

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 290

H. P. 226

House of Representatives, February 9, 1977

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

EDWIN H. PERT, Clerk

Presented by Mrs. Mitchell of Vassalboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

**AN ACT Relating to Judicial Review of Public Utilities Commission
Decisions.**

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

35 MRSA § 305, as amended by PL 1965, c. 91, § 5, is repealed.

STATEMENT OF FACT

The purpose of this bill is to repeal one of the 2 existing procedures for securing judicial review of a Public Utilities Commission decision. At present Maine Statutes provide that a Public Utilities Commission decision may be appealed directly to the Supreme Judicial Court in the same manner as an appeal from a judgment of the Superior Court in a civil action. This legislation does not change that procedure. However, in addition to this procedure, one may prosecute concurrently therewith, a second procedure which confers extraordinary jurisdiction upon the Supreme Judicial Court. The jurisdiction is extraordinary because it requires the court to exercise its own independent judgment as to both law and facts, thereby substituting its judgment for the commission's on pure questions of fact, a function normally reserved to only the fact-finding forum, in this case, the Public Utilities Commission. Moreover, jurisdiction is conferred by this extraordinary statute upon the Chief Justice, which empowers him to enjoin or stay the effect of a commission ruling or order at any time after its entry. The purpose of this bill is to repeal these extraordinary powers and place judicial review of Public Utilities Commission decisions on a similar basis to what they are believed to be

in a majority of other states. The Maine Supreme Judicial Court has ruled that it is not constitutionally required that it exercise its independent judgment on facts where constitutional issues are raised.