

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2279

H. P. 2127

House of Representatives, March 1, 1976

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Kany of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

AN ACT Relating to Conflicts of Interest in Offices
Subject to Legislative Confirmation.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 3 MRSA c. 6 is enacted to read:

CHAPTER 6

CONFIRMATION OF APPOINTMENTS

§ 151. Legislative review of conflicts of interest in appointments subject to confirmation

1. Definition; conflict of interest. "Conflict of interest" occurs whenever a nominee's private financial interests that would survive the nominee's appointment to office would tend to interfere with the complete fidelity in the exercise of the powers and duties of the office which the officeholder owes. If a definition or standard of conflict of interest in a particular office is set forth in the statutes relating to the powers and duties of the office, that definition or standard shall be applicable pursuant to this section.

2. Legislative review. Any legislative committee which reviews a Governor's nomination to an office which, by the Constitution or by law, is subject to confirmation by the Legislature, shall have the authority to inquire into the income, assets and background of the nominee in order to determine whether or not a conflict of interest would exist in the nominee's exercise of the powers and duties of the office. When this duty so requires, the Legislature may grant to this committee the power to administer oaths, to issue subpoenas, to compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony and to cause the deposition of witnesses as provided in section 165, subsection 7. If the committee

determines that a conflict of interest would exist if the nominee were confirmed, the committee shall recommend denial of the nomination.

Sec. 2. **Effective date.** This Act shall take effect on January 4, 1977.

STATEMENT OF FACT

This bill would apply to legislative review of a Governor's nominations to office under the new constitutional procedure to take effect on January 4, 1977. The bill establishes a definition of conflict of interest derived from the common-law definition which the Supreme Judicial Court has employed. In **Opinion of the Justices**, (330 A. 2nd 912 at 916), the court stated:

“‘[t]he law requires of . . . [public officers] **perfect fidelity** in the exercise of . . . [the powers and duties of their officer], . . . **whatever has a tendency to prevent their exercise of such fidelity is contrary to the policy of the law, and should not be recognized as lawful. . .**’
(emphasis supplied) (113 Me. p. 321, 93 A. p. 829).”

A legislative committee would be required to inquire into the possibility of a conflict of interest on the part of a nominee and would have to recommend denial of the nomination if it determined that a conflict did exist.