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Hearings and the LexisNexis® Congressional Hearings Digital Collection

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“The value of hearings as social and economic documents, while always recognized by scholars, is more fully appreciated today than ever before and they are generally considered among the most important of the Congressional publications.”

– Anne Morris Boyd¹

Question: What do oil executives, intelligence, the Pearl Harbor attacks, and baseball have in common?

Answer: All are topics discussed in congressional hearings.

Hearings are often the most requested of all government documents in a library as they have real-life stories, statistics, expert testimony, and the drama of the interrogation all rolled into a single document. Hearings give researchers the ability to discover to whom Congress is listening, who the players were in an issue, and how they positioned themselves in the debate.

Through hearings, researchers can study what a pediatrician in the Love Canal area said when responding to questions from Senator Albert Gore, Jr., about health hazards related to the dumping of hazardous waste there. Students can study statements from such notable witnesses as Ambrose Burnside, Andrew Mellon, Jane Colburn, Charles Van Doren, and John Dean to learn about the issues that they were embroiled in.

More is written on hearings than on other areas of congressional publications. However, the best source for background material on the hearings process itself – from when a committee decides to hold a hearing, to what happens on the day of the hearing, to editing and printing the hearing – is undoubtedly Congressional Research Service (CRS) Reports (see bibliography). This includes reports discussing types of hearings, witnesses scheduling, and process variations between the House and the Senate.

What are Hearings?

Published hearings are the official record of committee hearings proceedings. Most people today have seen a televised committee hearing on C-SPAN. Hearings are glorified in movies such as *Quiz Show*, *Good Night and Good Luck*, *The Aviator*, and through TV shows such as the *West Wing*.

Official hearings, which are printed by the Government Printing Office (GPO), usually include

- Written and oral statements of witnesses;
- Transcripts of the verbal question-and-answer session between committee members and witnesses;
- Reports, exhibits, and other materials submitted for the record by witnesses;
- Correspondence and other materials submitted by interested parties.²

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Hearings are printed at the direction of the committee chair. Most hearings are printed three months to a year after the hearing is held, but some take much longer. For example, it took over eight months for distribution of the Exxon Valdez hearing, and about two years for the hearings on the nomination of Clarence Thomas to be an Associate Justice of the Supreme Court to arrive on library shelves.³

Congressional committee hearings may be broadly classified into four types: *legislative*, *oversight*, *investigative*, and *confirmation* (see figure 1 for examples of each).⁴

Legislative hearings are information-gathering hearings on one or more measures on a topic. These are held in anticipation that the committee will

eventually mark up the bill and report out the legislation (send it back to the House or Senate).

Oversight hearings are held to review, monitor, and supervise the implementation by federal agencies of various aspects of legislation. Boyd writes “Of particular value for library reference service are the hearings on appropriation and deficiency appropriations bills, where often may be found more detailed statistical and descriptive data relating to the activities of the government department or body to which they pertain than are given anywhere else.”⁵

Investigative hearings often involve allegations of wrongdoing by public officials acting in an official capacity, or private citizens whose activities may suggest the

Figure 1

Types of Hearings	
<p>Legislative Hearings</p> <p>U.S. Senate. Committee on Governmental Affairs, <i>Rising Oil Prices, Executive Branch Policy, and U.S. Security Implications</i>. Mar. 24, 2000.</p> <p>U.S. House. Committee on Interior and Insular Affairs, <i>[To Amend Certain Laws of the U.S. Providing for Admission of the State of Hawaii into the Union]</i>. Feb. 23, 1960 (Unpublished Hearing).</p> <p>U.S. House. Committee on Military Affairs, <i>Atomic Energy</i>. Oct. 9, 18, 1945.</p> <p>U.S. Senate. Committee on the Judiciary, <i>Birth Control</i>. Mar. 1, 20, 27, 1934.</p> <p>U.S. House. Committee on Expenditures in Commerce and Labor Department, <i>Establishment of a Children's Bureau</i>. Apr. 13, 1910.</p> <p>U.S. Senate. Committee on Foreign Relations, <i>Argument of Joseph C. G. Kennedy Adverse to Legislation by Congress on Treaties Existing</i>. Feb. 20, 1878.</p> <p>Oversight Hearings</p> <p>U.S. Senate. Committee on Governmental Affairs, <i>Asleep at the Switch: FERC's Oversight of Enron Corporation, Vol. I</i>. Nov. 12, 2002.</p> <p>U.S. Senate. Committee on Government Operations, <i>Conduct of National Security Policy. Part 4</i>. Aug. 30, 1965.</p> <p>U.S. House. Committee on Armed Services, <i>Subcommittee Hearings on Supply and Procurement Set-Up for the Army, Navy, Marine Corps, and Air Corps</i>. May 23, 1947.</p> <p>U.S. House. Committee on Agriculture, <i>General Farm Program</i>. Feb. 15, 1940 (Unpublished Hearings).</p> <p>U.S. House. Committee on Indian Affairs, <i>Five Civilized Tribes of Indians</i>. Mar. 9, 24, 1916.</p>	<p>U.S. House. Committee on Expenditures in Interior Department, <i>Expenditures in the Interior Department</i>, June 12, 13, 15, 1878, Feb. 19, 20, 26, 27, Mar. 1, 1879.</p> <p>Investigative Hearings</p> <p>U.S. House. Committee on Energy and Commerce, <i>Financial Collapse of Enron, Part 1</i>. Feb. 5, 2002.</p> <p>U.S. Senate. Committee on Judiciary, Comic Books and Juvenile Delinquency. 1955.</p> <p>U.S. House. Special Committee on Un-American Activities, <i>Investigation of Nazi Propaganda Activities and Investigation of Certain Other Propaganda Activities</i>, June 5-7, 1934.</p> <p>U.S. House. Committee on Ways and Means. <i>[New York Customs House Investigation]</i> Sept. 13, 1878 (Unpublished Hearings).</p> <p>U.S. Congress. Joint Committee on Conduct of the War. <i>Attack on Petersburg, July 30, 1864</i>, Dec. 17, 20, 1864, Jan. 13, 17, 1865.</p> <p>U.S. Senate. Select Committee to Inquire into Expenditures from the Public Printing for the Support of Newspapers, etc. <i>Resolution of Inquiry Whether Certain Sums of Money Were Paid by Public Printer, or Any Party Who Executed Binding for 35th Congress or Executive Departments, for Use and Benefit of Any Person or Party Conducting a Newspaper, etc., Testimony in Relation Thereto</i>. Jan – May (various dates), 1860.</p> <p>Nomination Hearings</p> <p>U.S. Senate. Committee on Governmental Affairs. <i>Nomination of Michael D. Brown</i>. June 19, 2002.</p> <p>U.S. Senate. Committee on Armed Services. <i>Nomination of Anna M. Rosenberg To Be Assistant Secretary of Defense. [Part 1]</i>. Nov. 29, 1950.</p> <p>U.S. Senate. Committee on the Judiciary. <i>[Nomination of Benjamin Ames To Be U.S. Marshal for the District of Maine]</i>. May 3, 5, 11, 1824 (Unpublished Hearings).</p>

