

7 Oct 14

United States District Court
For the District of Columbia

Office of the Clerk
3rd and Constitution Avenue, N.W.
Washington, D. C. 20001

James F. Babey
Clerk

December 18, 1974

MEMORANDUM FOR THE RECORD

RE: MISCELLANEOUS 74-128

763 7384
On December 17, 1974, I met for about 45 minutes with Mr. John McLean, Director, National Audiovisual Center, NARS, GSA, in Suitland, Maryland. He had five staff members present.

I asked for the meeting to find out whether the Center might be of help to the Court in trying to resolve the best way of making distribution of the tapes. I gave them copies of Judge Gesell's December 5, 1974, Memorandum and Order. I emphasized to them that I was not representing either the Court or Judge Gesell, rather I was just there unofficially to obtain information that I might eventually pass on to the Court. Mr. McLean emphasized that he, too, could not commit the Center to anything at this point and that any decision to involve his agency would have to be made by either the Archivist or the Administrator of GSA.

12/18/74

After they read Judge Gesell's Order and we had some discussion, Mr. McLean and his staff concluded that they would have the technical capability to make the tapes available to the public and the press pursuant to the criteria suggested by Judge Gesell. They pointed out that this type of task is exactly the type that they are set up to handle. They did raise a number of technical questions about implementation problems and possible legal problems but no attempt was made to resolve them since this would have gone beyond the purpose of the meeting.

At the conclusion of the meeting I thanked them for filling me in on their functions and indicated that at some future date I would advise Judge Gesell of their existence.

They gave me a copy of GSA Bulletin FPMR B-21 dated 12/9/69 and BOB Bulletin No. 69-7 dated 10/30/68 which outline the services rendered by the Center. These directives point out that: "The Center serves as an information, sales, loan, and technical-service center for audiovisual materials produced by or for Federal agencies."

James F. Dowey

United States District Court
For the District of Columbia

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Washington, D. C. 20001

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Verdict was
returned 11/17/75.

James F. Dakey
Clerk

January 2, 1975

MEMORANDUM TO THE WATERGATE TRIAL JURORS

Just in case your family or friends didn't save you a copy of an editorial which appeared in the October 13, 1974, issue of the Washington Post, here's a copy.

You will soon be receiving checks for your juror fees for December and January 1. You will also be sent, separately, a Certificate of Service signed by Judge Sirica

Happy New Year!

James F. Dakey

Steve -
Jurors were
sequestered during
trial and wouldn't see
newspaper
ask me about the
we converted juror
quarters in Court
to a room.
Jim

Enclosure

United States District Court
For the District of Columbia

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3rd and Constitution Avenue, N.W.
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James F. Dakey
Clerk

January 2, 1975

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James F. Dakey

Enclosure

WASHINGTON POST 10/13/74

The Watergate Trial Jury

JUST BEFORE noon on Friday, as he swore in 12 jurors, Judge John Sirica provided his answer to those who said that the Watergate cover-up defendants could not receive a fair trial before a District of Columbia jury. His answer, after eight days of questioning prospective jurors, was that an impartial jury had been elected. Whether he is right or not may eventually be tested in a higher court, but it is sufficient for the moment to assume he is right and to reflect on the tasks and the burdens that have been assigned those 12 jurors and six alternates.

The tasks are monumental. They must listen to weeks of testimony including, presumably, hours of tape recordings and determine, when it is all over, whether the resecution has proved beyond a reasonable doubt that the five men on trial conspired to obstruct the administration of justice. Along the way, of course, they will have other decisions to make: whether certain defendants committed perjury; whether certain defendants actually did obstruct justice in addition to conspiring to do so—or without conspiring to do so; and, above all, whom and what to believe.

That would be a difficult assignment in any trial. It is made particularly difficult in this one because of the nature of the defendants, the magnitude of the crimes with which they are charged, the repercussions that have already been caused by the events on which these criminal charges are based, and because of the widespread knowledge of what the facts are or what they are believed to be concerning those events.

It is this last point, of course, that has made the selection of the jury in this case so controversial and so odious. Because the news media have reported so fully all the steps leading up to this trial, almost everybody knows about the Watergate cover-up. From that fact, some observers promptly concluded that an impartial jury could never be found. What was wrong with this conclusion was that it is based on a misreading of the Constitution. The Constitution does not require jurors who have never heard about the case they are to decide; it requires only jurors who do not have a fixed opinion about the guilt or innocence of the defendants. Indeed, the Constitution required all jurors to know nothing in advance about the case before them, major criminal trials could never be held in the small towns of this country where everybody knows about serious crimes soon after they occur and people have been arraigned on them.

