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1st Session }

HOUSE COMMITTEE PRINT

HISTORY OF THE  
COMMITTEE ON THE JUDICIARY  
OF THE  
HOUSE OF REPRESENTATIVES



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House of Representatives

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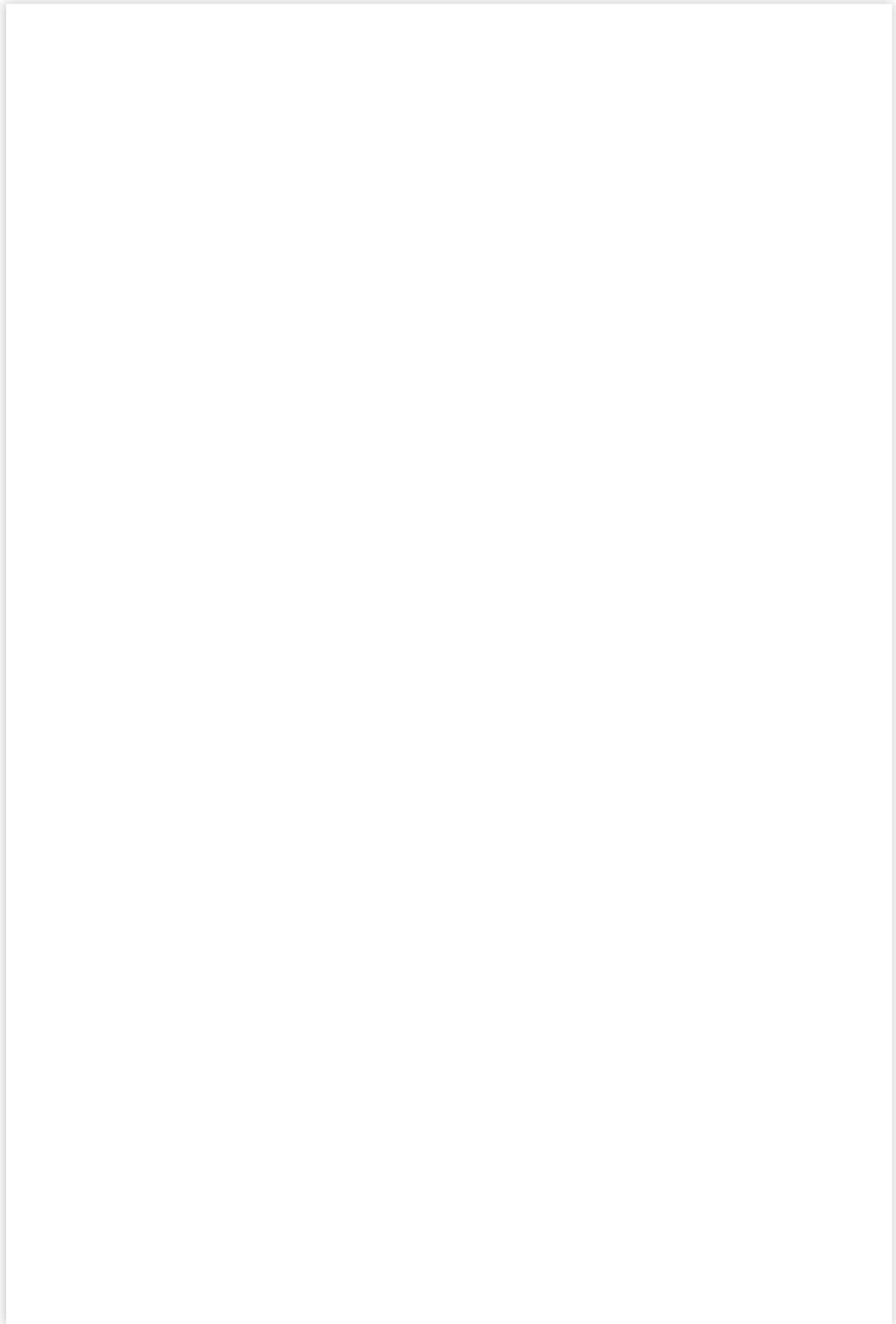
### FOREWORD

In the 80th Congress, the Honorable Louis E. Graham, a member of the Committee on the Judiciary of the House of Representatives, prepared a history of the committee. Its publication has proved to be of widespread interest and value. Since then the Judiciary Committee has operated under the provisions of the Legislative Reorganization Act of 1946. In December 1956 a revised edition, prepared by the committee staff, was published to reflect changes and additions to that time. It is now appropriate to publish the third edition, which also has been prepared by the staff, in order that the contents may be current and thus more useful.

