

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
107TH LEGISLATURE

(Filing No. H-789)

HOUSE AMENDMENT" A " to H.P. 898, L.D. 1085, Bill,
"AN ACT to Establish Rules for Legislative Investigating
Committees."

Amend said bill by striking everything after the
enacting clause and inserting in place thereof the following:

'Sec. 1. 3 MRSA §165, sub-§7, ^{first sentence,} as enacted by PL 1973, c.
590, §8, is amended to read:

When the duties assigned to a committee so require, the
Legislature may grant to it the power to administer oaths,
issue subpoenas, compel the attendance of witnesses and the
production of any books, accounts, documents and testimony,
and to cause the deposition of witnesses, whether residing
within or without the State to be taken in the manner
prescribed by law for taking depositions in civil actions
in the Superior Court.

Sec. 2. 3 MRSA §165, sub-§7, as enacted by PL 1973, c.
590, §8, is amended by adding a new sentence to follow the
first sentence, to read:

When the Legislature grants this power to a joint standing
committee or joint select committee, such committee shall
function as an investigating committee and shall be subject
to the provisions of chapter 21.

Sec. 3. 3 MRSA c. 21 is enacted to read:

CHAPTER 21

LEGISLATIVE INVESTIGATING COMMITTEES

SUBCHAPTER I

GENERAL PROVISIONS

§401. Short title

This Act may be called "Rules for Legislative Investigations."

§402. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Chairman. The "chairman" is the presiding officer of the investigating committee. He may be the permanent chairman or another member designated as temporary chairman in the absence of the chairman.

2. Executive session. An "executive session" is a session at which only members of the investigating committee, staff of the committee, counsel to the committee, the witness and his counsel shall be present.

3. Interested party. An "interested party" is any person who learns that he has been specifically identified in testimony taken before an investigating committee and who reasonably believes that he has been adversely affected by such testimony.

4. Investigating committee. An "investigating committee" is any committee of the Legislature which has been granted by the Legislature the power to administer oaths, issue subpoenas and take depositions, as authorized by section

165, subsection 7. "Investigating committee" shall include the Legislative Council when it exercises the authority granted under section 162, subsection 4, but shall not include the Committee on Legislative Ethics when it exercises the authority granted under section 381-A, ^{subsection 2,} paragraph D.

5. Investigating committee action. An "investigating committee action" is any decision arrived at formally by an investigating committee.

6. Members. The "members" of an investigating committee are the legislators appointed by the Legislature to serve on the committee.

7. Quorum. A "quorum" is a majority of the members of a legislative investigating committee.

8. Testimony. "Testimony" is any form of evidence received by an investigating committee.

9. Witness. A "witness" is any person who testifies before an investigating committee or who gives a deposition. "Witness" shall include an interested party who requests permission to testify.

SUBCHAPTER II

LEGISLATIVE INVESTIGATING COMMITTEES

§411. Creation

Whenever the Legislature delegates to a committee the power to administer oaths, issue subpoenas and take depositions in connection with any study or investigation, such committee shall automatically become an investigating committee for the purpose of such study or investigation and shall be subject

to the provisions of this chapter, whether or not such power is utilized by the committee in the course of such study or investigation.

§412. Scope of study or investigation

The authorization creating an investigating committee shall clearly state, and thereby limit, the subject matter and scope of the study or investigation. No investigating committee shall exceed the limits set forth in such authorization.

§413. Number of members

No investigating committee shall consist of fewer than 3 members.

SUBCHAPTER III

RULES OF PROCEDURE FOR LEGISLATIVE INVESTIGATING COMMITTEES

§421. Investigating committee action

Any investigating committee action shall require the affirmative votes of a majority of the committee members.

§422. Order of procedure

The decision as to the order of procedure in making a study or an investigation shall be an investigating committee action.

§423. Issuance of a subpoena

The decision to issue a subpoena shall be an investigating committee action.

§424. Notice to witnesses

A reasonable time before they are to testify, all prospective witnesses shall be notified of the subject matter of the investigation and shall be provided with a copy of this chapter. When a subpoena is served, the information required by this section shall be presented at the time of service.

§425. Notice to members

Notice of the date and time of any meeting of the committee and of any hearing to be held by the committee shall be given to all members of the investigating committee at least 3 days in advance.

§426. Oaths

All testimony of subpoenaed witnesses shall be under oath. A voluntary witness may be required to testify under oath by legislative committee action. Oaths shall be administered by the chairman.