What Judge Sirica has been doing in the last two weeks (at least, what we presume he has been doing, since he has done it in "secret") is to eliminate prospective jurors who had a fixed opinion about the outcome of the trial. From what little has become known, it appears that the problem of eliminating jurors who were predisposed toward acquittal was at least as great, and perhaps greater, as eliminating those who were predisposed toward conviction. The pardon of Mr. Nixon seems to have persuaded many that the five defendants in this case should not be punished even if they are guilty. That turn of events is particularly ironic in light of the complaints last summer by Nixon White House aides that any jury in the District of Columbia would be totally anti-Nixon and pro-prosecution because the city is predominantly black and Democratic.

This is not to suggest that Judge Sirica has found 18 persons (12 jurors and six alternates) so oblivious of their surroundings as to have had no thoughts about the Watergate cover-up or about the pardon of Mr. Nixon. It is to suggest that Judge Sirica has found 18 persons who will do their best to set those thoughts aside and decide this case on the basis of what they see and hear in the weeks ahead. In the long run, of course, the jurors may end up arguing about matters not directly before them—the impact of the pardon, the findings of other bodies, and so on. If they do, they will not be the first jurors to do so because a jury is not a machine into which facts are punched and from which an answer automatically appears. A jury, after all, is there to exercise the common sense and good judgment of the society it represents.

One thing should be said about the personal burden these 18 jurors and their families are being asked to bear. The jurors have already disappeared behind locked doors and will be there for three or four months or longer. They will spend Thanksgiving together, away from their families. They may spend Christmas and New Year's together. They will spend many hours just waiting—for the lawyers to argue points of law out of their presence, for the next day's session of court to begin. Their impartiality was maligned by high officials even before they were selected and their verdict, whatever it may be, will be criticized. Their only reward will come in the knowledge that they have done their duty as citizens and that they have shared the ultimate responsibility in one of the most important criminal trials of our times.

Reverse Chronology of Important Cases During the "Davey Era," 1975-1990

United States v. Rayful Edmond III (1990) (before Judge Charles R. Richey)

- After his arrest, Edmond was kept in maximum security facility in Virginia and flown to the courthouse every day because of fears of armed escape attempt. He was sentenced to life in prison for crack cocaine dealing, and his gang-related activities including many murders.

United States v. Marion S. Berry (1990) (before Judge Thomas Penfield Jackson)

- Berry was convicted to only a single count of misdemeanor drug possession in 1990 after 7 years of federal investigation, indictments, and allegations into his crack cocaine use, including video footage of his drug use. He was sentenced to 6 months in prison by Judge Jackson.

James Watt (1989 or 1990)

- Reagan's Secretary of the Interior was accused as part of a larger scandal at the Housing and Urban Development Department during the Bush Administration.

Iran Contra – scandal broke Nov. 1986 (before Judge Gerhard A. Gesell)

- *United States v. Richard Secord* (1989) In addition to being indicted for the Iran-Contra affair and pleading guilty in 1989, Secord also had improper dealings with Edwin Wilson regarding arms sales in 1983.
- *United States v. Poindexter* (1988-89) Poindexter was Reagan's National Security Advisor; he played a role in electronically destroying more than 5,000 messages in the White House computer system in an attempt to cover up the scandal.
- *United States v. Oliver North* (1988-89) North was one of Poindexter's aides; he also participated in the electronic document deletion.
- *Oliver North v. Laurence E. Walsh* (1987-88) North opposed a subpoena to produce documents pertaining to the Iran-Contra scandal; he ordered a FOIA request and civil trial subpoena to Independent counsel Walsh demanding production of documents hoping to find conflicts of interest in Walsh's staff.
- *United States v. Robert McFarlane* (1988)
- *Oliver North v. Edwin Reese, III* (1987)

United States v. Jonathan Pollard (1986) (before Chief Judge Aubrey E.

Robinson)

- Pollard eventually pleaded guilty to passing top-secret information to Israel. He was sentenced to life in prison.

United States v. Mary Treadwell (1984) (before Judge John Garrett Penn)

- Treadwell was convicted for conspiracy, false statements, mail fraud.

Tavoulaareas v. The Washington Post (1983) (before Judge Oliver Gasch)

- The Washington Post ran a story implying that Tavoulaareas, President of Mobil Corporation, "set up" his son to work with a Saudi shipping company that did business with Mobil. When the jury verdict came back in favor of Tavoulaareas, the district court judge gave a judgment NOV, finding that there was not enough evidence to show libel.