It is surprising how little examination there has been of the history of committees of Congress. When one considers the vital role congressional committees play in the legislative process, this is astounding. It is hoped that the history of the Committee on the Judiciary of the House of Representatives will contribute to a better understanding of our Nation's legislative process—the most successful means of constitutional democracy yet devised.

EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,  
House of Representatives.*

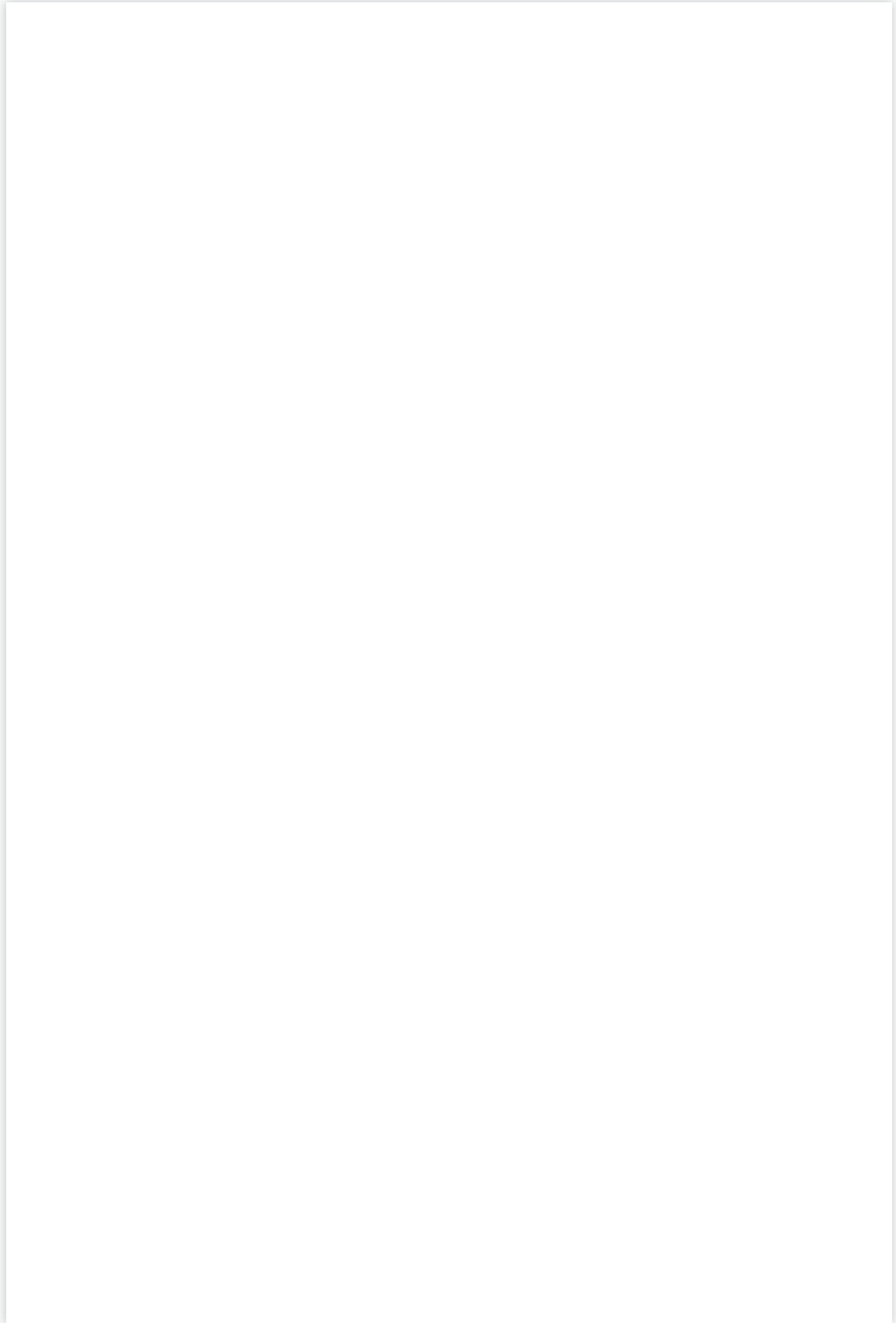
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## **HISTORY OF THE COMMITTEE ON THE JUDICIARY**

### **INTRODUCTION**

The Judiciary Committee has been called the lawyer for the House of Representatives. It handles legislation concerning the administration of justice in judicial proceedings, civil and criminal, and in administrative proceedings. Similarly, this committee handles legislation concerning the Federal courts and judges and the revision and codification of the statutes of the United States. In impeachment proceedings the Judiciary Committee conducts the necessary investigations and reports its findings to the full House of Representatives. If impeachment is voted by the House, members of the Judiciary Committee are selected to prosecute the matter before the Senate. In keeping with this role as the law committee of the House, traditionally only lawyers have been selected as members.

