 81 (3d Cir. 1992), 356
- Hanes Corp. v. Millard, 531 F.2d 585 (D.C. Cir. 1976), 182
- Harlow v. Fitzgerald, 457 U.S. 800 (1982), 207, 211
- Harriman v. Interstate Commerce Comm'n, 211 U.S. 407 (1908), 20
- Hearst v. Black, 87 F.2d 68 (D.C. Cir. 1936), 195
- Hickman v. Taylor, 329 U.S. 495 (1947), 217
- Hickman v. Taylor, 329 U.S. 495 (1947), 337, 338, 353
- Holland v. Island Creek Corp., 885 F. Supp. 4 (D.D.C. 1995), 357
- Horning v. District of Columbia, 254 U.S. 135 (1920), 22
- Hunt v. Blackburn, 128 U.S. 464 (1888), 337
- Hutcheson v. United States, 369 U.S. 599 (1962), 174, 177
- Hutchinson v. Proxmire, 443 U.S. 111 (1976), 196, 519
- In re Impounded, 241 F.3d 308 (3d Cir. 2001), 387
- Interstate Commerce Comm'n v. Brimson, 154 U.S. 447 (1894), 20, 22
- Jewish War Veterans of the U.S. of Am. v. Gates, 506 F.Supp.2d 54 (D.D.C. 2007), 212
- Jones v. Clinton, 36 F.Supp.2d 1118 (E.D. Ark. 1999), 444
- Kastigar v. United States, 406 U.S. 441 (1972), 234, 311, 317, 316–19
- Kilbourn v. Thompson, 103 U.S. 168 (1880), 10, 12, 20, 23, 59, 83, 517
- In re Lindsey, 158 F.3d 1263 (D.C. Cir. 1998), 363, 364, 365, 366
- Maness v. Meyers, 419 U.S. 449 (1975), 351
- Marbury v. Madison, 1 Cranch 137, 2 L.Ed. 60 (1803), 149, 172, 204, 213
- Marshall v. Gordon, 243 U.S. 521 (1917), 11, 12
- Marshall v. Gordon, 243 U.S. 521 (1917), 224
- McGrain v. Daugherty, 273 U.S. 135 (1927), 5, 14, 19, 23, 59, 71, 173, 176, 223, 224, 532
- McSurely v. McClellan, 553 F.2d 1277 (D.C. Cir. 1976), 196
- Methodist Fed'n for Soc. Action v. Eastland, 141 F. Supp. 729 (D.D.C. 1956), 195
- Miranda v. Arizona, 384 U.S. 436 (1966), 467