§427. Testimony

Taking of testimony shall be by the investigating committee's counsel, or other staff personnel or the members of the committee. A quorum shall be present. Unless otherwise decided by investigating committee action, all testimony shall be taken in open session. However, if any witness so requests, his testimony shall be taken in executive session, unless otherwise decided by investigating committee action.

§428. Records

A complete record shall be kept of all investigating committee action, including a transcript of all testimony taken.

§429. Release of testimony

1. Release. The decision to release testimony and the decision as to the form and manner in which testimony shall be released shall be investigating committee action. However, no testimony shall be released without first affording the witness who gave such testimony, or his counsel, an opportunity to object to the proposed release.

A. The witness or his counsel may, by such objection, require that testimony given in open session, if it is released at all, be released in the form of a full, consecutive transcript.

B. The witness or his counsel may, by such objection, require that testimony given in executive session not be released in any form or manner whatsoever.

2. Transcript. The witness or his counsel, upon payment of the cost of preparation, shall be given a transcript of any testimony taken. However, the witness or his counsel shall not be entitled to obtain a transcript of the executive session testimony of other witnesses. The release of a transcript under this subsection is not the release of testimony within the meaning of subsection (one).

§430. Request for court to compel obedience

The decision to apply to the Superior Court to compel obedience to a subpoena issued by the committee shall be by investigating committee action.

SUBCHAPTER IV

RULES GOVERNING WITNESSES

§451. Counsel

The witness may have counsel present to advise him at all times. The witness or his counsel may, during the time the witness is giving testimony, object to any investigating committee action detrimental to the witness' interests and is entitled to have a ruling by the chairman on any such objection.

§452. Questioning of adverse witnesses

The witness or his counsel may question adverse witnesses whose testimony is being taken in open session. However, the chairman of the investigating committee may reasonably limit the right to so question. The chairman's ruling is final, unless otherwise decided by investigating committee action.

§453. Pertinency of requested testimony

The witness or his counsel may challenge any request for his testimony as not pertinent to the subject matter and scope of the investigation, in which case the relation believed to exist between the request and the subject matter and scope of the investigation shall be explained.

§454. Who can compel testimony

The committee chairman may direct compliance with any request for testimony to which objection has been made. However, the chairman's direction may be overruled by investigating committee action.

§455. Television, films, radio

Any decision to televise, film or broadcast testimony shall be investigating committee action. If the witness or his counsel objects to a decision to televise, film or broadcast his testimony, his testimony shall not be televised, filmed or broadcast.

§456. Statements and form of answers

The witness or his counsel may insert in the record sworn, written statements of reasonable length relevant to the subject matter and scope of the investigation. In giving testimony, the witness may explain his answers briefly.

§457. Privileges

The witness shall be given the benefit of any privilege which he could have claimed in court as a party to a civil action, provided that the committee chairman may direct compliance with any request for testimony to which claim of privilege has been made. However, the chairman's direction may be overruled by investigating committee action.

§458. Rights of interested parties

Any interested party may request an opportunity to appear before the investigating committee. The decision on this request shall be investigating committee action. If such request is granted, the interested party shall appear before the committee as a witness.

SUBCHAPTER V

SANCTIONS FOR ENFORCEMENT OF RULES

§471. Legislative responsibility

The Legislature has primary responsibility for insuring adherence to these rules.

§472. Erroneously compelled testimony

Testimony compelled to be given over a proper claim of privilege, or testimony released in violation of section 429, or any evidence obtained as a result of such improper procedure is not admissible in any subsequent criminal proceeding.

§473. Contempt

No witness shall be punished for contempt of an investigating committee unless the court finds:

1. Conduct. That the conduct of the witness amounted to contempt;
2. Certain requirements. That the requirements of sections 424, 430, 453 and 454 have been complied with; and
3. That in the case of:
 - A. A citation for failure to comply with a subpoena, the

requirements of section 423 have been complied with;

B. A citation for failure to testify in response to a request for his testimony challenged as not pertinent to the subject matter and scope of the investigation, the requirements of sections 412 and 453 have been complied with and the request was pertinent as explained;

C. A citation for failure to testify in response to a request for his testimony on grounds of privilege, the requirements of section 457 have been complied with.

§474. Saving clause

A decision by a witness to avail himself of any protection or remedy afforded by any provision of these rules shall not constitute a waiver by him of the right to avail himself of any other protection or remedy.'

STATEMENT OF FACT

The purpose of this amendment is to redefine an investigating committee in order to limit applicability of this chapter, to make technical corrections necessary in order for the chapter to relate to other sections of the statutes and to make minor technical corrections.

Filed by Mr. Birt of E. Millinocket.

Reproduced and distributed under the direction of the Clerk of the House.
6/18/75