United States v. AT&T (litigated and settled in 1982; settlement implemented 1984) (before Judge Harold H. Greene)

- The Department of Justice began an antitrust investigation in 1974 that led to the break-up of telephone conglomerate AT&T, also called Bell.

United States v. Hinckley (1981-1982) (before Judge Barrington D. Parker)

- Hinckley was charged with the assassination attempt of President Reagan.

United States v. Edwin Wilson (1980)

- Wilson, a former CIA operative, was convicted for selling explosives to the Libyan Government.

Isabel de Letelier v. Republic of Chile (1980)

- Isabel de Letelier brought suit against the Republic of Chile to recover for her husband's untimely death in a car-bombing while working on behalf of the government.

Nixon v. Warner Communications, Inc. (1978) (before Judge John Sirica)

- United States Supreme Court upheld Judge Sirica's ruling that the Nixon tapes did not need to be disclosed.

United States v. Lyn Nofziger (1987-88) (before Judge Thomas A. Flannery)

- Nofziger, a former part of the Reagan Administration, was investigated for violating the Ethics in Government Act when he lobbied on behalf of Wedtech Corporation.

Watergate trials (before Judge John Sirica)

- *DNC v. James McCord, Jr.* (1976) The Democratic National Committee sued McCord for the illegal break-in.
- *United States v. Nixon* (1974) (before Judge Charles R. Richey) Nixon was required to surrender the subpoenaed tapes; the Supreme Court unanimously denied his claim of executive privilege.
- *Common Cause v. Committee to Re-Elect the President* (1974) The Committee to Re-Elect the President was convicted for violation of federal election laws.
- *United States v. John Mitchell* (1974) Mitchell was one of the former Nixon aides tried for conspiracy to obstruct justice.
- *United States v. Hunt* (1973): Hunt planned the Watergate break-in; he pleaded guilty.
- *United States v. G. Gordon Liddy* (convicted 1973): Liddy admitted to helping plan the Watergate break-in.
- *United States v. James McCord, Jr.* (convicted 1973): McCord was one of the burglars; he refused to cooperate and later sent Sirica the notorious letter detailing the multiple levels of conspiracy involved in the scandal.
- *Daniel Ellsberg v. John W. Mitchell* (1973) Ellsberg was tried in federal court for publishing what have become known as the Pentagon Papers.

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James F. Davey
19 Quail Ridge Road
Cranston, RI 02921
401 464-6222
Email: hovajd65@cox.net

January 8, 2004
The Honorable Donald L. Carcieri
State Capitol
82 South Street
Providence, RI 02903

Dear Governor Carcieri:

I'd very much like to work either on or for the Commission you are recommending be established to root out an imbedded culture of unethical, corrupting behavior in RI politics.

Let me tell you a little bit about me. I have been married for 43 ½ years to my wife, Connie, a graduate of Lockwood High School and Rhode Island College. We have two children and four grandchildren.

I graduated from North Kingstown High School in 1953 and the University of RI in 1958 with a degree in Accounting. Upon graduating from URI, I took a job in Washington, DC as an Internal Auditor with the US Department of Agriculture (USDA). Between 1958 and 1968 I held progressively more responsible jobs with the USDA's Office of Inspector General with my last being "Supervisory Auditor in Charge of International Audits". In that capacity I conducted audits in South America, Africa, Israel, Pakistan, Afghanistan, Iran and India.

While working fulltime at USDA I attended Georgetown Law School at night from 1961-65 graduating with a JD in 1965.

In 1968 I left USDA to become one of six staff members who conducted a comprehensive management study of the District of Columbia Court System. The study was prompted by Senator Joseph Tydings, Chairman of the US Senate's Judiciary Committee, who was very concerned with the "myriad, crippling defects in the administration of justice in the National Capital [DC]". In commenting on our completed study in May 1970, Senator Tydings said: "The work of the court management study team has already made a major impact on the civil and criminal justice system in DC by contributing to the development of the pending reorganization of the court system in DC." Senator Tydings went on to say: "In sum, the significance, and impact to date, of the court management study cannot be underestimated." (How challenging and exciting it would be to become part of another study having an objective of accomplishing major change!)

