

PROPOSED ADDITIONAL
RULES OF PROCEDURE

- A. All witnesses shall testify before the Committee on oath or affirmation in hearings which shall be open to the public and the news media. Provided, however, that the Chairman shall have the authority to direct that the testimony of a particular witness on oath or affirmation be received in an executive meeting in the first instance if the Committee would otherwise be unable to ascertain whether the witness possesses information relevant to the matters the Committee is authorized to investigate.
- B. All still and motion picture photography will be completed before a witness actually testifies and no photographing shall occur while the witness is testifying. The testimony of a witness in public session, however, may be broadcast by television or radio with the permission of the Chairman, provided that such coverage is orderly and unobtrusive. The coverage of any hearing of the Committee by television, radio, or still photography shall be under the direct supervision of the Chairman, who may for good cause terminate such media coverage in whole or in part, or take such other action as the circumstances may warrant.
- C. The oral presentation by a witness of any opening statement which has been authorized by the Committee pursuant to Rule 7 shall be made under oath or affirmation and shall not exceed

five minutes unless an extension of time is authorized by the Chairman. The statement shall be relevant to the subject matter of the Committee's inquiry. Statements or portions of statements which take the form of personal attacks by the witness upon the motives or character of the Committee, any member thereof, or Committee staff, and statements which are intemperate, are not deemed to be relevant or germane, shall not be made, and may be stricken from the record of the proceedings on the authority of the Chairman.

- D. At the conclusion of the interrogation of his client, counsel shall be permitted to make such reasonable and pertinent requests upon the Committee, including the testimony of other witnesses or other evidence, as he shall deem necessary to protect his client's rights. In the discretion of the Chairman, such requests may be ruled upon immediately by the Committee members present or taken under advisement for future consideration by the Committee.
- E. Counsel for a witness may not examine his own client. Counsel may submit to the Chairman in writing any questions he wishes propounded to his client or to any other witness. Such questions, subject to changes in form, shall be put to the witness by the Committee Chairman, by another member of the Committee, or by

Committee counsel designated by the Chairman, unless a majority of the Committee rules that the questions are objectionable on the grounds of relevancy, form or for other proper reason.

- F. If the lawyer who accompanies the witness before the Committee advises the witness to claim a privilege against giving any testimony or producing documents sought by the Committee, the Committee shall permit the lawyer to present his views on the matter for the information of the Committee, and the Committee shall thereupon rule on the validity of the claim or its application to the particular circumstances involved and require the witness to give the testimony or produce the documents sought in the event its ruling on the claim is adverse to the witness. Neither the witness nor any other officer or person shall be permitted to claim a privilege against the witness's testifying or producing records prior to the appearance of the witness before the Committee, and the Committee shall not rule in respect to the claim that testimony is privileged or properly withheld until the question by which the testimony is sought is put to the witness.
- G. Questioning of witnesses shall be conducted in the following order: majority counsel, minority counsel, Chairman, Vice-Chairman, members of the majority and minority in alternation, minority counsel, and majority counsel. Questioning by majority and minority counsel shall be unlimited. No more than two counsel

representing the majority and minority respectively may interrogate any particular witness. The Chairman and Vice-Chairman shall be permitted ten minutes at a time to question each witness; otherwise Committee members shall be permitted five minutes at a time to question each witness. Once each member has had an opportunity to question a witness, members shall be permitted to re-question the witness for a period not to exceed five minutes in the order of the original round of questioning. Questioning by the members shall continue in this fashion until the members have exhausted their inquiries of the witness.

STATEMENT OF COMMITTEE PURPOSE

The heart of this Select Committee's concern is the efficacy of the procedures and criteria used by agencies of the Commonwealth in awarding contracts. There are some strong indications that defects in existing laws and procedures have permitted politics to replace merit as the standard for awarding state contracts for properties, supplies, and services. The members of the Committee have taken notice of the invidious connection between political contributions and rewards of governmental contracts, largesse, and favors as manifested in the case of former Vice-President Agnew, the prosecutions of three successive Secretaries of State in New Jersey, and the Milk Fund and ITT matters. Closer to home, the Committee is mindful of investigations being conducted by United States Attorneys in each of the three federal judicial districts in this Commonwealth concerning alleged kickbacks to government officials of political parties to influence the hiring of architects and engineers. These developments have raised strong public suspicion that contributions to candidates of political influence play an undue role in the award of contracts. This can mean mediocre work at prohibitive cost to the Commonwealth. It is the function of this Committee to develop a basis of thorough case by case study to determine the manner and extent of State contract abuses in order to recommend effective statutory remedies.

This Committee must determine first whether or not there exists a condition requiring correction. The Committee must discover how present safeguards are being circumvented. Too often the General Assembly finds itself pressed to devise solutions to problems without access to pertinent data. The public has been patient, but in the aftermath of the Watergate situation, that patience is legitimately wearing thin.

This Committee and the Subpoenas will assist the House with respect to the following legislative questions:

1. Does the system require radical surgery or merely a few modifications?
2. Do we need specific legislation regulating the awarding of contracts for architects and engineers?
3. Is the present Bill, House Bill 2215, on the House calendar requiring disclosure of beneficiaries of non-~~bid~~ contracts an effective vehicle for discouraging these abuses?
4. Are campaign disclosure measures passed by the House and sent to the Senate adequate to discourage influence peddling with respect to State contracts?
5. Must the GSA be radically restructured or even abolished? The fact is, we do not know how radical the solution must be until the Committee discharges its responsibilities to the House by determining the scope of the problem.
6. Is there a relationship between political contributions and contracts requiring bids? If such a relationship is found to exist, drastic reforms may be necessary in our procedures for competitive bidding.