need for a legislative remedy. (See figure 2 for a list of the most famous of these.)

Confirmation hearings are limited to the Senate and are authorized by Article II of the U.S. Constitution, which authorizes the President to nominate certain government officials with the “advise and consent” of the Senate.⁶ However, committees are not required to hold hearings for these, and most nominations are forwarded directly to the Senate floor.

Appendices and Insertions

A significant part of the published hearings are the appendices and insertions. In some ways, hearings are like courtroom dramas: you have the Senator or Representative questioning the witness under the hot lights like a courtroom lawyer. The appendices and insertions are similar to the evidence used in court - they may be the smoking gun or the supporting documentation for a nominee.

Material included in hearings may be articles from journals or newspapers, correspondence, memos, statistics,

surveys or polls, and more. Nomination hearings often include the preliminary questionnaire the nominee answered, and occasionally include a curriculum vitae or other resume-type material. Reading the 2002 confirmation hearing on the nomination of Michael Brown to be the deputy director of FEMA, you can review his biographical information and find out not only where he went to school, but also that a dam is named after him in Oklahoma – the Michael D. Brown Hydroelectric Generation and Dam Project.⁷

Appendices often give background information about a topic. One of these “Appendix 1, Text of June 6, 1978, Cable from U.S. Embassy in Guyana to the U.S. Department of State on the Subject: People’s Temple and the Community at Jonestown” provides background about events in Jonestown, Guyana, and sheds light on the reasons this community alarmed the State Department, and eventually Congress.⁸

Investigative hearings often include insertions with material illustrating both

Figure 2

Famous Investigative Hearings

Credit Mobilier (1872-1873)

U.S. House. Select Committee to Investigate the Alleged Credit Mobilier Bribery. *Credit Mobilier Investigation*, Various dates, Dec. 1872 - Feb. 1873.

Titanic (1912)

U.S. Senate. Committee on Commerce. “Titanic” Disaster. April 19, 1912.

Teapot Dome (1923-1924)

U.S. Senate. Committee on Public Lands and Surveys. *Leases upon Naval Oil Reserves. Vol. 1-3*, Various dates, Oct.-Dec. 1923, Jan.-May 1924.

Hiss-Chamber Hearings (1948)

U.S. House. Committee on Un-American Activities. *Hearings Regarding Communist Espionage in the U.S. Government*. [Part 1]. Various dates, July-Sept. 1948.

Kefauver Committee Hearings on Organized Crime (1950-1951)

U.S. Senate. Special Committee to Investigate Organized Crime in Interstate Commerce. *Investigation of Organized Crime in Interstate Commerce. Parts 1-19*. Various dates, 1950-51.

Organized Crime in Interstate Commerce. (Unpublished Hearings) various dates, Nov. 1950, Jan.-Apr., Aug. 1951

In addition to the hearings, the Serial Set has fifty-two reports from this committee. Most of these are proceedings against specific individuals for contempt of the Senate.

1954 Army-McCarthy Hearings (1954)

U.S. Senate. Committee on Government Operations. *Special Senate Investigation on Charges and Countercharges Involving: Secretary of the Army Robert T. Stevens, John G. Adams, H. Struve Hensel and Senator Joe McCarthy, Roy M. Cohn, and Francis P. Carr*. Parts 1-71 plus supplement. Various dates, April 22-June 17, 1954.

Hearings on the Corruption of the Teamsters Union (1957-1959)

U.S. Senate. Select Committee on Improper Activities in the Labor or Management Field. *Investigation of Improper Activities in the Labor or Management Field*. Parts 1-58, Various dates, February 1957-September 1959.

Fulbright Hearings (1951)

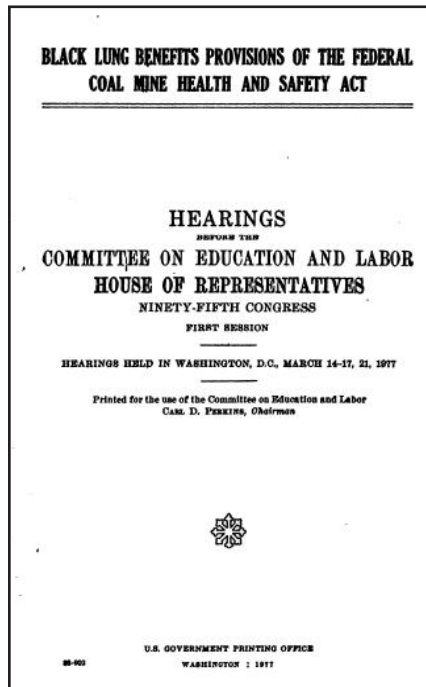
U.S. Senate. Committee on Foreign Relations. *Legislative Proposals Relating to the War in Southeast Asia*. Apr. 20-22, 28, May 3, 11-13, 25-27, 1971.

