

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)

EIGHTY-THIRD LEGISLATURE

House Document

No. 642

House of Representatives, Apr. 12, 1927.

Presented under suspension of rules. Read and on motion of Mr. Hale tabled pending consideration and Wednesday assigned and 1000 copies ordered printed.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Patterson of Castine.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-SEVEN

REPORT OF THE COMMITTEE ON THE INVESTIGATION
OF THE HIGHWAY DEPARTMENT

The joint committee to investigate certain affairs of the
2 state highway commission asks leave to report as follows:

This joint committee, consisting of five members on the
2 part of the House, appointed by the Speaker, and three
3 members on the part of the Senate, appointed by the Presi-
4 dent, was authorized and instructed to forthwith investigate
5 the conduct of the affairs of the state highway commission
6 specifically including contracts and proposals for purchase
7 of materials and supplies and purchase therefor made within
8 ten months last past, also proposed changes in the personnel

9 of officials and employees in the state highway department
10 and reasons thereof, and the present methods of awarding
11 contracts and purchasing supplies; with full power vested
12 in this committee to summon and require the attendance
13 of witnesses, the production of records, books and papers,
14 and to take evidence pertinent to said matters. This com-
15 mittee under the order was instructed to make prompt
16 report to the Eighty-third Legislature, now in session, with
17 its findings and recommendations to any further action, by
18 it deemed advisable to be taken by the legislature; together
19 with any appropriate legislation.

Under House Amendment "A" to said order, this com-
2 mittee was further authorized to employ counsel; the ex-
3 pense of counsel, witnesses and other investigation to be
4 paid out of the funds of the state treasury not otherwise
5 appropriated. Under Senate Amendment "B" to House
6 Amendment "A" it was ordered that payment of the above
7 expenses should be made from funds appropriated for ex-
8 penses of the Eighty-third Legislature. Under Senate
9 Amendment "A" the words in the original order "made
10 within ten months last past" were stricken out.

Acting under the authority of this order, as amended, the
2 committee organized and held hearings, and testimony was
3 taken under direction of the counsel for the committee and
4 also under the direction of counsel for certain members
5 of the state highway commission. This testimony has been
6 transcribed and consists of four hundred and six typewritten

7 pages which is presented to the legislature with this report.
8 It seems necessary that there should be no misunderstand-
9 ing in regard to the jurisdiction of this committee under
10 the scope of the joint order. The committee is of the
11 opinion that it cannot exercise any judicial function in its
12 proceedings; that is, it cannot try to determine innocence
13 or guilt. It can consider the testimony in the light of
14 obtaining information with a view of making recommenda-
15 tions to the legislature upon questions on which that body
16 has power to legislate. In other words, this committee is
17 simply a committee of investigation, with power to ascer-
18 tain, in so far as possible, facts relating to the highway de-
19 partment and to make such recommendations as will im-
20 prove the existing situation. The committee is not a body in
21 the nature of a grand jury, and has no power of finding
22 indictments. It did not sit as a trial jury, passing upon the
23 guilt or innocence of any person, for, no one stood accused
24 before it of any crime, misdemeanor or irregularity. Nor,
25 is the committee empowered to construe or interpret the
26 statutes, not having the jurisdiction and powers of a court
27 of law, and it therefore cannot attempt a construction or
28 interpretation of various statutes and cases at law cited
29 either by counsel for the committee or by other counsel who
30 appeared before the committee of investigation.

It seems apparent from testimony that friction exists in
2 the highway department, not only between members of the
3 engineering department and members of the commission,

4 but also between members of the said commission, with the
5 result that this friction has affected the morale of the
6 department and also prevented efficient service.

In order that this friction in the highway department may
2 not continue or again occur with other commissions, the
3 committee recommends that the highway commissioners con-
4 fine themselves to the duties prescribed for them by law,
5 leaving the technical details of highway construction to the
6 engineering staff.

