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THE POWER OF CONGRESS TO SUBPOENA MEMBERS AND DOCUMENTS FROM THE EXECUTIVE BRANCH

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The promulgation, September 16, 1938, of the Rules of Civil Procedure for United States District Courts[1] is of interest and importance to every lawyer, particularly those who often find themselves in federal courts. As was well stated, the scope of the rules is designed to secure the just, speedy and inexpensive determination of every action.[2] To attempt to single out any rule as of greatest importance is futile, but for the purpose of this article particular attention is directed to the rule of discovery.[3] Of course, the lawyer also will do well to study carefully the new criminal rules,[4] in addition to the rules of discovery in his state courts. This article is primarily concerned with the much discussed subject of the power of Congress and the committees thereof to demand documents and persons from the executive branch of our Federal Government. Before discussing the primary subject, however, what is probably the most important pronouncement in Rule 34 should be emphasized — "upon motion of any party," appearing at the very beginning of the rule.

Without implying that prior to this rule there was any substantial difference between the Government when appearing in court as plaintiff or defendant, and others occupying that position, it cannot be urged too strongly that when the United States Government (or a state government for that matter) is either plaintiff or defendant, the Government is subject to all the rules and regulations applying thereto. This has nothing to do with the sovereign's immunity from suit.

The executive branch of the Government has repeatedly claimed a statutory immunity from the discovery rules, relying on a statute[5]

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1. Rules of Civil Procedure for the United States District Courts, 28 U.S.C. 2072.
2. Scope of Rules, Rule 1.
3. Rules of Civil Procedure, Chap. V. Depositions and Discovery: Rules 26 to 37 inc., 28 U.S.C.A. Rule 34, 2072.
4. Federal Rules of Criminal Procedure, 18 U.S.C. 3771.
5. Rev. Stat. 161; 5 U.S.C. 22.

granting power to executive agencies to prescribe regulations, not inconsistent with law, for the government of the departments. This statute, enacted in 1875, was a merger of two groups of statutes, one dating from 1789, authorizing the heads of newly established agencies to have the custody of records, etc. pertaining to their official duties; the other series authorized department heads to make all necessary rules and regulations for the management of their agencies.

But those who hold that this is an overall immunity statute, overlook the significance of the statement therein, "not inconsistent with law." The discovery rules are part of the statute law of the United States. Both the American and British courts hold to the position that, in court, the Government is to be treated as any other litigant, or as Judge A. Hand well said:[6] "Any other practice would strike at the personal responsibility of governmental agencies."

If the Government can make the sole decision as to what must be divulged, this is tantamount to government immunity from discovery and is calculated not only to work a hardship on the private citizen but to handicap both the judicial and legislative bodies in securing from the executive branch information which is necessary in carrying on their duties outlined in the Constitution. No one has more eagerly resorted to the discovery machinery than the Government.[7] But no one has been more grudging in making it reciprocally available[8] than the Government, which gets rather technical when the non-government defendant wants equal treatment.[9]

In a series of R.F.C. cases during the Roosevelt administration, the Supreme Court said:

> Executive immunity is but a variant of sovereign immunity, which is in current disfavor.

Or as Wigmore put it:[10]

> Entrust the administrators with exclusive power to determine which facts should be divulged and the gate to unlimited extension of the privilege categories is open.

In another case,[11] the Supreme Court held that such a privilege "should be restricted to its narrowest bounds." This case is worthy

6. Bank Line v. United States, 163 F. 2d 133 (2d Cir. 1947).
7. United States v. National City Bank of New York, 40 F. Supp. 99 (S.D. N.Y. 1941).
8. Yankwich, *Observations on Anti-Trust Procedures*, 10 F.R.D. 165.
9. Burton v. Weyerhauser Timber Co., 1 F.R.D. 571 (D. Or. 1941).
10. WIGMORE, EVIDENCE, § 2379 (3rd ed. 1940).
11. Hickman v. Taylor, 329 U.S. 495 (1947).

of careful study as it is something of a landmark on Federal Civil Rules of Procedure.