Watergate (1973-74)

There are many different hearings about Watergate because of how it evolved. A search on “Watergate Affair” brings up titles including: *Presidential Campaign Activities of 1972; Impeachment Inquiry, Book I; Statement of Information. Book ...: Events Following the Watergate Break-in*.

Iran-Contra (1987)

Joint hearings from the U.S. House. Select Committee To Investigate Covert Arms Transactions with Iran, and U.S. Senate. Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition. *Iran-Contra Investigation*.... Various dates, May 5-Aug. 6, 1987.



sides of an issue. “Nicotine as a Positive Reinforcer for Rats: Effects of Infusion Dose and Fixed Ratio Size,” by Victor J. DeNoble (et al., Philip Morris Research Center), was used in a 1995 hearing wherein leaders of the big tobacco companies: Philip Morris, R. J. Reynolds, Brown & Williamson, Lorillard, American, Liggett Group, and the U.S. Tobacco Co. testified in a panel one after the other, that they did not believe nicotine was addictive.⁹ Another example is found in the hearings about the Love Canal, “Findings of survey (illus and charts, p. 70-77) on disease incidence among residents of Love Canal; objections to New York State health officials charged downplaying of problem.”¹⁰

Legislative and oversight hearings may contain correspondence and background information such as the hearing *Media Concentration (Part 2)* with the appendix “U.S. Newspaper Publishing Industry: An Economic Analysis,” by Angele A. Gilroy.¹¹

One of the interesting things to note is that if a hearing is available through *GPO Access*, the insertions and appendices are not searchable. They display only the page image for this material. Using the example of the Brown nomination (above), a user would need to know of the existence of the biographical material to be able to view it, as a search of the PDF won’t bring the words or phrase to light. In the Congressional Hearings Digital Collection, all of the text, including the insertions, are searchable in the PDFs.

Who Testifies?

People from all walks of life testify before Congress (see figure 3). This includes astronauts, doctors, farmers, friends, homeless individuals, lawyers, parents, scholars, diplomats, and welfare recipients.

While the Senate and the House have different rules regarding testimony and who gets to select witnesses, committees generally strive to make sure a range of views are represented. In some cases, however, only witnesses representing certain viewpoints are invited.¹²

While the categories are somewhat fluid, witnesses tend to fall into four categories: political figures, famous personalities, affected individuals, and experts.

Historical/political figures are people like Eleanor Roosevelt, Civil War generals, career government employees or appointees, major industrial figures such as John D. Rockefeller, and explorers.

Famous individuals may be entertainers, or other people in the news (and of course, there are those movie stars who have gone on to hold public office, which makes it a fluid category). With the exception of the House Un-American Activities Committee hearings to investigate Communist influence in the entertainment industry, the famous are usually testifying on behalf of someone else – a friend or an affected individual. They may have come into contact with the person or issue because of their fame. For example, Christopher Reeve testified on the need to reauthorize the National Foundation for the Arts and Humanities Act and Lou Diamond Phillips has testified on behalf of Filipino WWII veterans. Famous individuals serve to draw more than the usual amount of attention to the hearing and are often specially positioned for maximum press attention.

Affected individuals are those who are directly or indirectly affected by the issue at hand. They may have been aboard the Titanic, been affected by a

Figure 3

Sampling of People Who Have Testified		
Adelaide Hasse	Elaine L. Chao	Jesse Jackson
Alexander Graham Bell	Schuyler Colfax	Martin Luther King, Jr.
Ben S. Bernanke	Thomas A. Edison	Lyndon H. LaRouche, Jr.
James Billington	Thomas C. Evans	Kenneth Lay
Benjamin Campbell	Michael J. Fox	Edward R. Murrow
Andrew Carnegie	John K. Galbraith	Ronald Reagan
	Alan Greenspan	Julia Roberts
	Lillian Hellman	Eleanor Roosevelt
	James J. Hill	

“Hearings are one of the most used, and important types of congressional materials, and they play an important role in the legislative process.”¹³

disease, or lost their retirement savings due to the collapse of Enron.

Experts are the chemists, librarians, physicists, economists, doctors, and others who have some standing or expertise on the issue at hand. Be it the economy, farming, nuclear energy, or stem cell research, these individuals are asked to testify, analyze and explain the issue.

Perhaps due to the lack of a logical field, the MARC records lack any witness information. The *CIS® Index*, and LexisNexis® *Congressional* have long been the only source that indexes both the witnesses and their affiliation.

Hearings in the Library Collection and Their Value

Access to the hearings gives researchers a unique view into the players, the interested parties, the issues, and some of the research that went into the hearing process and, thereby, into legislation.

Depository libraries may have collections of published hearings that begin in the 1920s, or they may have been lucky enough to acquire earlier material as gifts. However, it is unlikely that any library has a complete paper collection. Why? Some libraries became depositories after hearings began to be uniformly distributed; some may have acquired hearings from certain committees only and some may have weeded their hearings due to the overwhelming size of the collection. Libraries may also have acquired the microfiche for hearings either through GPO or through LexisNexis (CIS, Greenwood Press). Add to this mix the complication of the unpublished hearings from both the House and the Senate – researchers in libraries without the CIS microfiche collections for this material have had to travel to the National Archives.