The Judiciary Committee of the House of Representatives handles more than one-third of the bills introduced in the House. In the 89th Congress, 1st session, 38.5 percent of the bills were referred to the Judiciary Committee. In the 86th Congress, the Judiciary Committee received 28.6 percent of the bills introduced, 35.1 percent in the 87th Congress, and 36.4 percent in the 88th Congress. This substantial and increasing workload underscores the Judiciary Committee's role as one of the most active committees among the 20 standing committees of the House.

The work of the committee normally is divided among five subcommittees, each of which has general jurisdiction over judiciary bills as assigned, as well as special jurisdiction over specified areas. In the 89th Congress, 1st session, Subcommittee No. 1 had special jurisdiction over immigration and nationality; Subcommittee No. 2 had special jurisdiction over claims; Subcommittee No. 3 had special jurisdiction over patents, trademarks, copyrights, and revision of the laws; Subcommittee No. 4 had special jurisdiction over bankruptcy and reorganization; and Subcommittee No. 5 had special jurisdiction over antitrust matters.

On most legislation the subcommittee to which the measure is referred performs the bulk of the investigatory and other preparatory work. After the subcommittee concludes its consideration of a measure it reports back to the full committee. The full committee then deliberates and either favorably reports the legislation to the House of Representatives, with or without amendments, or tables the legislation. Only in rare instances has the full committee reported legislation to the House of Representatives with an unfavorable recommendation instead of tabling it. Although the regular subcommittees handle the bulk of the legislation referred to the Judiciary Committee, when the subject matter is particularly complex or requires study over extended periods, the appointment of special investigating or study subcommittees has been necessary. The special subcommittees created to deal with the problems of submerged lands and with State taxation of interstate commerce are examples of this type of subcommittee activity.

### ORGANIZATION

June 3, 1965, marked the 152d anniversary of the creation of the Committee on the Judiciary of the House of Representatives. On June 1, 1813, Mr. Jackson of Virginia moved to amend the Standing Rules and Orders of the House, so that an additional standing committee should be appointed at the commencement of each session, to be known as "a Committee on the Judiciary," and to consist of seven members. This motion was adopted without division on June 3, 1813.

The Senate had organized its Judiciary Committee during the first Congress.<sup>1</sup> The House of Representatives, however, from the 1st through the 12th Congresses had operated without a Judiciary Committee. In this period, bills affecting the court system and certain other matters that were to be within the jurisdiction of the Judiciary Committee were handled in the Committee of the Whole,<sup>2</sup> or by other committees.

#### THE 13TH CONGRESS

The 13th Congress extended from March 4, 1813, to March 3, 1815. It sat in three sessions—the first, from May 24, 1813, to August 2, 1813 (71 days); the second, from December 6, 1813, to April 18, 1814 (134 days); and the third, from September 19, 1814, to March 3, 1815 (166 days). The Speaker of the House, during the first session and a part of the second, was Henry Clay, of Kentucky. He resigned January 19, 1814, and on that day was succeeded by Langdon Cheves, of South Carolina. James Madison was serving his second term as President from March 4, 1813, to March 3, 1817. At that time the House consisted of 182 Members, representing 18 States and 4 Territories. The population of the United States, as shown by the census of 1810, was 7,239,881. The ratio of representation was 1 Representative for every 35,000 of population.

The proceedings and debates of the House of Representatives of the United States at the 1st session of the 13th Congress show for Thursday, June 3, 1813:

#### THE JUDICIARY

Mr. J. G. Jackson, [of Virginia] called up the resolution which he submitted for consideration a day or two ago, in the following words:

*Resolved*, That the following be added to the standing rules and orders of the House: An additional standing committee shall be appointed, at the commencement of each session, viz: a Committee on the Judiciary, to consist of seven members. It shall be the duty of the said Committee to take into consideration all such petitions and matters or things touching Judicial proceedings, as shall be presented or may come in question and be referred to them by the House, and to report their opinion thereupon, together with such propositions relative thereto as to them shall seem expedient.