Even though the constitutional grant of "all legislative power" to the Congress does not spell out in detail express powers to compel disclosures pertinent to the legislative process, such powers are by necessary implication carried as auxiliary and subordinate to the original grant.[12] In actual legislative practice, power to secure needed information has long been treated as an attribute of the power to legislate, even by the British Parliament and the Colonial legislatures; and a like view has been followed in both Houses of Congress, and by most of the state legislatures.[13] Furthermore, a legislative purpose will be presumed where an investigation is undertaken by a duly authorized committee,[14] and the scope of the inquiry may be as broad as this legislative purpose requires.[15]

In 1938, legislation was enacted to make it a misdemeanor to wilfully refuse to testify or produce required papers when properly subpoenaed by Congress.[16] To enforce its inherent right better and to protect those involved, it is clear that Congress intended to impose on the witness the duty to testify and furnish the subpoenaed documents without resorting to the frequently heard plea of "self-incrimination."[17] But it is worthwhile to look at a very recent statute on this point which grants immunity from prosecution under certain conditions in connection with such compulsory testimony or evidence.[18] This 1954 immunity law amends 18 U.S.C. 3486 and has special reference to proceedings of an investigatory nature having to do with treason, sabotage, espionage, sedition, seditious conspiracy or the overthrow of the Government by force or violence. It makes mandatory the appearance of the witness and summoned papers. In this connection the Legislative Reorganization Act of 1946 and

12. Anderson v. Dunn, 6 Wheaton 204 (1821).
13. McGrain v. Daugherty, 273 U.S. 135 (1927).
14. In re Chapman, 166 U.S. 661 (1897).
15. Townsend v. United States, 95 F. 2d 352 (D.C. Cir. 1898).
16. "Every person who having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee . . or any committee of either House, wilfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than $1,000 nor less than $100, and by imprisonment in a common jail for not less than one month nor more than twelve months." Revised Statutes 102, c. 594, 52 Stat. 942; 2 U.S.C. 192 (1938). (Derivation: Act Jan. 24, 1857; 11 Stat. 155).
17. REV. STAT. 103; c. 594; 52 Stat. 942; 2 U.S.C. 193 (1938). (Also see 2 U.S.C. 194 as to reporting by Congress to the United States Attorney).
18. Pub. L. No. 600, 83rd Cong. (62 Stat. 833).

amendments thereto,[19] which legislation, *inter alia,* has as two important objectives the streamlining and simplifying of committee procedures and the rearrangement of congressional enactments on the subject to promote convenience in research, should not be overlooked.

Investigation by Legislative Committees

There can be no argument about the power of Congress to legislate and use committees for that function; but the power of Congress to investigate and use committees thereof in doing so, raises many questions since the Constitution does not expressly empower the Congress to conduct investigations. Is this power implied? Apparently early in our nation's history it was thought so. The highest Court, speaking through Justice Marshall,[20] *inter alia,* said:

> There is nothing in the constitution of the United States which excludes incidental or implied powers . . . we think the sound construction of the constitution must allow to the national legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people.

Soon thereafter, the Supreme Court[21] held that Congress has the power to exact testimony from a private individual and compel him to furnish necessary documentary evidence to a congressional committee. Sixty years later the same Court[22] greatly restricted this broad power, holding that a legislative body cannot commit for contempt one who is neither a member nor officer of either House. Although severely criticized, the ruling in that case controlled for a half century, until in 1927 the Court announced[23] that henceforth Congress, when properly exercising its legislative function, may punish a private citizen for failing to testify in answer to a subpoena of the Senate or House.

The rule that a private party must testify and produce documentary evidence in compliance with a congressional committee subpoena was further strengthened by highest court decisions in three subsequent cases.[24]

19. Legislative Reorganization Act of 1946. (Text of act, 2 U.S.C., sections 31 et al.)
20. McCulloch v. Maryland, 4 Wheaton 316 (1819).
21. Anderson v. Dunn, 6 Wheaton 204 (1821).
22. Kilbourne v. Thompson, 103 U.S. 168 (1880).
23. McGrain v. Daugherty, 273 U.S. 135 (1927).
24. Jurney v. McCracken, 294 U.S. 135 (1934); U. S. v. Bryan, 72 F. Supp. 58 (D. D.C. 1947); U. S. v. Fields, 164 F. 2d 97 (D.C. Cir. 1947), *cert. denied,* 332 U.S. 851 (1947).

However, illustrations of refusal by the executive branch to comply with requests from the legislative and judicial branches for desired information and testimony are numerous; the instances of clearcut court decisions on the subject are conspicuous by their complete absence. There are decisions, however, which tend to show that eventually the highest Court will hold that if legislative committees have such a broad power over individual citizens, that there should be no immunity on the part of the executive branch unless there is an expressed or implied constitutional or statutory exemption.