Hearings are used across the curriculum -- researchers delving into the history of the Civil War will be thrilled to encounter hearings on everything from *Homes for Confederate Veterans* to the 13-part *Affairs in Insurrectionary States* and the 30-part unpublished *Allegations of Government Censorship of Telegraphic News Reports During the Civil War*. These provide a complement not only to the various histories of the Civil War but also to the

U.S. Congressional Serial Set's *Rebellion Papers*.

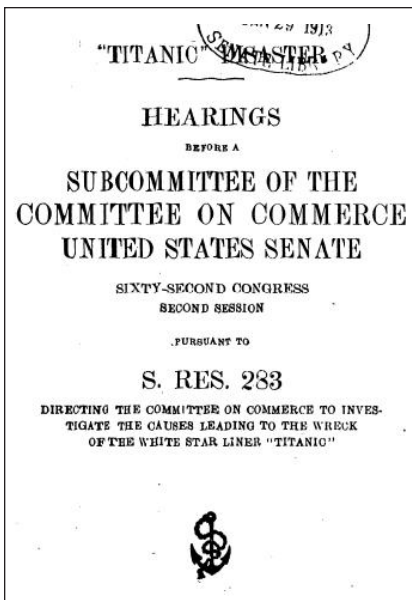
Researchers of the application of anti-trust law to the computer software industry will be fascinated by the panel discussion that pitted Bill Gates (Chairman and CEO, Microsoft Corp) against Scott G. McNealy (Chairman and CEO, Sun Microsystems), James L. Barksdale (President and CEO, Netscape Communications Corp), Michael Dell (Chairman and CEO, Dell Computer Corp), Douglas J. Burgum (Chairman and CEO, Great Plains Software); and Stewart A. Alsop II (Venture Partner, New Enterprise Associates) in the legislative hearing *Competition, Innovation, and Public Policy in the Digital Age*.¹⁴ And the insertion in this hearing of the software industry competition survey prepared for Software Publishers Association might be the icing on the cake the researcher needs for his or her argument.

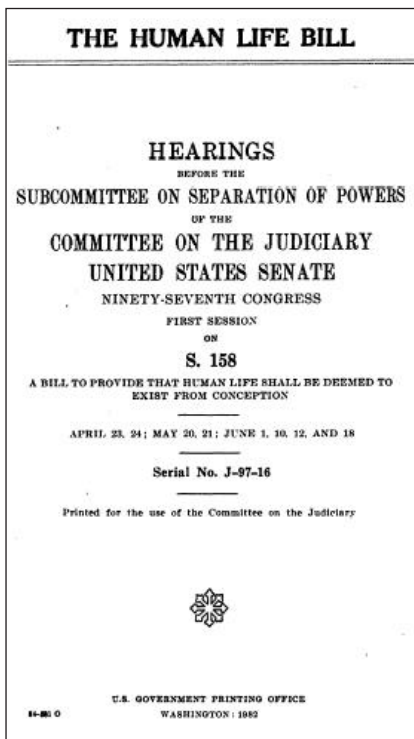
Medical historians will be interested in the early hearings about fighting cancer. These include *Manufacture of One Gram of Radium* (Feb.-Mar., 1930) authorizing radium manufacturing by the Bureau of Mines for veterans' cancer treatment.¹⁵ Shortly after this hearing, Congress held another two-part hearing to establish a program of federal aid to cancer research: *Federal Aid Toward Discovery of a Cure for Cancer* (Mar. 13, Apr. 30, 1930).¹⁶ However it is also interesting to note that in 1946 there was a hearing *Mobilization of World's Cancer Experts* (in two parts May 7, 8, and 18, 1946) indicating Congress finally had both the concern and perhaps the funding to get serious about fighting cancer.¹⁷

Hearings are not dried-out material on a topic. Reading a hearing is like reliving history. Witness this conversation from the Titanic:

I asked him (Capt. Smith) what had happened, and he said "We have struck ice." I said, "Do you think the ship is seriously damaged?" He said, "I am afraid she is." -- *Testimony of Mr. J. Bruce Ismay, Managing Director of the White Star Line*.¹⁸

As notable, the longer and more dramatic statement of a Kansas resident based on events of 1854-1855 after the enactment of the bill, sponsored by Stephen A. Douglas, repealing the Missouri Compromise





that opened northern lands west of the Mississippi to slavery (33 Cong. Ch. 59; 10 Stat. 277). The events that followed had people from all areas flooding into Kansas to vote on whether it should be a slave or free state, and led to what is known as “bleeding Kansas.”

We proceeded to receive votes and had taken some fifteen names, when a company, as near as I can recollect, of three hundred and upwards, came marching up with flags hoisted. I believe they were generally armed. They came to the polls and demanded to be allowed to vote. My reply was that if they were legal voters they should have that privilege. I told them that as most of them were not known to me, the oath required by the law would have to be taken by them. This man Jones... replied that they would not take the oath. ... I replied that except they did take the oath they could not vote. Jones replied that they had come up from Missouri to vote, and they would vote, and they intended to make Kansas a slave State. They stated, also, that if they could not vote by fair means, they would by foul. -- *Testimony of Harrison Burson, Kansas resident.*¹⁹

