

SPECIAL REPORT TO THE SPEAKER
OF THE HOUSE OF REPRESENTATIVES

I. Introduction

The Legislative Ethics Committee received a complaint regarding the action of Representative Roland E. Hemon in filing House Resolution 46, urging that impeachment proceedings be instituted against Strafford County Probate Judge Gary R. Cassavechia.

Following a review of the complaint and Representative Hemon's response thereto, the Ethics Committee conducted a preliminary investigation, in accordance with its procedural rules, and determined that formal proceedings should be instituted to inquire into the complaint. A formal statement of charges was provided to Representative Hemon and a hearing was held before the Ethics Committee on May 18, 1994.

II. Complaint

The complainant has alleged that Rep. Hemon violated the principles set forth in the Ethics Guidelines, Article 1, Sections 1 and 2, Principles of Public Service. As further grounds for filing this complaint, the complainant stated that the damage caused to the judge by Rep. Hemon's actions could not have been caused in this manner were it not for Rep. Hemon's position. Upon review of the complaint, the Committee determined that the actions complained of also constituted a potential violation of Article IV, Section 3 of the Guidelines.

III. Findings of Fact

House Resolution 46 was filed by Rep. Roland Hemon for consideration by the New Hampshire House of Representatives during its 1994 session. This resolution, seeking the impeachment of the current Strafford county probate judge, is the first step required in the process established under the New Hampshire Constitution for removing a current judge from office (Pt. II, Articles 17 and 38).

The House Judiciary Committee held a hearing on HR 46 on January 7, 1994, and subsequently recommended (17-0) that the bill be found Inexpedient to Legislate. The House subsequently endorsed this recommendation and voted the bill Inexpedient to Legislate, 352-1.

Rep. Hemon filed HR 46 after almost a decade of litigation in the Strafford County Probate Court over the appointment of a guardian for his mother and subsequently the administration of her estate. The matter concerning the administration of her estate remains pending before the probate court judge.

At some time after the probate court proceedings began, Rep. Hemon raised the issue of the court's personal jurisdiction over his mother, contending that she was a resident of Maine at the time the guardianship proceedings were instituted. The court ruled against him, finding that jurisdiction did exist. Although Rep. Hemon appealed this finding several times to different courts, those courts found that the ruling of the probate court was correct.

Rep. Hemon stated that although he might have received the Ethics Committee booklet during orientation, he was not familiar with the Ethics Guidelines. He also stated that he was unfamiliar with any requirement that he file a conflict of interest form prior to participating in any way in the legislative process concerning House Resolution 46.

IV. Rulings

The committee finds that Rep. Hemon based his action solely on the rulings which the judge had issued against him in the probate court. In filing this resolution, Rep. Hemon used the power and resources of his office to pursue a private interest which did not serve the public good. As Rep. Hemon has stated, he chose to gain public exposure of his concerns by filing a legislative resolution. This is an action that a member of the general public would have been unable to take. Moreover, a process to review allegedly improper actions by judges was in place and Rep. Hemon opted to bypass it. The rulings by the several courts finding the probate court orders to be correct also supports a conclusion that Rep. Hemon used his office in a manner incompatible with the public good.

The committee found that the action taken by Rep. Hemon was intended to have a detrimental effect on the judge. In filing the resolution, Rep. Hemon in essence created another public forum in which to make allegations that had previously been determined to be unfounded. (It is important to note, that at no time did the committee receive any evidence that any of the judge's orders in this matter concerning jurisdiction had ever been reversed.) In so doing, Rep. Hemon hoped to prevent the judge from issuing further rulings which were not in Rep. Hemon's favor. The committee found that this action was a violation of Article IV, Section 3 and Article I, Section 1 of the Ethics Guidelines.

The committee also found that Rep. Hemon's long history with the judge in this matter prevented him from exercising independent objective judgment in filing the resolution and from deciding the action to be taken free of conflict of interest. In filing this resolution, Rep. Hemon therefore also violated Article I, Section 2 of the Ethics Guidelines.

The committee also notes its concern with Rep. Hemon's professed lack of knowledge of the Ethics Guidelines. All members of the General Court have been advised to familiarize themselves with these guidelines. Even if the filing of House Resolution 46 had not violated the Ethics Guidelines in any other manner, the Guidelines clearly require that a conflict of interest form should have been filed prior to Rep. Hemon taking any official activity on House Resolution 46. (Article V of the Ethics Guidelines.)

V. Conclusion

The committee recommends that Rep. Hemon be reprimanded by the House of Representatives for his disregard of the Ethics Guidelines. His actions were violative of four different provisions of the Guidelines and served no purpose other than his own private interest.

Dated at Concord, New Hampshire, this 15th day of June, 1994.

Respectfully submitted,

Senator Richard L. Russman
Chairman Pro Tem