Two cases should be considered on this point.[25] They hold that the head of an agency has a definite obligation to respond to court subpoenas when properly directed to the agency chief and that it is for the court, not the agency head, to make the final determination of admissibility, when thus properly presented.

In one of these, the *Touhy* case, it was held that an F.B.I. agent was improperly adjudged in contempt for refusing to deliver certain papers, the delivery of which would have been in violation of rules and regulations promulgated by the Attorney General. The Court declined to examine the documents which the agent had brought into court in response to the subpoena, apparently relying on the agent's statement that the Attorney General's regulation was controlling. Justice Reed held that this case was controlled by the much earlier decision in the *Boske* case, wherein a collector of internal revenue was likewise held in contempt for failing to file copies of a distiller's reports with his deposition, relying on an order of the Secretary of the Treasury prohibiting the filing of such except for specified purposes. The collector, jailed for contempt by the state court, was subsequently discharged on a writ of habeas corpus issued by the federal district court. The Supreme Court's affirmance did not determine what would have been the decision if the subpoena had been directed to the Secretary of the Treasury as head of the agency. The language of Justice Frankfurter's concurring opinion in the *Touhy* case clearly indicates that, generally, subpoenas should be directed to the agency head, and that he should respond in person or through a representative with the documents.

If the agency head has objections to the submission of the documents, these should be addressed to and considered by the trial judge. Neither of the above cases grants blanket immunity to the head of an executive agency nor authorizes him to be the sole judge of the ad-

25. U. S. ex rel. Touhy v. Ragen, Warden, et al, 340 U.S. 462 (1950); Boske v. Comingore, 177 U.S. 459 (1900).

missibility of the evidence. Unquestionably the popular analysis is that the administrator, be he a Cabinet Officer or not, is in a better position to determine what should be withheld, particularly when the question of security is involved. This assumption, however, is somewhat dubious. Failure to respond to a subpoena *duces tecum* resulting in a refusal to submit the desired documents to the court or congressional committee for a determination as to admissibility, implies that the judicial and legislative branches cannot be trusted in the same manner as those of the executive branch; that this high wisdom and integrity is lodged exclusively in one branch of the Government. This appears to be a violation of the doctrine of three equal branches of government. Of course, this argument is not that there should necessarily follow a disclosure in open court or public committee hearings. If necessary, the trial judge or the chairman and members of the committee can examine the witness and documents privately and withhold that which should be withheld from both litigants and the public. To place sole responsibility for determination of what should be withheld from the public in one branch of the Government is not within the spirit of the Constitution.[26] Nevertheless, what is said on the general subject may have to bear some modification, especially in this atomic age. Perhaps atomic energy secrets should be placed in a separate category; but to safeguard these properly does not require an exception to the general rule, for Congress can and wisely has adopted special provisions by statutory enactment.[27]

The Power to Subpoena the President of the United States

Although this section is directed to the power of Congress and committees thereof to issue subpoenas requiring the President to furnish certain documents in his possession, it is not to be inferred that the courts have less or greater power. More than half of our Presidents from Washington to Eisenhower[28] — eighteen — have refused such requests. Space will not permit a discussion of all; but it is well to observe how staunch was our first president's respect for the separation of powers. In 1796 the House requested President Washington to submit certain executive papers relating to treaty negotiations with the King of England. The President, in his refusal, *inter alia,* said:

26. duPont de Nemours Powder Co. v. Masland, 244 U.S. 100 (1917). Opinion by Justice Holmes.
27. 42 U.S.C.A. supp. section 1810 (1946).
28. See appendix.

> As it is essential to the due administration of the Government, that the boundaries fixed by the Constitution between the different departments should be preserved, a just regard to the Constitution and to the duty of my office as to foreign affairs should likewise be preserved.

This question came up in a broader sense in connection with the famous treason trial of Vice President Aaron Burr. President Jefferson conceded the power of the judicial branch to issue the subpoena *duces tecum* but held that he had the right to exercise his discretion as to withholding certain documents of a highly confidential nature. Chief Justice Marshall, who presided over this circuit court trial in Richmond with District Judge Cyrus Griffin sitting with him, declared:

> The law does not discriminate between the President and a private citizen. The President of the United States may be subpoenaed, and examined as a witness, and required to produce any paper in his possession. Although subject to the general rules which apply to others. He may have sufficient motives for declining to produce a particular paper, and those motives may be such as to restrain the court from enforcing its production . . . . The occasion for demanding it ought to be very strong and to be fully shown to the court before its production could be insisted on . . . such letters should not, on light ground, be forced into public view. Yet it is a very serious thing, if such letter should contain any information material to the defense, to withhold from the accused the power of making use of it . . . . I do not think the accused ought to be prohibited from seeing the letter . . . or if accused is on trial for his life, nothing pertinent to his defense, even Presidential papers, should be denied him.

