



## Combating the Culture of Corruption

Student Handout #4: **United States Senate Select Committee on Ethics, “Senate Ethics Manual”**

### **C. JURISDICTION OF THE COMMITTEE**

#### Constitutional Self-Discipline

The United States Constitution confers on each House of Congress the power to punish and expel its Members. Article I provides:

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

Pursuant to this authority, in 1964, the Senate adopted Senate Resolution 338, which created the Select Committee on Standards and Conduct, and delegated to it the authority to “receive complaints and investigate allegations of improper conduct which may reflect upon the Senate, violations of law, and violations of rules and regulations of the Senate, relating to the conduct of individuals in the performance of their duties as Members of the Senate, or as officers or employees of the Senate...”

In those situations where the violations are sufficiently serious to warrant sanctions, the Committee is authorized to recommend to the Senate by report or resolution appropriate disciplinary action.

The Senate has disciplined Members for conduct that it has deemed unethical or improper, regardless of whether it violated any particular law or Senate rule or regulation. As it adopted new rules governing Members’ conduct, the Senate has recognized that the rules did not “replace that great body of unwritten but generally accepted standards that will, of course, continue in effect.”

#### Scope of The Authority

The Senate or House may discipline a Member for any misconduct, including conduct or activity which does not directly relate to official duties, when such conduct unfavorably reflects on the institution as a whole. In his historic work on the Constitution, Justice Joseph Story noted in 1833 that Congress’ disciplinary authority for “expulsion and any other punishment” is apparently unqualified as to “the time, place or nature of the offense.” Moreover, the Supreme Court has consistently declared that the Senate has far-reaching discretion in disciplinary matters. Precedent within both the House and Senate has reaffirmed this broad authority. In the censure of Senator Joseph McCarthy, the Select Committee to Study the Censure Charges in the 83rd Congress reported:

It seems clear that if a Senator should be guilty of reprehensible conduct unconnected with his official duties and position, but which conduct brings the Senate into disrepute, the Senate has the power to censure.

Additionally, in the report on Representative Adam Clayton Powell from the House Judiciary Committee, which recommended that Powell be censured for misconduct, the House Committee noted that the conduct for which punishment may be imposed is not limited to acts relating to the Member's official duties.

In proposing a permanent standing committee on ethics in the Senate, Senator John Sherman Cooper expressly referred to the select committee that investigated the censure charges of Senator Joseph McCarthy as a model—a committee that had unambiguously asserted its authority to investigate conduct “unconnected with [a Member's] official duties and position.” Senator Cooper and supporters of the resolution emphasized that the Select Committee was intended “to be free to investigate anything which, in its judgment, seemed worthy, deserving, and requiring investigation” and “would not be limited to alleged violations of Senate rules, but it would take into account all improper conduct of any kind whatsoever.”

It appears that the intent of the Senate in adopting S. Res. 338 was to delegate to the Ethics Committee the authority to investigate and make recommendations to the full Senate on misconduct of Members over which the institution has jurisdiction.