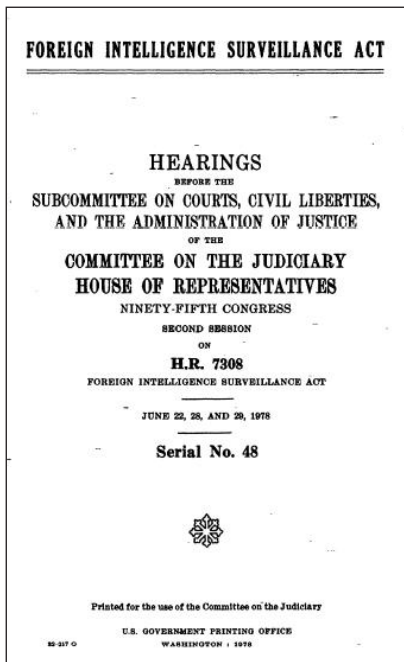
Nomination hearings may drag up all kinds of interesting items in the nominees’ pasts – note the opposition to the nominations of Nelson Rockefeller to be Vice President and Robert Bork to be an Associate Justice of the Supreme Court.²⁰ Panel six of the Rockefeller hearing hosted, among others, Bella Abzug, Mariano Dalou Gonzalez representing the Attica Brothers Legal Defense, Ada Ryan representing the National Right to Life and others to testify about financial dealings. Witnesses opposing Robert Bork include Atlanta Mayor Andrew Young, Professor Burke Marshall of Yale Law School and Rev. Kenneth Dean, Pastor of the First Baptist Church in Rochester, NY. Among those who supported Bork were former President Gerald Ford, and Senators Robert Dole and John Danforth, and Representative Hamilton Fish, Jr. The Bork nomination also included insertions such as:

- First Amendment Jurisprudence of Judge Robert Bork

- Probable Significance of the Bork Appointment for Issues of Particular Concern to Women
- Analysis of Judge Robert Bork's Labor Opinions

Judge Bork’s hearings filled the later half of September 1987. Compare this to Chief Justice John Roberts’s nomination hearings Sept. 12-15, 2005, and researchers can see that Justice Roberts had a comparative walk in the park juxtaposed to the scrutiny Judge Bork was afforded.²¹

Since the advent of TV and the Internet, hearings have achieved a higher profile. From the 1970s on, hearings have brought issues such as Watergate, Whitewater, Iran-Contra, and high-profile nominations such as that of Supreme Court Chief Justice John Roberts to the public’s attention via television. With the advent of the World Wide Web, researchers find hearings and submitted statements on non-authenticated sites. Researchers may even find submitted statements on committee web sites and in databases such as LexisNexis® *Congressional*. Google Books has added another point of access to the mix. Users of Google Books may find only snippets of hearings, but even when they find the complete hearing, pages may be incorrectly marked “copyrighted material” and printing or downloading is impossible in the native software. Others may find a reference to a particular hearing in a magazine or newspaper. In addition to the media, researchers may stumble across selective citations to hearings indexed in *PAIS*, *America: History and Life*, *ERIC*, in the OPAC or as footnotes in books. And of course, researchers now demand material online, downloadable onto their PC at any time – day, night, twenty-four hours a day, seven days a week.



Hearings and Their Distribution to Depository Libraries

The Early Hearings

Prior to 1861 (1st-36th Congress), there were very few hearings. The 22nd Congress held only three hearings; by comparison, the 37th Congress held thirty-seven hearings – of which thirty-five were unpublished. The unpublished hearings were multipart hearings titled *Allegations of Government Censorship of Telegraphic News Reports During the Civil War*, and the *New York Custom House*. The two published hearings covered contemporary events: *Conduct of the War. Part 2: Bull Run -- Ball's Bluff* and *Conduct of the War. Part 3: Department of the West*.²² Perhaps it is due to the subject matter that these were the first two hearings with a Superintendent of Documents classification (SuDocs) assigned, although a better explanation might be that the rest of the series on the *Conduct of the War* is in the Serial Set.

With the exception of the 44th Congress (1875-77), up through the 53rd Congress, fewer than one hundred hearings were held during each Congress. With the 54th Congress (1895) Senators and Representatives began holding more than one hundred hearings during each Congress, and they have never looked back.

Hearings were long viewed as internal documents for the use of individual members of Congress and were not given wide distribution. To the chagrin of librarians and researchers, it wasn't until 1938 that hearings were distributed to depository libraries and, in fact, prior to 1924 hearings had very limited distribution.

The committee before which the hearing is held orders its printing. As the printed hearing is presumably only for the use of the committee the number of copies ordered was formerly very limited. Protests by librarians and students resulted in 1924 in a larger printing and provision by which hearings could be purchased separately or on an annual subscription basis from the Superintendent of Documents. By act of June 25, 1938 (52 *Stat* 1206) depository libraries are now entitled to receive regularly all printed Congressional hearings.²³

The Legislative Reorganization Act of 1946 (P.L. 79-601; 60 *Stat.* 812) required in Sec. 133 (Committee Procedure) (e) that "Each such standing committee shall, so far as practicable, require all witnesses appearing before it to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument. The staff of each committee shall prepare digests of such statements for the use of committee members." And further in (f) "All hearings conducted by standing committees of their subcommittees shall be open to the public, except executive session for marking up bills or for voting or where the committee by majority voted orders an executive session." Section 140 of the legislation provided for the "transfer of noncurrent records" to the National Archives at the close of each Congress; and Section 141 directs the Librarian of Congress to bind the "printed hearings of testimony" for the preceding session.

Even though hearings weren't distributed until 1938, just over 90 percent of hearings to that point had been printed by GPO. Of these 90 percent, 58 percent had SuDocs classification indicating there may have been broader knowledge of the hearings, even without mandatory distribution. The CIS editors tracked down all the classification information available to provide as complete a record as possible. They did this by scouring the *Monthly Catalog* and its predecessors, and by using the GPO shelflist, among other things. However, unlike the material cited in the *CIS® Index*, the pre-1969 hearings only note insertions that hold significant research value.

