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THE VALUE OF CONGRESSIONAL OVERSIGHT

Early June brought word that yet another U.S. Congressional subcommittee would soon begin investigating the Food and Drug Administration and its overall performance. With this latest entry, at least half-a-dozen Senate and House committees and subcommittees are now in some stage of investigation of the agency, its operation, and its decisions.

In our view such investigations are generally a good thing. They create a sense of accountability that is desirable in any system of government, and particularly in a government built on a series of checks and balances.

Indeed, there are many who believe that for too many years—during the 1950's and early 1960's especially—FDA escaped the eye of Congressional scrutiny. In the view of these critics, a loose and permissive climate developed which, in turn, resulted in the evolution of a comfortable bureaucracy staffed with officials engaged in activities which sometimes seemed suspicious or self-serving. This picture of incompetence or malfeasance led to allegations of various questionable practices, of sloppy methods of operation, of decisions not for the public benefit, and of serious conflicts of interest.

At that time, the agency was just a fraction of its current size. Hence, if the FDA had continued to operate freely as it had been doing, the nation might now be faced with a crisis of public confidence in the area of food and drug regulation—a crisis which could have dwarfed the recent scandals surrounding other governmental agencies.

But largely due to the spotlight of Congressional attention, the necessary housecleaning already had been attended to, and continued surveillance seems to have prevented any major reoccurrence of these problems.

Granted, then, that such review is a good thing, the next question is at what point does a "good thing" become too much. That is, as in any process, when a certain optimum limit is exceeded, we reach a point of diminishing returns.

In the case of Congressional committee investigations, witnesses must devote an enormous amount of time and effort to advance preparation for such testimony, as well as to the appearance itself and the subsequent follow-through. To do less is to run the real risk of appearing foolish at best and to court personal disaster at worst. Consequently, if this process of testifying is duplicated and even replicated due to multiple concurrent investigations, the energies of an organization or agency can be disproportionately spent—or even exhausted—in defending and justifying its past actions. When this occurs, the pendulum may swing too far, causing so much time and resources to be drained off that little in the way of new action can be undertaken.

We are concerned that FDA is in danger of reaching such a condition due to the recent proliferation of investigations of the agency by Congressional committees. If the Commissioner and his staff find themselves spending so much time answering to Congress that they are unable to undertake or initiate new programs, then the public will be poorly served. Indeed, if progress were to be halted in this manner, one might properly conclude that the public health would be as poorly served as agency critics claim when the agency was completely escaping Congressional oversight and enjoying a free-wheeling existence. In our view, this would represent a most unfortunate development.

Edward G. Feldmann