

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)

Transmitted by Director of Legislative Research pursuant to joint order.

N I N E T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 1422

S. P. 521

In Senate, April 7, 1953

Referred to the Committee on Judiciary. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Chapman of Cumberland.

STATE OF MAINE

**IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-THREE**

AN ACT Creating a State Crime Commission.

Emergency preamble. Whereas, existing crime, whether organized or not, should be combated; and

Whereas, it is essential that uniform law enforcement policies should be adopted; and

Whereas, the functioning of local and state law enforcement agencies should be improved; and

Whereas, in the judgment of the legislature, these facts create an emergency within the meaning of the constitution of Maine, and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. Purposes of act.

I. Legislative intent. It is hereby declared to be the intent of the legislature, recognizing the frequent subversion of governmental, political and economic institutions through the influence of organized crime, to set up adequate facilities for investigating and establishing the facts and gen-

eral background relating to organized crime and to individual crimes in so far as they have a bearing on organized crime, whether the act or intent constituting the same, or both, occurs within or without the state, so long as such organized crime or individual crimes affect the public safety, public peace, public health, public morals, public welfare or public justice of the state; to evaluate the extent to which organized crime exists within the borders of the state and the degree of efficiency of law enforcement agencies in dealing with it; and to make such facts, general background and evaluation available to the legislature, executive, judicial and administrative bodies and officials of the state, to the end that they may better perform their respective functions in preserving the public safety, public peace, public health, public morals, public welfare and public justice of the state.

II. Limiting clause. This act, and the jurisdiction of the commission created thereby, is not intended to be in derogation of the jurisdiction of any grand jury of any county of the state.

Sec. 2. Definitions. As used in this act:

“Commission” means the Maine crime investigating commission established by section 3.

“Crime” means an act in violation of the criminal laws of the United States of America or of this state.

“Organized crime” means syndication by 2 or more persons in the commission of crimes for pecuniary profit or for economic or political advantage.

“Person” includes natural persons, public officials, partnerships and associations of persons and corporations.

Sec. 3. Commission.

I. Constitution of commission. The Maine crime investigating commission is hereby created as an administrative agency of the state, consisting of 5 commissioners, not more than 4 of whom shall, on the respective dates of their appointment, belong to the same political party. The commissioners shall be appointed by the governor with the advice and consent of the council in the first instance for terms of 3, 4, 5, 6 and 7 years, respectively, and thereafter as each term expires for terms of 5 years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed.

Upon the expiration of his term of office, a commissioner shall continue to serve until his successor shall have been appointed and shall have qualified. The governor shall designate one commissioner to serve as chairman of the commission. Any member of the commission may be removed by the governor with the advice and consent of the council upon notice and hearing for inefficiency, neglect of duty, incapacity or malfeasance in office, but for no other cause.

II. General counsel. The commission may appoint a general counsel to serve at the pleasure of the commission who shall exercise supervision of all legal matters affecting the commission and its business, and act as its secretary. The general counsel shall receive such salary and compensation as may be determined by the governor and council.

III. Other personnel. The commission may appoint such other attorneys, investigators, clerks and employees as it may from time to time find necessary for the proper performance of its duties, and fix their compensation. The commission may, with the permission of the governor, utilize the personnel of all or any departments, divisions, boards, bureaus, officials or agencies of the state.

IV. Salaries and expenses. The salaries of the general counsel and other personnel, and the expenses of the commission including necessary travel and subsistence expenses incurred by the commissioners, general counsel, other attorneys, investigators, clerks and employees of the commission under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor, approved by the commission or by any individual it designates for that purpose.

V. Reports. The commission shall, within a reasonable time and the conclusion of any examination or hearing conducted by it, make verbal or written report of its findings, conclusions and recommendations to such of the legislative, executive, judicial and administrative bodies and officials of the state whose duty it is to be interested in the subject matter of such examination or hearing. The commission shall, within 1 month after June 30th of each year, make a report in writing to the legislature and the governor of the state, stating in detail the investigations it has conducted, the conclusions it has formed, the recommendations it makes with regard to legislation so far as feasible, the names, salaries and duties of all employees and officers in the employ of the commission, with power, however, to omit the names of under-cover investigators, and an account of all moneys it has received and disbursed.

Sec. 4. Powers.