Hearings Since 1970

As time progressed, hearings grew longer and included more witnesses and more inserted material; and of course, there were simply more hearings held. The 92nd Congress (1971-1972), published more than two thousand hearings. Hearings from 1970 forward, which were originally covered in the *CIS® Index*, include citations or parenthetical mention of articles, statistical data, and other materials more than five pages long that were inserted into the record and have research value. Materials that have a title or lend themselves to the creation of a descriptive title are cited,

while other materials not suitable for citation are characterized as a parenthetical within the abstract (e.g. “related tables”). If material is over fifteen pages and isn’t easily characterized, a more general parenthetical (e.g. “related materials”) is added to the abstract to account for the page range. All CRS materials, no matter how brief, are cited.

In the 1990s, hearings and other congressional material found their way to the Internet, leading researchers to serendipitous discoveries of interesting and important materials. In the case of hearings, some researchers may think that what they have found online in various web sites is “good enough.” After all, it came from a committee web site. However, the legal community, and more sophisticated users know that the only official version of the hearing is that which is published through GPO. The official version is the edited version, with questions and answers and all of the insertions. This is the version that Greenwood Press, CIS, and now LexisNexis have filmed and that LexisNexis is making available in the digital collection.

Unpublished Hearings

There is something about an unpublished hearing that brings to mind stealth and intrigue. While some of the unpublished hearings have the whiff of intrigue about them, others are business meetings. The delineation between the unpublished and published hearings collections is that the published hearings were printed by the GPO. The Senate and House unpublished hearings are not printed by the GPO.

The LexisNexis® *Congressional Help* file gives the following information about Unpublished Hearings:

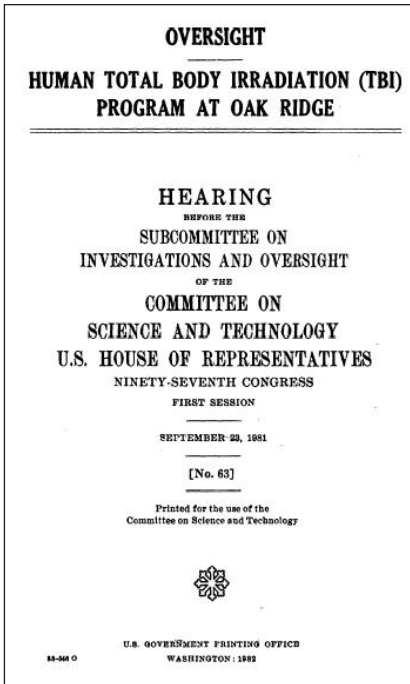
Not all congressional hearings are published. Each committee makes its own decision regarding which hearings are to be published. A committee may decide not to publish a hearing because it contains classified or sensitive information, or because it pertains to private or other legislation deemed to be not of great interest to the public at large, or simply because committee budget or workload considerations preclude the publication. The committee does not have to justify its decision not to publish.

When they are released, unpublished hearings are not normally published by the committees, although in unusual circumstances they may be. For example, the transcripts of the Senate Government Operations Committee Permanent Subcommittee on Investigations 1953 hearings to investigate alleged espionage and subversive activities were published as a Government Operations Committee print in 2003.

What Gets Published?

Because they have different rules, the Senate and the House have different explanations of why decisions might be made to publish or not publish hearings.²⁴ The House has a much longer history of regulation of committee information, starting in 1880 with Rule 36. However, the 83rd Congress was the first to address public availability when H. Res. 288 authorized “the Clerk of the House to permit the Administrator of General Services to make available, for use by government agencies and by private organizations and individuals, and records of the House of Representatives which are more than 50 years old or which have already been made public.”²⁵ In 1986, the House began to consider a modification and in 1989 (100th Congress), after deliberation, this modification (H. Res.419) came out of committee, but never made it to the floor for a vote. The central provisions of H. Res. 419 were included in the *Rules of the House of Representatives* that were passed for the 101st Congress. These include changing the 50-year rule to a 30-year rule, and expanding the oversight of the Committee on House Administration.

The Senate addressed procedures regarding hearings transcripts in 1980. In 1980 the Senate passed S. Res. 474, which resulted in a more centralized and more accessible collection of hearings transcripts. When the House was considering H. Res. 419, the hearing *Papers of the House* included the appendix “Guidelines for Screening the Records of the U.S. Senate under Senate Resolution 474, 96th Congress” from the Reference Branch of the Legislative Archives Division.²⁶ This provides a fascinating and detailed view of the Senate legislation and how it has been followed by those who work in the National Archives.



The responsibility for deciding which hearings transcripts should remain unpublished rests with the individual committees. They are influenced by the committee budget, how the session relates to the public business of Congress at that time, and the sensitivity of the matters under discussion. The current status is that

transcripts of unpublished hearings are transferred to the National Archives. Senate hearings generally remain closed for twenty years, and House hearings remain closed for thirty years. Hearings that contain classified or sensitive material generally remain closed for fifty years.²⁷

Hearings that may be withheld from publication fall into one or more of the following procedural classes

Classified hearings. For reasons of national defense, foreign policy, and other sensitive issues, some hearings are required to be held in closed session. These typically remain closed until reviewed and declassified.

Investigatory hearings. Conducted for reasons of uncovering wrongdoing, mismanagement or other reasons, these hearings have often been held in executive session in order to protect personal confidentiality or to avoid personal embarrassments. Many of these were either not published or published in edited versions.

Executive or closed session hearings. Prior to 1976, when rule changes in both the House and Senate required committees to meet in open session except as authorized by committee vote, committee chairmen were free to decide to hold committee meetings in closed session. While such a practice was often a matter of convenience for the committee in dealing with routine issues not significantly different from the open sessions, the unpublished transcripts of those meetings also include legislative mark-up sessions, or especially in the case of Senate transcripts, general discussions of legislative issues among committee members. In the Senate, the majority of these are opened after twenty years; in the House, these may remain closed for fifty years.