While the above does not carry the weight of a Supreme Court decision, the great jurist in a celebrated case[29] was to give such weight to the separation of powers that this principle is woven into the warp and woof of our system of government. His philosophy was that we are governed by a system of law and that the Constitution of the United States is not on a level with statute law, that it is supreme except as the people alone wish to change it through constitutional methods.

Just because Washington had sound constitutional authority for

29. Marbury v. Madison, 1 Cranch 137 (1803).

his refusal does not mean that Andrew Jackson was warranted in all of his denials, even though he had the votes in Congress to support his refusal. During the administration of Buchanan, Congress, through the Covode investigation, usurped the power that the Constitution had vested in the President, in a proceeding almost as defamatory as that followed later in the impeachment proceedings of Andrew Johnson. Buchanan simply did not have the necessary strength in Congress to uphold his right. Just after the battle of Bull Run, Congress unlawfully took away from Lincoln his power of commander-in-chief and under the Wade Committee, for a time, conducted the war. A distinction should be drawn between the Wade Committee's action and that of President Truman in connection with the Pearl Harbor investigation by Congress. In the latter, hostilities had ceased and the President's restrictive order as to what was to be given to the committee was a determination by only one branch of the Government.

The roots of the power of a legislative committee to summon and compel witnesses, even a President, to appear and furnish necessary evidence, lie deep in British as well as American history. Only in the light of a knowledge of these origins and subsequent developments does it become possible to comprehend its limits. The value of British precedents, however, has been questioned at times on the ground that Parliament, as distinguished from Congress, is a judicial-legislative body. Over a long period (1604-1869) committees of Parliament were armed with powers to compel the production of persons and papers, administer oaths, and report recalcitrant and untruthful witnesses to Parliament. The limited Colonial records available seem to support this. In 1772 the Massachusetts House of Representatives said to the governor of that colony, when he was reluctant to honor the House's request that a certain official appear and testify, that it was:

> . . . not only their privilege but duty to demand of any officer in the pay and service of this government an account of his management while in the public employ.

The House got its witness. North Carolina and Pennsylvania took a similar position with their Colonial governors.

Before leaving the discussion of the power of the legislative branch to require the President to furnish proper information to the Congress, it should be noted that it would be interesting to consider what Congress should do if a President refused to comply with the Constitution which makes mandatory that the chief executive "shall

from time to time give to the Congress information on the State of the Union."[30]

The Need for Clarification by the Supreme Court

The primary purpose of a congressional committee, in conducting hearings and investigations, is to assist in the function of lawmaking, but there is the secondary important duty of supervision over and check on the activities of the executive branch.

Also a fact to bear always in mind is that a legislative committee is an advisory body to the particular House, and a sub-committee is subordinate to the main committee. The members of the committee do not have authority to act for the committee in an individual capacity, except certain delegated administrative authority to the chairman. Therefore, when we speak of the power of congressional committees, what is really meant is the power that Congress has delegated to the committee, and nothing more.

It is in the field of legislative supervision of the activities of the executive branch that delicate questions often arise, among which might be named:

1. How far can Congress go in demanding information from the executive branch, when the purpose is not primarily connected with pending or proposed legislation?

2. What protection is extended to the executive branch and members thereof under the clearly expressed separation of powers in the Constitution?

These important questions have not, as yet, had a clear and complete answer, but certain precedents and analogies are helpful as a guide until there is a more definite declaration of the highest Court.

Proper investigations of the executive departments are necessary, not only because Congress must learn the needs of the agency, but also because Congress possesses and has consistently exercised the power to see that the departments are conducted in accordance with law and policy. The very creation of the office of Comptroller General is illustrative on this point. When Congress suspects that irregularities are taking place in a government agency, it is its duty to investigate promptly and thoroughly. There is ample authority for such.[31] Unfortunately, however, the words "legislative power" are not always self-defining. When the wise political thinkers thought

30. CONSTITUTION OF THE UNITED STATES, Article II, Section 3.
31. CONSTITUTION OF THE UNITED STATES, Article I, Section 1.

