

MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
STATE HOUSE STATION 6
AUGUSTA, MAINE 04333

November 17, 1986

Senator Richard L. Trafton
200 Court Street
Auburn, Maine 04210

Dear Senator Trafton:

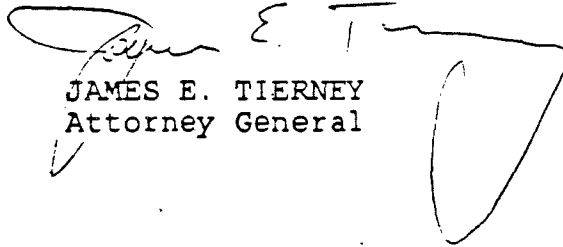
You have inquired whether there is any constitutional impediment to the exercise of the confirmation power by the Maine Senate, pursuant to Article V, Part 1, Section 8 of the Maine Constitution, on more than one nominee for executive or judicial office simultaneously. For the reasons which follow, it is the opinion of this office that the Senate may exercise its confirmation power in this manner, so long as the vote of each member is recorded.

The provision of the Maine Constitution just cited provides that the recommendation of the appropriate legislative committee on executive and judicial officers shall be reviewed by the Senate and shall become final unless overridden by a vote of two-thirds of those present and voting. Except for providing that the vote "shall be by the yeas and nays," the provision is silent as to the procedure which the Senate may employ. You have asked whether, in those instances where several nominations are coming before the Senate on the same day, it would be permissible for the Senate to vote on all such nominations simultaneously, having determined in advance that no Senator wishes to object thereto. It would seem clear that,

so long as the yeas and nays of such a joint vote were recorded, there would be no prohibition in the Constitution for the Senate to act in such a manner. The constitutional provision in question does not require that a separate vote be taken on each nomination, but only that each nomination be the subject of a vote of the Senate on which the yeas and nays are recorded. Thus, it would be constitutionally acceptable, for example, for the chair to advise the Senate that it proposed to entertain confirmation votes on a group of nominees simultaneously unless any Senator wished to have one of the nominees set aside for an independent vote because there was opposition thereto.

I hope the foregoing answers your question. Please feel free to reinquire if further clarification is necessary.

Sincerely,



JAMES E. TIERNEY
Attorney General

JET/ec

cc: Hon. Charles P. Pray
President, Maine Senate