

Is there any committee that has that authority at the present time, to make a recommendation? Does your House committee have it?

Mr. HAYS. I would say we do have that authority. As a result of this hearing, we have had, we have already incorporated eight rules which we believe we can do on our own without further power. We propose to probably come in with some more requests or a request for some specific legislation. But again I will plead the same thing, that Mr. Bennett pleaded yesterday, that we didn't have much time after this thing came up and the time we did have we spent in trying to find out whether this was fact or fancy.

Mr. O'NEILL. But this is to recommend to the House.

Mr. HAYS. That is right.

Mr. O'NEILL. You are making rules for yourselves, for your committee to follow with regard to that. But don't you have any right to make recommendations to the House on specific legislation on matters of this type?

Mr. HAYS. Yes. I don't think there is any doubt about that.

Mr. O'NEILL. This would be a sort of duplication.

Mr. HAYS. It would seem to me so.

Mr. O'NEILL. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Martin, do you have any questions?

Mr. MARTIN. Mr. Hays, you stated that you were reluctant in your position as chairman of this subcommittee in December that went into this Powell case, to be in the position of a prosecuting attorney. But yet you are here, I gather from your testimony, wanting it set up within the jurisdiction of your committee, and I assume under your chairmanship, a subcommittee, so that this puts you in the same position that you have stated you are reluctant to assume.

Mr. HAYS. Mr. Martin, I don't envision it that way at all, if I may say so. Yet me tell you a little incident that happened. One of our legal counsel was cross-examining a witness. I leaned over and whispered to him that I would like him to ask him so-and-so. He whispered back, "Let us have a little recess, I want to talk to you about this."

So we declared a recess, and sent the witness out.

He said:

Mr. Hays, you are not an attorney, and you perhaps don't understand that we never ask any question that we don't know what the answer is in a courtroom.

I said:

Well, Mr. Attorney, you are not in a courtroom. That is exactly why I want to ask the question, and why I am going to ask the question when the witness comes back, because I want to know, and I don't know the answer.

I don't envisage this committee as being a prosecutor, sir. I envision it as being a factfinding committee.

Now, one of the big disputes we had in drawing up our report is, should we recommend to the Department of Justice that they prosecute?

I took the position, which seems to be the same position that Mr. Bennett took, that we should not recommend prosecution. But under the law and under a bill that I sponsored some years ago, three times it passed the House before we got the Senate to take it up, the so-called