\* \* \* \* \*

"No opposition being made to the motion, it was adopted without a division."\*

<sup>1</sup> McConachie, "Congressional Committees," records that on Apr. 7, 1789, "Messrs. Ellsworth, Paterson, Maclay, Strong, Lee, Bassett, Few, and Wingate were appointed a committee to bring in a bill for organizing the judiciary of the United States." On Apr. 13, 1789, Mr. Carroll and Mr. Izard were added.

<sup>2</sup> E.g., the first Judiciary Act of 1789 originated in the Senate Judiciary Committee; it was reported to the Senate on June 12, 1789, and was passed on July 17. In the House, the Judiciary Act was considered by the Committee of the Whole. 1 Annals of Congress, 659, 796-834, 887-894 (1789-1790).

<sup>3</sup> 26 Annals of Congress, 132, 133, (1813).



HISTORY OF THE COMMITTEE ON THE JUDICIARY

Although its creation thus was authorized on June 3, 1813, the Committee on the Judiciary was not organized until December 6, 1813. Standing Committees of Elections, Ways and Means, Claims, Commerce and Manufactures, Public Lands, District of Columbia, Post Offices and Post Roads, Revisal and Unfinished Business and Accounts had been appointed on May 26, 1813. Problems associated with the war against Great Britain, which had been declared on June 18, 1812, however, prevented further action with respect to the Judiciary Committee until the 2d session of the 13th Congress.

The second session commenced on December 6, 1813. The proceedings of Tuesday, December 7, 1813, show :

STANDING COMMITTEES

A motion was made by Mr. DAWSON, that the House do now proceed to the appointment of the several Standing Committees, except the Committee of Election; and the question being taken, it passed in the affirmative. Whereupon, the following committees were appointed, viz :

- Committee of Ways and Means—\* \* \*
- Committee of Commerce and Manufactures—\* \* \*
- Committee on the Public Lands—\* \* \*
- Committee on the Post Office and Post Roads—\* \* \*
- Committee for the District of Columbia—\* \* \*
- Committee on the Judiciary, Mr. Ingersoll, Mr. Nelson, Mr. Pitken, Mr. Stockton, Mr. Pickens, Mr. Montgomery, and Mr. Oakley.*
- Committee of Revisal and Unfinished Business—\* \* \*
- Committee of Accounts—\* \* \*<sup>4</sup>

The Members appointed to the first Committee on the Judiciary were a distinguished group. The committee consisted of Charles Jared Ingersoll, of Pennsylvania; Hugh Nelson, of Virginia; Timothy Pitken, of Connecticut; Richard Stockton, of New Jersey; Israel Pickens, of North Carolina; Thomas Montgomery, of Kentucky; and Thomas J. Oakley, of New York. John Dawson, of Virginia, was the Member making the motion.

The principal work of the committee is reflected in its initial assignments. The proceedings for Friday, December 10, 1813, for example, show :

On motion of Mr. HEMPSTEAD,

\* \* \* \* \*

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of making provision, by law, for the appointment of an additional Judge of the Supreme Court, in the Territory of Missouri, exclusively for the District of Arkansas, with leave to report by bill or otherwise.<sup>5</sup>

The proceedings for Friday, December 24, 1813, show :

On motion of Mr. INGERSOLL,

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of altering the judicial system of the United States.

*Resolved, also*, That the same committee be instructed to inquire into the expediency of providing by law for the more effectual punishment of crimes against the United States; and that they have leave to report by bill or otherwise.<sup>6</sup>

<sup>4</sup> 26 Annals of Congress, 783-784, (1813).

<sup>5</sup> 26 Annals of Congress, 788, (1813).

<sup>6</sup> *Id.* at p. 805.

JURISDICTION

The Judiciary Committee was originally established as a standing committee in 1813 for the precise purpose of considering matters pertaining to judicial proceedings. In the ensuing years additional responsibilities have been delegated to it. For example, most recently the Legislative Reorganization Act of 1946 abolished a number of standing committees and transferred to the Judiciary Committee much of the jurisdiction of the following five committees: Patents (created in 1837), Immigration (created in 1893), Claims (created in 1794), and Revision of the Laws (created in 1868). With the exception of Claims (1794), the Committee on the Judiciary is older than all the committees it now includes. The present jurisdiction of the Judiciary Committee, as shown by rule XI of the House of Representatives, is as follows:

RULE XI

POWERS AND DUTIES OF COMMITTEES

All proposed legislation, messages, petitions, memorials, and other matters relating to the subject listed under the standing committees named below shall be referred to such committees, respectively:

\* \* \* \* \*

12. Committee on the Judiciary.

§ 707. Judiciary.