this through in 1789 and used these in the Constitution, they could not foresee, nor were they dealing with, new concepts into which judges of a later date were to pour a meaning disassociated from past history and experience. "Bred to the bone, as they were, with English concepts and traditions, a phrase such as 'legislative power' precipitated centuries of parliamentary history."[32]

In 1929 the Supreme Court, while unholding the power of Congress to make inquiry of private citizens, said that "such inquiry must be exerted with due regards to the rights of witnesses."[33] This solemn pronouncement should be a warning not only to the trial judge but to the legislative committee. Nevertheless, this protection of witnesses is not to say that, when exercising a function that is proper, the committee is without power even though the investigation may not be directly connected with legislation. The collection of facts by a congressional committee may cover a wide field and need not be limited to "securing information precisely and directly bearing on some proposed legislation."[34] In another case,[35] it was held that the motive of Congress, or one of its committees, for conducting an investigation may not be scrutinized in a court.

It is clear that the scope of the power of Congress and its committees to conduct investigations of subjects considered by it to be in the public interest, is limited only to the extent that the purpose of such investigations must be legitimate, but it is important that the committee is one acting strictly within the rules provided. The presence of a quorum at the beginning of the hearing but not at the time the alleged overt act is committed, will not support a charge of perjury or contempt.[36] The act must take place before Congress or a constituted committee thereof.

Over the years debates have taken place in Congress in which it was asserted that the legislative branch had the right and power to exact testimony and documents from the executive branch. The executive branch has replied just as emphatically that such would be an invasion of the doctrine of the separation of powers. An important pronouncement on this was made in 1941 by the late Justice Robert Jackson, while he was serving as Attorney General. Just as the attempt to assert superior power by one branch over another,

32. Landis, *Constitutional Limitations on the Congressional Power of Investigations*, 40 HARV. L. REV. 153 (1926).
33. Sinclair v. United States, 279 U.S. 263 (1929).
34. United States v. Bryan, 72 F. Supp. 58 (D. D.C. 1947). *Affirmed* 167 F. 2d 241 (D. C. Cir. 1947), *cert. denied* 334 U.S. 843 (1948).
35. Eisler v. United States, 75 F. Supp. 640 (D. D.C. 1948), *cert. denied*, 338 U.S. 189 (1949).
36. Christoffel v. United States, 338 U.S. 84 (1949).

advanced in these Congressional debates, is unsound, it seems that the eminent jurist goes too far in the other direction in denying unilaterally the power attempted to be asserted. It is believed that a refusal by the executive branch must be on higher ground than even the separation of powers.

The Supreme Court has held that a properly constituted committee, like a court, can demand the appearance of a citizen with his papers. It would seem that the highest Court should extend this to the executive branch and officers thereof. At least it would clear the atmosphere if the Court would speak out clearly on this subject. In a fairly recent case[37] the highest Court had this opportunity. The defendants were charged with violation of the Sherman Act. They moved for discovery under Rule 34. In opposing the motion, the Government maintained that it was "exclusively within the authority of the Attorney General to determine whether such documents" were subject to this rule. The trial judge directed the Government to submit the documents, which demand was refused. Whereupon the court dismissed the complaint. The Government appealed. In a *per curiam* opinion, 4 to 4, Mr. Justice Clark not participating because he was the Attorney General in question, the trial court was sustained. Unfortunately the opinion did not declare clearly that in such cases the Government is just another litigant and thus pave the way for the sound extension of this ruling to include proper demands on the executive from Congress or its constituted committees.

Summary

All legislative power is vested in Congress and the proper exercise of the legislative purpose requires congressional investigation. This investigation is done through committees which are delegated the power of Congress for that investigative purpose. As an instrumentality of the Congress, therefore, the committee should be exceedingly careful to observe correct procedural practices and to adopt and to follow rules not contrary to those of the body which gave it its being and not contrary to law.

The rules of discovery are statutory laws. The relation of the Government in court, so far as these statutory laws are concerned, is the same as any other litigant. The Constitution does not vest in either of the three co-ordinate branches any superior power, integrity or trustworthiness. Nor does the doctrine of separation of

37. United States v. Cotton Valley Operators Committee, 339 U.S. 940 (1950).

powers grant immunity *per se* to any of the three branches, unless such immunity is expressed or implied in the Constitution or by statute.

The right of the legislative branch to demand and to receive from the executive branch information and papers pertinent to its legislative purpose is, then, sound. This right has been vigorously asserted by the Congress and has been just as vigorously defended against by the executive, relying almost exclusively upon the doctrine of separation of powers.