There is one practical way for the Committee to assess the problem, that is, to determine whether there is a connection between political contributions and State contracts. There are allegations that such favoritism is widespread. There are counterclaims that such behavior represents a rare aberration. The fact is we do not know and such knowledge is essential to the determination of the degree and kind of statutory remedy required.

In furtherance of these purposes, and in order to determine if there exists any link between donations to political parties and the disposition of government contracts with regard to properties, supplies, or services, the Committee has issued subpoenas demanding from the state committees of the two principal political parties and from numerous county political organizations representing both parties, records which provide a detailed measure of the sources of political con-

August 6, 1974
(continued)

tributions. The Committee absolutely abjures and forswears any intention of seeking information which is not directly relevant to the subject of its investigation. The committee has no interest in learning the names of individuals, corporations, or associations, who have made political contributions for any purpose other than to determine whether or not there exists a tie between such contributions and awards of state contracts. If the political organizations whose records have been subpoenaed are able to assure this Committee of their ability to identify and isolate from among all of their contributors those who are or have been engaged in performing contracts with state agencies, this Committee will be satisfied to receive that information without more. If that assurance cannot be provided, then the Committee requires production of all of the records specified in the subpoena duces tecum with the understanding that the material is intended for the cause of the Committee only, to serve its purposes, and for no other purpose whatsoever. Accordingly, any information which is obtained but which proves to be irrelevant to the subject matter of this Committee's inquiry, will be held in strict confidence.



HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG
SELECT COMMITTEE ON STATE CONTRACT PRACTICES

RULES OF PROCEDURE FOR THE COMMITTEE
AS ADOPTED ON AUGUST 15, 1973
AND AMENDED ON MARCH 25, 1974

In addition to, and not in derogation thereof, of the House Rules, particularly Rule #51 relating to investigations, the following Rules of Procedure are adopted:

1. No public hearing connected with an investigation shall be held without approval of a majority of the Committee. Each member shall be apprised of investigations and hearings. Preliminary inquiries may be initiated by the staff with the approval of the chair and witnesses may be subpoenaed for attendance at such preliminary inquiries.
2. Subpoenas for attendance of witnesses and the production of memoranda, documents and records shall be issued by the Chairman or by any other Member of the Committee designated by him. Notice of issuance of said subpoenas shall be furnished to each Member promptly.
3. The Chairman shall have the authority to call meetings. This authority may be delegated by the Chairman to any other Member of the Committee when necessary. The Chairman shall not schedule any hearings or series of hearings without giving at least 48 hours notice thereof to the Members of the Committee.
4. For public or executive sessions, any two Members of the Committee shall constitute a quorum for the administering of oaths and the taking of testimony in any given case or subject matter. With the permission of the Chairman and the ranking minority Member, one Member of the Committee shall constitute a quorum for the administering of oaths and the taking of testimony in any given case or subject matter in public or executive sessions.
5. All witnesses at public or executive hearings who testify to matters of fact shall be sworn.
6. Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearing, and to advise such witness while he is testifying of his legal rights. Provided, however, that any Commonwealth officer or employee being interrogated by the staff or testifying before the Committee and electing to have his personal counsel present shall not

Can any member authorize?

Rules of Procedure for Committee Continued

be permitted to select such counsel from the employees or officers of any Commonwealth agency. This rule shall not be construed to excuse a witness from testifying in the event his counsel is ejected for contumacy or disorderly conduct; nor shall this rule be construed as authorizing counsel to coach the witness, answer for the witness, or put words in the witness' mouth. The failure of any witness to secure counsel shall not excuse such witness from attendance in response to subpoena.

7. Any witness desiring to read prepared or written statement in executive or public hearings shall file a copy of such statement with the counsel or Chairman of the Committee 48 hours in advance of the hearings at which the statement is to be presented unless the Chairman and the ranking minority Member waive this requirement. The Committee shall determine whether such statement may be read or placed in the record of the hearing.

8. A witness may request, on grounds of distraction, harassment, or physical discomfort, that during his testimony, television, motion picture, and other cameras and lights shall not be directed at him, such request to be ruled on by the Committee Members present at the hearing.

9. An accurate stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. The record of his testimony whether in public or executive session shall be made available for inspection by witness or his counsel under Committee supervision; a copy of any testimony given in public session or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be made available to any witness at his expense if he so requests. Records of public sessions shall be made available to any person at his expense if he so requests.

10. Interrogation of witnesses at Committee hearings shall be conducted on behalf of the Committee by Members and majority and minority committee counsel only.

11. Any person who is the subject of an investigation in public hearings may submit to the Chairman of the Committee questions in writing for the cross-examination of other witnesses called by the Committee. With the consent of a majority of the Members of the Committee present and voting, these questions shall be put to the witness by the Chairman, by a Member of the Committee, or by Counsel of the Committee.

12. Any person whose name is mentioned or who is specifically identified, and who believes that testimony or other evidence presented at a public hearing, or comment made by a Committee Member or counsel tends to defame him or otherwise adversely affect his reputation, may (a) request to appear personally before the Committee to testify in his own behalf, or, in the alternative, (b) file a sworn statement of facts relevant to the testimony or other evidence or comment complained of. Such request and such statement shall be submitted to the Committee for its consideration and action.

Rules of Procedure for Committee Continued

13. All testimony taken in executive session shall be kept secret and will not be released for public information without the approval of a majority of the Committee.

14. No Committee report shall be released to the public without the approval of a majority of the Committee.

15. All staff members shall be confirmed by a majority of the Committee. Such staff members are authorized to serve subpoenas as well as the Sergeant-at-Arms of the Legislature or other person designated by the Committee or Chairman.