More or less evidence was introduced pertaining to the
2 purchase of trucks, equipment and implements for highway
3 work, without advertising for bids. The attorney general's
4 department has given an opinion to the state highway com-
5 mission since the beginning of this investigation, and a copy
6 of the same was presented to the committee. The opinion,
7 in effect, indicates that there does not seem to be any neces-
8 sity for the state highway commission to advertise for bids
9 when purchasing machinery, tools, implements and property
10 necessary for highway engineering and construction. While
11 the attorney general's department does not find violation of
12 law in the commission's activities in this direction, the com-
13 mittee recommends that the policy adopted by other state
14 departments in advertising for bids for the purchase of
15 merchandise should be closely followed by the state high-
16 way department.

Testimony has been introduced indicating sales of ma-
2 chinery, gasoline, etc., to a road contractor by a member of

3 the commission. As to whether this was a violation of law
4 is not within the province of the committee to decide. It
5 is, however, the judgment of this committee that sales of
6 commodities or supplies by a highway commissioner or any
7 state official to contractors or other persons performing
8 work for the state are distinctly against public policy and
9 should not be tolerated or countenanced under any condi-
10 tion.

Evidence disclosed that engineering errors pertaining to
2 bridge estimates by the engineering staff were made where-
3 by actual cost of construction on three bridges was approx-
4 imately \$268,000 more than estimates furnished by the de-
5 partment. This is an error, according to testimony, of 6.7
6 mills on a gross business of \$40,000,000, or much less than
7 the allowance of ten percent permitted by the Federal gov-
8 ernment for contingencies in engineering on Federal Aid
9 projects. Your committee, however, believes that too much
10 care can not be exercised in checking and re-checking esti-
11 mates for not only the construction of bridges, but for high-
12 way construction as well.

During the course of the investigation certain charges of
2 a serious nature were made, and emphatically denied. Un-
3 der such conditions it is impossible, even if the committee
4 were empowered to so do, to draw sufficient conclusions
5 to make satisfactory recommendations.

Evidence presented to the committee disclosed that, while,
2 no official action by the Highway commission had been

3 taken to change the personnel of the engineering staff, it
4 did show that the subject was being seriously considered
5 by at least one of the commission and that it would, if
6 carried into effect, remove both Mr. Sargent, as chief en-
7 gineer, and Mr. Wiggin, as chief of the Maintenance de-
8 partment. Since no official action was taken in this mat-
9 ter, it does not appear necessary for the committee to make
10 further comment, especially in view of the fact that the
11 committee is not empowered to make recommendations con-
12 cerning the personnel of either the Engineering department
13 or the Highway commission.

Testimony was presented to the effect that the Highway
2 department involves an annual expenditure approximating
3 \$9,000,000, which represents a sum nearly equal to the ex-
4 penditures of all other State departments. Inasmuch as it
5 seems to be the state's policy, that full-time service is desir-
6 able in other departments, the committee is of the opinion
7 that the Legislature would do well to consider the feasi-
8 bility of a full-time Highway commission.

It is obvious that it would require months instead of days
2 to fully conduct the investigation authorized by the Legis-
3 lative order. However, as the order requires the commit-
4 tee to make its report to the Legislature now in session,
5 the inadequacy of said report may be to some extent ac-
6 counted for by the limitation of time given it.

Itemized bills covering in detail the expenditures of the

2 committee in connection with the investigation are here-
3 with submitted.

There are also submitted various exhibits filed with the
2 committee, together with certain briefs and opinions filed
3 with the committee by counsel. It is suggested that the ex-
4 hibits be returned to the owners at any early date.

It is of course apparent that in a report of reasonable
2 length, it would be impossible to cover in detail the testi-
3 mony introduced at the hearings and transcribed upon sev-
4 eral hundred typewritten pages, but as previously stated,
5 said transcribed testimony is presented with this report for
6 whatever examination may be deemed necessary.

In closing it may be suggested that the committee has ap-
2 proached this important matter with open minds, unbiased
3 by the publicity surrounding said investigation, and with
4 the sole desire to serve the Highway department's best in-
5 terests insofar as is possible to so do as a result of this in-
6 vestigation.

Respectfully submitted,

CLYDE H. SMITH

HARVEY D. GRANVILLE

H. H. DUNBAR

ERNEST E. DECKER

EARL A. DEAKIN

E. A. PIPER

A. W. PATTERSON

A. J. RAWLEY