In the past, Congress has merely asserted its right to obtain proper information from the executive branch without attempting to enforce it. It has never attempted to invoke against executive officers the law which provides that every person is criminally liable who, having been summoned by either House to give testimony or to produce papers upon a proper matter under inquiry, wilfully makes default.

The unfortunate fact that legislative committees are not always properly conducted, that witnesses appearing before them have less protection than in a court of law, and that sometimes nothing is accomplished, is no sound argument against all legislative committees any more than an unworthy occupant of a public office is an argument for the discontinuance of that office. Thus it would seem that both law and policy would, under proper circumstances, support an attempt by the Congress to enforce this right.

Appendix

President	*Date*	*Type of Information Refused*
George Washington	1796	Instructions to U. S. Minister concerning Jay Treaty.
Thomas Jefferson	1807	Confidential information and letters relating to Burr's conspiracy.
James Monroe	1825	Documents relating to conduct of naval officers.
Andrew Jackson	1833	Copy of paper read by the President to heads of departments relating to removal of bank deposits.
Andrew Jackson	1835	Copies of charges against removed public official. List of all appointments made without Senate's consent between 1829 and 1836, and

		those receiving salaries without holding office.
John Tyler	1842	Names of Members of 26th and 27th Congress who had applied for office.
John Tyler	1843	Colonel Hitchcock's report to War Department.
James K. Polk	1846	Evidence of payments made through State Department on President's certificates, by prior administration.
Millard Fillmore	1852	Official information concerning propositions made by King of Sandwich Islands to transfer same to U. S.
James Buchanan	1860	Message of Protest to House against Resolution to investigate attempts by Executive to influence legislation.
Abraham Lincoln	1861	Dispatches of Major Anderson to the War Department concerning defense of Fort Sumter.
Ulysses S. Grant	1876	Information concerning executive acts performed away from Capitol.
Rutherford B. Hayes	1877	Secretary of Treasury refused to answer questions and to produce papers concerning reasons for nomination of Theodore Roosevelt as Collector of Port of New York.
Grover Cleveland	1886	Documents relating to suspension and removal of 650 Federal officials.
Theodore Roosevelt	1909	Attorney General's reasons for failure to prosecute U. S. Steel Corporation. Documents of Bureau of Corporations, Department of Commerce.
Calvin Coolidge	1924	List of companies in which Secretary of Treasury Mellon was interested.
Herbert Hoover	1930	Telegrams and letters leading up to London Naval Treaty.
Herbert Hoover	1932	Testimony and documents concern-

		ing investigation made by Treasury Department.
Franklin D. Roosevelt	1941	Federal Bureau of Investigation Reports.
Franklin D. Roosevelt	1943	Director, Bureau of the Budget, refused to testify and to produce files.
Franklin D. Roosevelt	1943	Chairman, Federal Communications Commission and Board of War Communications refused records.
Franklin D. Roosevelt	1943	General Counsel, Federal Communications Commission, refused to produce records.
Franklin D. Roosevelt	1943	Secretaries of War and Navy refused to furnish documents, and permission for Army and Naval officers to testify.
Franklin D. Roosevelt	1944	J. Edgar Hoover refused to give testimony and to produce President's directive.
Harry S. Truman	1945	Directions issued to heads of executive departments with regard to giving information to Pearl Harbor Committee.
Harry S. Truman	1947	Civil Service Commission records concerning applicants for positions.
Harry S. Truman	1948	F. B. I. letter-report on the Director of the Bureau of Standards.
		Issued directive forbidding executive departments and agencies to furnish information on reports concerning loyalty of federal employees to any court or congressional committee unless executive approval is given.
Harry S. Truman	1948	Directed his confidential adviser not to testify before House Committee on Education and Labor.
		Letter of Attorney General to Chairman of investigating sub-committee of the Senate stating that he would not appear or furnish letters, memoranda or other notices which the

		Department of Justice had provided to other agencies with respect to W. W. Remington.
Harry S. Truman	1950	Department of State loyalty files, following vigorous opposition of J. Edgar Hoover. General Omar Bradley, Chief of Staff. Directive of President to Secretary of State to refuse certain reports to a Senate sub-committee. Acting Attorney General; refusal as to open cases but granted as to closed cases.
Harry S. Truman	1952	Directive to Secretary of State to withhold from Senate Appropriations sub-committee files containing security risk information.
Dwight D. Eisenhower	1954	Directive to Defense Department barring testimony, etc. in re: McCarthy-Army hearing, sub-committee of Senate Government Operations Committee.