- Mistretta v. United States, 488 U.S. 361 (1989), 399
- Morrison v. Olson, 487 U.S. 654 (1988), 191, 192, 193, 198, 399, 532
- New Jersey v. Portash, 440 U.S. 450 (1979), 318
- Nix v. Williams, 467 U.S. 431 (1984), 321
- Nixon v. Fitzgerald, 457 U.S. 731 (1982), 206
- Nixon v. Sirica, 487 F.2d 700 (D.C. Cir. 1973), 142–45, 147, 153, 209, 359
- NLRB v. Walton Mfg. Co., 369 U.S. 404 (1962), 321
- O'Rourke v. Darbishire, [1920] A.C. 581, 604 (P.C.), 387
- Office of President v. Office of Indep. Counsel, 525 U.S. 996 (1998), 363
- In re Olson, 818 F.2d 34 (1987), 193
- In re Pacific Railway Comm'n, 32 Fed. 241 (N. D. Cal. Cir. 1887), 20
- Pauling v. Eastland, 288 F.2d 126 (D.C. Cir. 1960), 195
- Powell v. McCormack, 395 U.S. 486 (1969), 148, 396, 397, 400, 401
- Quinn v. United States, 349 U.S. 155 (1955), 81
- Ralls v. United States, 52 F.3d 223 (9th Cir. 1995), 352
- In re Richard Roe, Inc., 168 F.3d 69 (2d Cir. 1999), 387
- Rogers v. United States, 340 U.S. 367 (1951), 71, 72
- Russel v. United States, 369 U. S. 749 (1962), 186
- Sanders v. McClellan, 463 F.2d 894 (D.C. Cir. 1972), 181, 196
- Sanders v. McClellan, 463 F.2d 894 (D.C. Cir. 1972), 195, 196
- Schad v. Arizona, 501 U.S. 624 (1991), 529
- In re Sealed Case (Espy), 121 F.3d 729 (D.C. Cir. 1997), 162, 209, 225
- In re Sealed Case, 676 F.2d 793 (D.C. Cir. 1982), 357
- In re Sealed Case, 838 F.2d 476 (D.C. Cir. 1988), 192
- Senate Select Comm. on Ethics v. Packwood, 845 F.Supp. 17 (D.D.C. 1994), 157, 358, 362
- Senate Select Comm. on Presidential Campaign Activities v. Nixon, 498 F.2d 725 (D.C. Cir. 1974), 141, 172, 359, 504
- Sinclair v. United States**, 279 U.S. 263 (1929), 16, 23, 59, 71, 86, 176
- Smith v. United States, 375 F.2d 243 (5th Cir.), *cert. denied*, 389 U.S. 841 (1967), 187
- Standard Sanitary Mfg. Co. v. United States, 226 U.S. 20 (1912), 22
- Swidler & Berlin v. United States, 524 U.S. 399 (1998), 342, 343, 345
- United States v. Allen M. Dorfman, *et al.*, No. 81 CR 269 (bench opinion, July 1, 1981), 178
- United States v. Am. Tel. and Tel. Co. (ATT I), 551 F.2d 384, 394 (D.C. Cir. 1976), 359
- United States v. Am. Tel. and Tel. Co. (ATT II), 567 F.2d 121, 127 (D.C. Cir. 1977), 360
- United States v. Am. Tel. and Tel. Co., 551 F.2d 384 (D.C. Cir. 1976), 179, 181, 182
- United States v. Am. Tel. and Tel. Co., 642 F.2d 1285 (D.C. Cir. 1980), 353, 356
- United States v. Brewster, 408 U.S. 501 (1972), 519
- United States v. Bryan, 339 U. S. 323 (1950), 206
- United States v. Chen, 933 F.2d 793 (9th Cir. 1991), 447
- United States v. Clarridge, 811 F. Supp. 697 (D.D.C. 1992), 520
- United States v. Crews, 445 U.S. 463 (1980), 321
- United States v. Crisci, 273 F.3d 235 (2d Cir. 2001), 529
- United States v. Cross, 170 F. Supp. 303 (D.D.C. 1959), 520
- United States v. De Diego, 511 F.2d 818 (D.C. Cir. 1975), 325
- United States v. Diogo, 320 F.2d 898 (2d Cir. 1963), 528, 529
- United States v. Griles, Crim. No. 07-CR-079 (D.D.C. 2007), 527
- United States v. Gross, 24 F.R.D. 138 (S.D.N.Y. 1959), 147
- United States v. House of Representatives of the United States**, 556 F.Supp. 150 (D.D.C. 1983), 178, 180, 190, 196, 223–24, 359, 504
- United States v. Hubbell, 530 U.S. 27 (2000), 234