- (a) Judicial proceedings, civil and criminal generally.
- (b) Apportionment of Representatives.
- (c) Bankruptcy, mutiny, espionage, and counterfeiting.
- (d) Civil liberties.
- (e) Constitutional amendments.
- (f) Federal courts and judges.
- (g) Holidays and celebrations.
- (h) Immigration and naturalization.
- (i) Interstate compacts generally.
- (j) Local courts in the Territories and possessions.
- (k) Measures relating to claims against the United States.
- (l) Meetings of Congress, attendance of Members and their acceptance of incompatible offices.
- (m) National penitentiaries.
- (n) Patent Office.
- (o) Patents, copyrights, and trade-marks.
- (p) Presidential succession.
- (q) Protection of trade and commerce against unlawful restraints and monopolies.
- (d) Revision and codification of the Statutes of the United States.
- (s) State and Territorial boundary lines.

Before the Legislative Reorganization Act of 1946 the powers and duties of the Committee on the Judiciary were fixed by section 4 of rule XI in the following words:

All proposed legislation shall be referred to the committees named in the preceding rule, as follows, namely:

Subject relating \* \* \*

- 4. To judicial proceedings, civil and criminal law: to the Committee on the Judiciary.

There had been no change in the form of this rule since its adoption in the revision of 1880. This occurred on January 6, 1880, and was then rule No. 83.<sup>7</sup>

<sup>7</sup> See Congressional Record, 2d sess., 46th Cong., p. 205.

HISTORY OF THE COMMITTEE ON THE JUDICIARY

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From the date of the creation of this committee on December 7, 1813, until the aforesaid revision in 1880, the jurisdiction of the committee under rule 83 was determined—

to take into consideration all such petitions and matters or things touching judicial proceedings as shall be presented or may come in question and be referred to them by the House.

In recent years the House Judiciary Committee has handled legislation in a number of diversified areas. Some of the significant matters include the Federal judiciary, antitrust, immigration and naturalization, criminal law, civil rights, espionage, law revisions, patents and copyrights, bankruptcy, administrative law, claims, interstate compacts, Presidential succession and inability, and constitutional amendments.

The Committee on the Judiciary acts mainly through subcommittees in the discharge of its legislative and investigative responsibilities. Subcommittees, which are advisory to the full committee, are created by the chairman when appropriate or as the need arises. The committee presently is organized into five subcommittees, each with a special jurisdiction, plus general jurisdiction of judiciary bills as assigned.

The five subcommittees and their special jurisdictions are as follows:

Subcommittee No. 1—Special jurisdiction over immigration and nationality.

Subcommittee No. 2—Special jurisdiction over claims.

Subcommittee No. 3—Special jurisdiction over patents, trademarks, copyrights, and revision of the laws.

Subcommittee No. 4—Special jurisdiction over bankruptcy and reorganization.

Subcommittee No. 5—Special jurisdiction over antitrust matters.

**HISTORICAL BACKGROUND OF SUBCOMMITTEE**

*Subcommittee No. 1—Immigration and Nationality*

Prior to the Legislative Reorganization Act of 1946, jurisdiction over immigration and naturalization matters was divided. On August 18, 1893, a Committee on Immigration and Naturalization had been established as a standing committee, and before that it had functioned as a select committee. At that time, the Immigration and Naturalization Committee exercised a general, but not an exclusive, jurisdiction over the subject of immigration. In 1882 (47th Cong., 2d sess.), for example, the President's message concerning "the construction of the law restricting immigration of laborers from China," was referred to the Judiciary Committee. The Committee on Immigration and Naturalization was given exclusive jurisdiction over the subject of naturalization in 1906. In 1946, this authority was transferred to the Judiciary Committee and since that time has been a primary responsibility of its members.

*Subcommittee No. 2—Claims*

Prior to January 2, 1947, claims against the United States were handled by a separate standing committee. The Committee on Claims had been organized in 1794 and was the second oldest standing committee of the House. The Elections Committee, the oldest standing committee, had been established in 1789.