

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)

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1085

H. P. 898

House of Representatives, March 18, 1975

Referred to Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Birt of East Millinocket.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Establish Rules for Legislative Investigating Committees.

Be it enacted by the People of the State of Maine, as follows:

3 MRSA c. 21 is enacted to read:

CHAPTER 21

LEGISLATIVE INVESTIGATING COMMITTEES

SUBCHAPTER I

SHORT TITLE AND DEFINITIONS

§ 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 committee. He may be either the permanent chairman or another member designated on a temporary basis in the absence of the permanent chairman.

2. **Executive session.** An "executive session" is a session at which only members of the investigating committee, staff personnel, 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 the investigating

committee, and who reasonably believes that his reputation has been adversely affected by such testimony.

4. Investigating committee. An "investigating committee" is any committee or subcommittee of the Legislature engaged in obtaining testimony from witnesses. No investigating committee shall consist of less than 3 members.

5. Members. The "members" of an investigating committee are the Legislators or other persons appointed as members to serve on it.

6. Quorum. A "quorum" is a majority of the members of an investigating committee.

7. Testimony. "Testimony" is any form of evidence.

SUBCHAPTER II

RULES GOVERNING CREATION OF INVESTIGATING COMMITTEE

§ 411. Who may create

Only the Legislature, the Senate or the House of Representatives may create investigating committees.

§ 412. Authorization

The authorization for an investigating committee shall clearly state the subject matter and scope of the investigation.

SUBCHAPTER III

RULES OF PROCEDURE FOR INVESTIGATING COMMITTEES

§ 421. Investigating committee action

All committee action designated as investigating committee action shall be by majority vote, a quorum of the members being present. Any committee function not specifically mentioned in these rules may be designated as investigating committee action, either, with respect to all investigating committees, by the Legislature, the Senate or the House of Representatives, or, with respect to any individual committee, by the committee itself.

§ 422. Decision as to the order of an investigation

The decision as to the order of investigation of a subject authorized under section 412 shall be investigating committee action.

§ 423. Decision to issue subpoena

The decision to issue any subpoena shall be 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 and scope of the investigation and shall be

given a copy of these and any other relevant rules. When subpoenas are served, the information required by this section shall be presented at the time of service.

§ 425. Notice to members

Notice of hearings and of contemplated investigating committee action shall be given to all available members of the committee at least 24 hours before action is taken.

§ 426. Who shall take 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.

§ 427. How testimony is taken

Unless otherwise decided by investigating committee action, all testimony shall be taken in open session. However, if any witness so requests, his testimony will 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 1.

§ 430. Decision to issue contempt citation

The decision to issue a contempt citation shall be investigating committee action.

SUBCHAPTER IV
RULES GOVERNING RIGHTS OF 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. Cross-examination

The witness or his counsel may cross-examine adverse witnesses. However, the chairman of the investigating committee may reasonably limit the right of cross-examination. 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, the Senate and the House of Representatives have 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, 454 and 455 have been complied with; and
3. Citations. 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 widespread use of legislative investigations have emphasized their usefulness in informing legislative bodies, but has also emphasized the damage which they may cause to individuals. This Act attempts to reconcile these interests by setting forth rules of procedure to govern legislative investigating committees and by granting certain rights to interested parties.