- United States v. Johnson, 383 U.S. 169 (1966), 519
- United States v. Koon, 34 F.3d 1416 (9th Cir. 1994), 323
- United States v. Lavelle, 751 F.2d 1266 (D.C. Cir. 1985), 189, 200
- United States v. Lavelle, 751 F.2d 1266 (D.C. Cir. 1985), 200
- United States v. Louisville & Nashville R.R., 236 U.S. 318 (1915), 20
- United States v. Martin, 278 F.3d 988 (9th Cir. 2002), 387
- United States v. Midwest Oil Co., 236 U.S. 459 (1915), 21
- United States v. Mitchell, 372 F. Supp. 1239 (S.D.N.Y. 1973), 176
- United States v. Mitchell, 397 F. Supp. 166 (D.D.C. 1974), *aff'd sub. nom.* United States v. Haldeman, 559 F.2d 31 (D.D.C. 1976), *cert. denied*, 431 U.S. 933 (1977), 176
- United States v. Mitchell, *et al.*, 317 F.Supp. 166 (D.D.C. 1974), 146, 417, 418
- United States v. Monia, 317 U.S. 424 (1943), 318
- United States v. Moore, 613 F.2d 1029 (D.C. Cir. 1979), *cert. denied*, 446 U.S. 954 (1980), 444
- United States v. Murray, 618 F.2d 892 (2d Cir. 1980), 529
- United States v. Nixon, 418 U.S. 683 (1974), 146, 153, 162, 170, 171, 172, 204, 205, 208, 209, 213, 221, 223, 359, 415, 419, 451, 504
- United States v. Nixon, 816 F.2d 1022 (5th Cir. 1987), 395
- United States v. North, 910 F.2d 843 (D.C. Cir. 1990) (“North I”), 310, 316, 320–22, 512
- United States v. North, 920 F.2d 940 (D.C. Cir. 1990) (“North II”), 316, 316–19, 320–22, 512
- United States v. Olson, 751 F.2d 1126 (9th Cir. 1985), 522
- United States v. Poindexter, 698 F. Supp. 300 (D.D.C. 1998), 312, 320–22, 512
- United States v. Rayburn House Office Bldg., Room 2113, Washington, D.C. 20515, 497 F.3d 654 (D.C. Cir. 2007), 212
- United States v. Rodgers, 466 U.S. 475 (1984), 528
- United States v. Romano, 583 F.2d 1 (1st Cir. 1978), 175
- United States v. Rumely, 345 U.S.41 (1953), 80, 82, 83, 85, 182
- United States v. Simone, 627 F.Supp. 1264 (D.N.J. 1986), 447
- United States v. Stewart, 433 F.3d 273 (2d Cir. 2006), 529
- United States v. Tejada, Magistrate No. 09-MJ-077 (D.D.C. 2009), 528
- United States v. Tobin, 195 F.Supp. 588 (D.D.C. 1961), *rev'd on other grounds*, 306 F.2d 270 (D.C. Cir. 1962), 24
- United States v. Tobin, 306 F.2d 270 (D.C. Cir. 1962), 181
- United States v. United Shoe Mach. Corp., 89 F. Supp. 357 (1950), 335
- United States v. Yermian, 468 U.S. 63 (1984), 528
- United States v. Zolin, 491 U.S. 554 (1989), 340, 387, 388
- Upjohn Co. v. United States, 449 U.S. 383 (1981), 336, 339, 343, 344, 357
- Waller v. Fin. Corp. of Am., 828 F.2d 579 (9th Cir. 1987) 356
- Walter L. Nixon v. United States, 506 U.S. 224 (1993), 394
- Watkins v. United States, 354 U.S. 178 (1957), 59, 72, 82, 86–88, 173, 176, 223, 352
- Weinstock v. United States, 231 F.2d 699 (D.C. Cir. 1956), 444
- Westinghouse Elec. Corp. v. Rep. of the Phil., 951 F.2d 1414 (3d Cir. 1991), 352
- Wilkinson v. United States, 365 U.S. 431 (1961), 88
- Yates v. United States, 354 U.S. 298 (1957), 72
- Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952), 205

# Preface

---

This Book addresses a topic that is not included, or is addressed only in passing, in the typical law school curriculum, and that also does not receive substantial attention in many graduate school government and political science programs. This relative lack of academic attention notwithstanding, the congressional investigative and oversight process has played a vital role in our national history and has helped shape our legal and political systems. McCarthyism, Watergate, and Iran-Contra—to name just three examples—are chapters in our national history that are simply too important to let slip between the cracks separating the various academic fields. This Book seeks to bridge the gaps between the academic disciplines by providing an up-to-date, concise, and accessible analysis of the most important congressional investigations of the past century. We believe that students of law, government, and political science all will benefit from a deeper understanding of the events and legal issues that are analyzed in this Book.

A challenge in writing about congressional investigations and oversight is that the topic defies easy categorization. The subject matter can perhaps best be described as one part law, one part history, and one part politics. In writing this Book, however, we found the breadth and variety of the subject matter to be an advantage so long as we resisted any temptation to narrow our analytical perspective. Any effort to view the congressional investigative and oversight process through the lens of a single discipline—whether law, history, or government and political science—inevitably distorts the analysis and fails to capture the full depth of the issues presented. The case studies that are included in this Book take a more holistic approach, and seek to interweave law, history, and politics to paint an accurate and complete picture of these fascinating events. Students of all disciplines should find this Book both useful in attaining a deeper understanding of their own field and helpful in appreciating important intersections and overlaps with other fields of study.

A final reason to study the events that are included in this Book is for practicing lawyers, government officials, and private citizens who are caught up in the congressional investigative and oversight process to learn from history and avoid the mistakes of the past. Many of the tactical errors and missed opportunities that are described in this Book, from Alger Hiss's ill-advised attempt to clear his name by voluntarily appearing before the House Committee on Un-American Activities to the Iran-Contra Committee's failure to foresee the consequences of granting immunity to Oliver North and John Poindexter, provide valuable lessons for legislators and their staffs, attorneys representing clients in congressional investigations, and government officials or private citizens who may come under congressional scrutiny. We hope this Book will both contribute to the academic literature and provide a useful resource for those on the front lines in the real world of law, government, and politics.