

LEGISLATIVE ETHICS COMMITTEE

Room 112, State House, 107 N. Main St., Concord, and NH 03301-4951
(603) 271-3326

Research Brief

Subject: New Hampshire Constitution Part First, Articles 31 and 32.

Date: April 4, 2003

From: Richard M. Lambert

To: Members, Legislative Ethics Committee

The Committee requested information relative to the historical background of New Hampshire Constitution Part First, Articles 31 and 32.

OVERVIEW:

Part First, Article 31 of the *Constitution of the State of New Hampshire* states:

31st. The legislature shall assemble for the redress of public grievances and for making such laws as the public good may require.

Part First, Article 32 of the *Constitution of the State of New Hampshire* states:

32d. The people have a right, in an orderly and peaceable manner, to assemble and consult upon the common good, give instructions to their representatives, and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer.

Article 31 and Article 32 both were part of the New Hampshire Constitution of 1784. Article 31 was amended in 1793. Article 32 remains unchanged.

HISTORY:

From New Hampshire's provincial period, through early statehood and into the nineteenth century, the state's legislature (or "General Court") spent a great deal of its time considering and acting upon petitions from its citizens.¹ A review of the New Hampshire House and Senate *Journals* and all extant legislative records from 1770 to 1810 reveals that it was common in the early period of this state's history for citizens to petition and instruct their representatives in the General Court. There are approximately 18,000 petitions preserved in original manuscript form at the New Hampshire State Archives from the period of approximately 1680 to 1850.²

During this period when there were few standing committees in the legislature or bureaucratic agencies in the executive branch to directly address the needs or grievances of individuals or groups of citizens, much of the legislation introduced and enacted was in response to petitions. Enclosed are copies of some petitions submitted to the General Court in the 1780's and 1790's, as published in the *New Hampshire State Papers*.³ As you will note, some petitions were from individual citizens and some were submitted by groups of citizens, including citizens gathered at town meetings. Some petitions requested address of an individual grievance, such as requests for money they felt the state owed them, while others concerned general public policy issues, such as requests for roads, a bridge or ferry across a waterway, paper money, or a means of curtailing expensive law suits. It was also a common practice for litigants in civil cases to petition the legislature seeking new trials, or stays, appeals or reversals of decisions in the courts. Until the practice was ruled unconstitutional by the New Hampshire Supreme Court in the case of *Merrill v. Sherburne*⁴ in 1818, the state's laws were replete with examples of interference by the legislature in individual court cases.

The legislative process relative to petitions is apparent from the House and Senate *Journals*: a petition would be submitted and read (often by the clerks) in the House and the Senate. The body that first heard the petition would vote on whether to form a committee to consider it and would usually invite the other body to join the committee. Sometimes the petitioner, "petitionee," and other relevant persons would be invited or ordered "to be heard" before the General Court at a future date. After consideration of the petition, the committee would report back a recommendation as to whether a bill should be drafted in response. If such a recommendation were made, a bill would be quickly introduced and voted upon. If passed, the bill would then be sent to the other legislative body for consideration and possible enactment.⁵

Although provision for petitions to the legislature remained in the statutes until 1925⁶ (and the constitutional articles, of course, still remain), the collection of petitions to the General Court at the State Archives dwindles by the late 1840's. There appears to be no single reason why. One can only speculate that changes in the legislative process and the establishment of a larger bureaucratic structure in the executive branch provided a better means to address the needs and grievances of individuals and groups of citizens. These evolving institutional changes probably led to the demise of the practice of citizens petitioning their representatives.

¹ See Attachment A for an example of a typical day in the General Court during this period.

² State of New Hampshire Division of Records Management and Archives, Concord, NH.

³ See Attachment B. *New Hampshire State Papers*, 18: 755-6, 794-5, 838-40.

⁴ 1 NH 199.

⁵ See Attachment C for an example.

⁶ *New Hampshire Revised Statutes* (1842) 2:1-2, *General Statutes of New Hampshire* (1867) 2:1-4, *Public Statutes* (1901) 3: 1-3, *Public Laws of New Hampshire* (1925) 3:1-3.