

1975 S.C. Op. Atty. Gen. 224 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4161, 1975 WL 22456

Office of the Attorney General

State of South Carolina

Opinion No. 4161

October 22, 1975

**\*1** The Senate Standing Committee on Agriculture and Natural Resources may investigate price differentials for grain between Charleston and other ports, but may not compel witnesses' testimony or production of documents until granted such power by the Senate.

TO: Senator James P. Harrleson,  
Chairman  
Senate Agriculture and Natural Resources Committee

QUESTION PRESENTED:

What power does the Senate Standing Committee on Agriculture and Natural Resources have to conduct an investigation into the wide price differentials for grain between Charleston and other ports?

STATUTES, CASES, ETC:

South Carolina Constitution, Article III, Sections 1, 12, and 13;

Rules of the Senate, 1975, No. 21;

Ex Parte Parker, 74 S. C. 466, 55 S. E. 122;

Spartanburg County v. Miller, 135 S. C. 348, 132 S. E. 673;

Bramlette v. Stringer, 186 S. C. 134, 196 S. E. 257; Ex Parte Johnson, 187 S. C. 1, 196 S. E. 164; 81 C. J. S. 958 et seq., STATES, §§ 42–48; 72 Am Jur 2d 447 et seq., STATES, ETC., §§ 48–54; 9 A. L. R. 1341

DISCUSSION OF ISSUES:

The South Carolina Constitution, Article III, Section 1 confers the entire legislative power of the State upon the General Assembly. Article III, Section 12 confers upon each house the power to determine its rules of procedure. Senate Rule 21 establishes, inter alia, the Senate Standing Committee on Agriculture and Natural Resources.

The power of the legislature to obtain information on any subject upon which it has power to legislate has long been recognized. Such was the holding of the South Carolina Supreme Court in Ex Parte Parker, 74 S. C. 466, 55 S. E. 122: The power of the General Assembly to obtain information on any subject upon which it has power to legislate, with a view to its enlightenment and guidance, is so obviously essential to the performance of legislative functions that it has always been exercised without question.

Ex Parte Parker, *supra*, also recognized that the legislative investigative function could be carried out by legislative committee. See also 72 Am Jur 2d 447, STATES, ETC., § 48.

Based on these generally accepted principals of law, the Senate Agriculture and Natural Resources Committee would have the power to investigate those subjects relevant to the proper discharge of the legislature's legitimate functions in the agriculture-natural resource areas. Such power would be broad enough to include an examination of marketing practices or other procedures which reportedly result in unstable or depressed prices for grains and soybeans in the Port of Charleston.

Although the committee has the authority to investigate in the above area, the nature of such investigatory power must be examined. Clearly the legislature itself has the power to issue subpoenas for witnesses and documents, and to punish by contempt proceedings any non-compliance. Ex Parte Parker, *infra*.

\*2 However, the position of this office has been that the subpoena-contempt power must be specifically granted to the committee in question before it can be exercised. Such a view is based on the fact that certain legislative committees have been granted such powers explicitly, while others have not. Such a practice indicates tacit recognition by the legislature that the powers of subpoena-contempt should be expressly delegated to a committee where such a committee is intended to possess these powers. Also, in the cases recognizing a committee's subpoena-contempt powers, a specific statute gave these powers explicitly to the committee. See Ex Parte Parker, *supra*, and Ex Parte Johnson, 187 S. C. 1, 196 S. E. 164.

Under the above reasoning the Senate Agriculture and Natural Resource Committee will be limited to a voluntary investigation of facts and evidence involved in any appropriate topic they choose to examine. Compulsory process would have to be specifically granted to the Committee by the Senate.

#### CONCLUSION:

The Senate Standing Committee on Agriculture and Natural Resources would be authorized to investigate the reasons for wide price differentials for grain and soybeans between Charleston and other ports. Such investigative power would not include the power to subpoena witnesses and documents, absent a specific grant of such power by the Senate.

George C. Beighley  
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