Open committee meeting. Committee chairs make decisions, for printing budgetary reasons or based on their own assessment of public interest, on which hearings are to be published. Political expedience has played a role in those publishing decisions. In the Senate these transcripts are open public documents, however in the House they are closed for thirty years.

Hearings on private legislation. These meetings are frequently held without external witnesses, and legislators discuss bills introduced on behalf of private persons or to redress claims, resolve conflicts with executive branch agencies, or to make public or Indian land transactions. Both the House and the Senate enacted rules in the mid-1980s that curtailed the sponsorship of private bills.

Nomination hearings. These hearings usually involve nominations of non-controversial ambassadorial, department agency or bureau chiefs, or district court judges, and are often viewed as routine, though issues of personal confidentiality could sometimes be involved.

Personal Privilege. A Senator can insist that any proceeding of which he was a part remain closed until his death, even if it exceeds the twenty-year restriction.

Redacted from the CIS® Unpublished Congressional Committee Hearings Collection, 1923-1976. Printed 10/1999. Updated March 2007

A Survey of the Unpublished Hearings Collection

The unpublished collections include approximately five hundred hearings dating from years prior to 1901. Approximately 37 percent of the hearings through the 85th Congress (1958) are unpublished. Some of these bear titles like *House Furniture Commission Appropriation*; others handle the meat and potatoes of the budget,

including the *Legislative, Executive, and Judicial Appropriation Bill* and *Increasing the Wages of Laborers in the Government Printing Office*.²⁸ Still others handle topics such as improvement of harbors and rivers, subways in D.C., and Indian tribal issues.

Surveying the 97th Congress, there are more than 475 unpublished hearings from the Senate. A cursory review of the titles shows the *Briefing on the Mid-East*

Situation (and additional briefings on other areas of the world), more than fifteen titled “Business Meeting,” markups of all kinds of legislation, budget and appropriations, airport development and planning legislation, Food Stamp Act amendments, many nomination hearings, an investigation into the Acting Administrator of the Drug Enforcement Administration due to information about links with organized crime, and much, much more.

The more than 28,000 unpublished hearings mirror some of the controversies and issues of today. Hearings have been held covering investigations of leaks, foreign intelligence, nuclear power, corrupt government officials and labor management relations (see figure 4).

Origins of the Digital Collection

The Congressional Hearings Digital Collection has been created from the contents of several microfiche compilations including the:

- U.S. Senate Library’s bound collection of hearings, 41st-91st Congresses (1894-1969), and the Senate Library’s bound U.S. Serial Set Collection (1833-1934);

and include approximately 27,000 publications (Microfiche Groups 1 and 3)

- 25th-73rd Congresses identified through research at the Library of Congress and in other major collections. This includes approximately 2,400 publications (also known as the collection not contained in the U.S. Senate Library. (Microfiche Group 2)
- other major collections, and include an additional 322 hearings identified by CIS researchers through examination of major collections and bibliographies (Microfiche Group 4)
- *CIS® Unpublished U.S. Senate Committee Hearings* on Microfiche (1823-1984) consisting of 10,356 titles, and the *CIS® Unpublished U.S. House Committee Hearings* on Microfiche (1833-1972) with 18,262 titles
- *CIS® Microfiche Compilation*, hearings section (1970-present). This collection includes 48,000 titles, and continues to grow.

As CIS editors created a detailed index (the eight-part, dark blue index) to the pre-1969 microfiche groups, noted in the first three bullets, they identified additional titles to be

Figure 4

Sampling of Unpublished Hearings

U.S. Senate. Select Committee to Inquire into the Means by Which the Proceedings and Documents of the Senate in Secret Session Have of Late Become Public. *Testimony and Report on Disclosure of Senate Secret Proceedings on the Oregon Boundary Treaty with Great Britain*. July 24, 25, 27, Aug. 10, 1846, (CIS-NO: 29 SS-T.1).

U.S. House. Committee on Immigration and Naturalization. *Regulating Immigration of Aliens into the U.S.* Jan. 22, 1902 (CIS-NO: 57 HIm-T.1) pt 1 of 8.

U.S. House. Select Committee to Investigate the Race Riots in East St. Louis, 1917. *East St. Louis Riot Investigation*. Oct. 18, 1917 (CIS-NO: 65 HS-T.1) pt 1 of 25.

U.S. House, Committee on Indian Affairs. *Investigation of Indian Affairs in Oklahoma*. Jan. 17, 1925 (CIS-NO: 68 HIn-T.18).

U.S. House, Committee on Foreign Affairs. *Border Treaty Between the U.S. and Mexico for Flood Control Projects on the Rio Grande, Colorado, and Tia Juana Rivers*. Mar. 7, 1935 (CIS-NO: 74 HFo-T.1) pt 1 of 3.

U.S. House, Committee on Foreign Affairs. *Tin Resources Development for U.S. Strategic Needs*. Feb. 14, 1938 (CIS-NO: 75 HFo-T.2) pt 1 of 4.

U.S. House. Committee on Foreign Affairs. *Establishment of a Jewish National Homeland in Palestine*. Dec. 5, 1944 (CIS-NO: 78 HFo-T.2).

U.S. Congress. Joint Committee on Atomic Energy. *Underwater Test in the Pacific Area*, May 9, 1955 (CIS-NO: 84 JAto-T.48).

U.S. House. Committee on Foreign Affairs. *Hungarian Refugee Situation*. Mar. 12, 1957 (CIS-NO: 85 HFo-T.8) pt 1 of 2.

U.S. House. Committee on Foreign Affairs. *Briefing on Indonesia*, May 9, 1957 (CIS-NO: 85 HFo-T.10).