I. In general. The commission shall act, with respect to any investigation under the powers conferred upon it by this section, only upon the written authorization signed by a majority of the commissioners. After action by the commission has been so authorized, it may delegate to any individual commissioner any or all of its powers by instrument in writing. The commission may, by one or more of its commissioners, or by its general counsel, or by such agents or agencies as it may designate, conduct any inquiry necessary to its functions in any part of the United States. A commissioner participating in such an inquiry shall not be disqualified from subsequently participating in the hearings or reports of the commission. The principal office of the commission shall be in the state capital, but the commission, individual commissioners and the general counsel may perform any of their duties, exercise any of their powers, or conduct meetings, examinations and hearings, at any other place.

II. Cooperation with other agencies. The commission shall have the power to extend assistance to, and demand and receive assistance from, all public officers engaged in the investigation or the prosecution of crimes or organized crime in the United States of America, including, but without limiting the generality thereof, standing or special committees of the congress of the United States of America, or of the legislature of this or any other state.

III. Organized crime. The commission shall have the power to investigate generally the relationship between organized crime on the one hand, and any governmental, political or economic unit, constituting a part of, or doing business within, the state or its political subdivisions, on the other hand.

IV. Rackets. The commission shall have the power to investigate all fields of organized crime, including, but without limiting the generality thereof, prostitution, narcotics, liquor, gambling, lotteries, counterfeiting and tax frauds.

V. Examintations. The commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination and the right to copy, any germane documentary evidence of any person being investigated, subject to the limitations contained in the constitution of this state and in the constitution of the United States.

VI. Hearings. The commission shall have he power to conduct public or private hearings to accomplish the several purposes and exercise the

powers of the commission, and in that connection to designate one or more members of the commission to preside over such hearings. Any commissioner or the general counsel may administer oaths and affirmations, examine witnesses and receive evidence. A witness at any public or private hearing shall have the right to have present at such hearing counsel of his own choice, for the purpose of advising him concerning his constitutional rights, but for no other purpose. No hearing shall be televised or broadcast by radio, nor shall any mechanical, photographic or electronic record of the proceedings at any hearing be televised or broadcast by radio, and it is further provided that all public hearings shall be conducted in accordance with the provisions otherwise established by law for the protection of persons appearing before boards and commissions of inquiry.

VII. Subpoenas. The commission shall have power to require by subpoena, the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination or hearing. Any commissioner or the general counsel may sign subpoenas which may be served by any commissioner, the general counsel or any agent or public official authorized by the commission. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the state, at any designated place of hearing, within the state. Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the superior court of the state, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the superior court of the state. In case of disobedience to a subpoena, the commission may invoke the aid of the superior court of the state in requiring the attendance and testimony of witnesses, and the production of documentary evidence. Any justice of the superior court of the state may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before the commission, or to produce documentary evidence, if so ordered or to give evidence touching the matter in question, and any failure to obey such order of the superior court may be punished by the superior court as a contempt upon itself. Upon the application of the general counsel of the commission, the superior court of the state shall have jurisdiction to issue writs of mandamus, commanding any person to comply with the provisions of this act, or any order of the commission made in pursuance thereof.

VIII. Witness immunity. In any examination by, or hearing before,

the commission, if a person refuses to answer a question or produce evidence of any other kind, on the ground that he may be incriminated thereby, and if a commissioner or the general counsel, in writing requests a justice of the superior court of the state to order that person to answer the question or produce the evidence, the court shall so order, unless it finds that to do so would be contrary to the public interest, and that person shall comply with the order. After complying, and if, for this subsection, he would have been privileged to withhold the answer given or the evidence produced by him, that person shall not be prosecuted for or on account of any transaction, matter or thing concerning which, in accordance with the order, he gave answer or produced evidence. But he may nevertheless be prosecuted or subjected to penalty or forfeiture for any perjury or contempt committed in answering, or failing to answer, or in producing, or failing to produce, evidence in accordance with the order.

IX. Rules and regulations. The commission shall have the power from time to time to make, amend and rescind such rules and regulations as may be necessary to carry out the provisions of this act, including rules and regulations for calling and holding meetings of the commission.

Sec. 5. Short title. This act shall be known and may be cited as the "Crime Investigating Commission Act."

Emergency clause. In view of the emergency cited in the preamble, this act shall take effect when approved.