

**SPECIAL REPORT TO THE SPEAKER  
OF THE HOUSE OF REPRESENTATIVES  
REGARDING COMPLAINT 96-1**

I. Introduction

The Legislative Ethics Committee received a complaint dated May 2, 1996<sup>1</sup> regarding the action of Representative Roland E. Hemon in filing House Resolution 51, urging that impeachment proceedings be instituted against certain judges, including Strafford County Probate Judge Gary R. Cassavechia.

Following a review of the complaint, the 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 Rep. Hemon, and a hearing was held before the Committee on July 24, September 11, and October 22, 1996.<sup>2</sup>

II. Complaint

The complaint alleged that Rep. Hemon violated the principles set forth in the Ethics Guidelines, Section I, 1, Principles of Public Service, relating to Public Office as Public Trust, and the prohibited activities set forth in Section IV, 2(c) and 3.

III. Findings of Fact

House Resolution 51 was filed by Rep. Hemon for consideration by the New Hampshire House of Representatives during its 1996 session. This resolution, seeking the impeachment of certain judges, 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 51 on February 14, 1996, and subsequently recommended unanimously that the bill be found Inexpedient to Legislate. The House endorsed this recommendation and voted the bill Inexpedient to Legislate, 310-24.

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<sup>1</sup>Although not material to the disposition of this complaint, the Committee wishes to note that contrary to the suggestion by Rep. Keans in her testimony, Richard Lambert, the Committee's researcher, did not participate in the drafting of this complaint.

<sup>2</sup>Representative Hemon was represented by counsel, and neither responded in writing to the merits of the complaint nor testified at the hearing.

HR 51 primarily addressed the same subject matter as a resolution introduced by Rep. Hemon in the 1994 session, the background of which was described in the Committee's report on Complaint 94-1:

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 question 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 jurisdiction did exist. Although Rep. Hemon appealed this finding several times to different courts, these courts found that the ruling of the Probate Court was correct.

#### IV. Rulings

Section I, Principles of Public Service, Section 1, Public Office as Public Trust, provides as follows:

Legislators should treat their office as a public trust, only using the powers and resources of public office to advance public interests, and not to attain personal benefits or pursue any other private interests incompatible with the public good.

As with the resolution resulting in Complaint 94-1, Rep. Hemon, in filing HR 51, has used the powers and resources of his public office to pursue a private interest, i.e., his interest in the litigation regarding the probate proceedings relating to his mother, in a manner incompatible with the public good. Although review of the workings of the judicial system, and consideration of any necessary judicial reform, are certainly within the legislative sphere, defamatory statements and acts of retribution against particular judges involved in the legislator's particular case are clearly violative of this section of the Guidelines.

Section IV, 2(c) provides as follows:

In dealing with state agencies, legislators shall not ... threaten a state agency or its employees with reprisals or promised inducements of any kind to influence agency decisions so as to obtain special personal benefits for the legislator, the legislator's immediate family, or for certain constituents which would not be available to others under similar conditions.

Here, the introduction of HR 51, with its threat of impeachment proceedings, constitutes a reprisal against the affected judges, the only effect of which would be to gain retribution for Rep. Hemon or attempt to cause these or other judges to view his personal litigation more favorably. These are improper purposes which violate the prohibited activities provisions of the Guidelines.

Section IV, 3 provides as follows:

Legislators shall not use their public position or office to obtain anything of value for the private benefit of the legislator or the legislator's immediate family.

The same considerations described in the preceding paragraph apply here. As a legislator, Rep. Hemon possesses a unique power to introduce legislation for consideration by the general court. It is an abuse of that power to use the process for one's private benefit.

#### V. Conclusion

No distinction of substance exists between the action of Rep. Hemon in introducing HR 51 in the 1996 session and his actions in 1994 which led to a reprimand by the House of Representatives in accordance with the recommendation of this Committee. Accordingly, having found the several violations described above in accordance with the procedures of the Committee, it is the recommendation of this Committee that Rep. Hemon be censured by the House for his disregard of the Ethics Guidelines.

Dated at Concord, New Hampshire this 18th day of November, 1996.

Respectfully submitted,

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Russell F. Hilliard  
Chairman