U.S. Senate. Select Committee on Improper Activities in the Labor or Management Field. *Labor Unions Illegal Activities Investigation. Volume 1*. Feb. 26, 1958 (CIS-NO: 85 SSI-T.37) pt 1 of 3.

U.S. Congress. Joint Committee on Atomic Energy. *Exchange of Military Information and Materials with Allies*, May 28, 1958 (CIS-NO: 85 JAto-T.31).

U.S. Congress. Joint Committee on Atomic Energy. *Proposed Missions for Nuclear Powered Aircraft*, June 27, 1958 (CIS-NO: 85 JAto-T.6).

U.S. Senate. Select Committee on Improper Activities in the Labor or Management Field, *Teamsters Union Activities in New York*. July 1, 1959 (CIS-NO: 86 SSI-T.19).

U.S. Senate. Select Committee on Improper Activities in the Labor or Management Field, *Acid-Throwing Violence Against Truck Drivers in the Tampa, Florida, Area*. July 24, 1959 (CIS-NO: 86 SSI-T.22).

U.S. Senate. Committee on Judiciary. *Allegations of Involvement of Federal Bureau of Investigation Personnel and Other Government Employees in Organized Crime*. Mar. 28, 1968 (CIS-NO: 90 SJ-T.60).

With approximately 120,000 hearings spanning more than 180 years, there can hardly be a subject untouched by hearings.

added to the collection. When the *CIS® U.S. Congressional Committee Hearings Index* was published, the collection of published hearings, through 1969, totaled approximately 40,000 titles. CIS editors continued to index the hearings in the *CIS® Index* and also provided the companion microfiche collection.

These collections have been rolled together to create the Congressional Hearings Digital Collection, divided into three parts: Retrospective A, covering 1823-1979 (approximately 73,000 titles); Retrospective B, covering 1980-2003 (approximately 44,000 titles); and the “prospective” subscription, 2004-present.

What’s New in the Digital Product?

The Congressional Hearings Digital Collection merges the published and unpublished hearings so users can utilize both types of materials together in their research. Users of the digital collection will no longer retrieve multiple hearings entries at the top of the search results; the search results for the digital hearings will be tagged simply “Hearings -- Digital Collection” and all of the results will be sorted by date.

Not only is the complete output of a committee searchable, the full text – including all of the insertions and appendices – is also searchable. And of course, when users search for full text, the

results are returned in reverse chronological order.

The metadata includes durable URLs (so you have them as part of the bibliographic “block”) as well as Public Law and Statutes at Large numbers, in addition to the bill number indexing. And subcommittees are indexed along with their parent committees (see figure 5).

Congressional Hearings Digital Collection and the LexisNexis® Congressional Interface

Contributing to the power of the individual digital collections is the shared interface. LexisNexis has met Section 508’s standards and has looked at both the search interface and the digital documents that were created for the Serial Set to make them as user friendly as possible to the visually challenged. With LexisNexis digital products, the security on PDFs is such that underlying text can be read by screen readers and searched by researchers, both before and after downloading.

Using LexisNexis® *Congressional*, researchers will be able to search *across* databases (the modules to which your institutions subscribes) and find, for example, hearings where Andrew Mellon testified as Secretary of the Treasury on the Greek WWII debt settlement (H483-6); a statement from Mellon in the Congressional Research Digital Collection committee

Figure 5

Sample (Partial) Hearing Record

HEARING-ID: HRG-1980-CST-0017

TITLE: Reauthorization of National Earthquake Hazards Reduction Act

DOC-TYPE: Hearings -- Digital Collection

DOCUMENT-DATE: Apr. 2, 1980

COMMITTEE: Subcom on Science, Technology, and Space, Committee on Commerce, Science, and Transportation. Senate

HEARING-TYPE: Published

COMMITTEE-SERIAL-NUMBER: Committee on Commerce, Science, and Transportation Serial No. 96-90

CONGRESS-SESSION: 96-2 (1980)

BILL-NUMBER: 96 S. 1393 **PL-NO:** 96 PL 472 **STATUTES-AT-LARGE:** 94 Stat. 2257

SUDOC: Y4.C73/7:96-90

LENGTH: 87 pp.

CIS-NO: 80-S261-54

DURABLE-URL: <http://www.lexisnexis.com/congcomp/getdoc?HEARING-ID=HRG-1980-CST-0017>

print to amend the Federal Reserve Act (CMP-1922-BCU-0001); and Serial Set publications about his plan to cut income tax rates and reduce public spending (8220 S.rp.398), as well as the 1937 document containing correspondence between Andrew Mellon and President Roosevelt on Mellon's offer of his art collection to the United States (10126 H.doc.139).

Through the digital hearings collection, your researcher has access to the real-life stories, statistics, expert testimony, and questions and answers of the investigative hearings. They can discover who the players are on an issue, and how they position themselves in the debate. Your researcher will have access to both full-text and abstracts of all congressional publications including hearings, Serial Set documents, CRS Reports, committee prints, and more, all with just one search – in their favorite coffee shop, cubicle in the library, or at home in their jammies.

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4. This paragraph is redacted from U.S. Congressional Research Service. *Types of Committee Hearings* (98-317 GOV; June 24, 2004), by Richard C. Sachs. Text in: LexisNexis® *Congressional Research Digital Collection*.
5. Boyd, p. 71.
6. The notable exception to the Senate approval of nominees is the nomination for Vice President of the United States. Both Gerald R. Ford and Nelson A. Rockefeller had two hearings; one each before the House Committee on the Judiciary and the Senate Committee on Rules and Administration. The House *Rules* give the House Committee on the Judiciary the jurisdiction to hold these hearings.
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9. U.S. House. Committee on Energy and Commerce. *Regulation of Tobacco Products* (Part 1) Mar. 25, Apr. 14, 1994 (CIS: 95-H361-21).
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