Upon completion of the study in 1969 the US District Court for the District of Columbia offered me the job of Chief Deputy Clerk. I accepted the offer and was promoted to Clerk of the Court in 1970. I served as Clerk from 1970 – 1991 during which time I had management responsibility for all non-judicial functions related to numerous complex criminal and civil cases including the Watergate cases, the AT&T civil antitrust case, the Pentagon Papers case, the John Hinckley case, and the Oliver North case.

During my tenure I was responsible for providing administrative support to not only the US District Court but also the US Court of Appeals for the District of Columbia Circuit (USCA for DC). I had the honor of serving former Chief Justice Burger, current Supreme Court Justices Ginsberg, Scalia and Thomas when they served on the USCA for DC as well as former US District Judges Sirica (Watergate), Gesell (Oliver North and Pentagon Papers), Parker (John Hinckley), Greene (AT&T), and Robinson (Jonathon Pollard).

Since retirement in 1991 I have been engaged in a number of pro bono matters including helping Estonia and Macedonia establish new Court systems upon the fall of the Iron Curtain.

In 2001 my wife and I decided to return to RI after an absence of 41 years. We settled in Cranston where I currently serve as a volunteer for the city working on projects designed to improve services rendered to citizens of Cranston. Connie volunteers as a teacher's aide in West Warwick.

At the State level I am a member of Common Cause of RI. I currently serve on its Board of Directors, its Separation of Powers Task Force and its Fund Development Committee.

I also am an active member of Big Brothers of RI. My "Little Brother" is a young man who attends Park View Middle School in Cranston.

I'm enclosing several documents that provide more insight into my character and accomplishments.

I commend you for your efforts to reform our State's government and would be happy to assist you in any way you think I could be of help.

Sincerely,

Enclosures

The Honorable James F. Davey

(Elected as State Representative in Cranston, Rhode Island, 2004)

The Honorable James F. Davey graduated from the University of RI with a degree in Accounting. Upon graduating from URI, he took a job in Washington, DC as an Internal Auditor with the US Department of Agriculture (USDA). Between 1958 and 1968 he held progressively more responsible jobs with the USDA's Office of Inspector General with his last being "Supervisory Auditor in Charge of International Audits". In that capacity he conducted audits in South America, Africa, Israel, Pakistan, Afghanistan, Iran and India.

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In 2001 Rep. Davey, along with his wife, Connie, decided to return to RI after an absence of 41 years. They settled in Cranston where he served as a volunteer for the city working on projects designed to improve services rendered to citizens of Cranston.

At the State level he was a member of Common Cause of RI and served on its Board of Directors, its Separation of Powers Task Force and its Fund Development Committee.

During that same time-frame Rep. Davey was also an active member of Big Brothers of RI.

He became a State Representative in the year 2004. Rep. Davey is amongst the first to embrace and support our efforts and we are honored to have him join forces with us towards our mutual goal: to eradicate Alzheimer's disease. We are proud to announce Rep. Davey as the first member of our Advisory Committee.

FOR IMMEDIATE RELEASE:
January 4, 2005

For additional information
contact: Jennifer Mischley
Phone: (401) 222-2457

REP. DAVEY SWORN IN AS GENERAL ASSEMBLY CONVENES

STATE HOUSE – Rep. James F. Davey (R-Dist. 15) of Cranston was formally sworn into office on Tuesday, January 4, as the 2005-2006 session of the Rhode Island General Assembly convened.

Representative Davey was one of 13 new members of the House of Representatives who took the oath of office, which was administered to all 75 House members by Secretary of State Matthew A. Brown.

The House of Representatives began its legislative year at 3 p.m. Tuesday with a program of activities that included the election of the Speaker of the House.

Representative Davey will receive his House committee assignment within the next few weeks.

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Rhode Island House of Representatives

Biography

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Representative James F. Davey

House Separation of Powers Committee; House Judiciary Committee

James F. Davey (R-District 15, Cranston) was born on September 19, 1935. He is married to Carmelita Trigo and has two children, Scott and Lynn.

- **EDUCATION:** North Kingstown High School, 1953; University of Rhode Island, Accounting, 1958; Georgetown Law Center, J.D., 1965.
- **EMPLOYMENT:** Ten years as a Federal Internal Auditor; Twenty three years as a Federal Court Administrator
- **GENERAL BACKGROUND:** Federal Court Clerks Association; Treasurer, FCCA Foundation; Member, Big Brothers of Rhode Island; Member, Knights of Columbus
- **PUBLIC SERVICE INFORMATION:** Elected Representative November 2, 2004

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Representative James F. Davey

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Thank you for visiting the Rhode Island House of Representatives website. This page was designed to be user-friendly and informative.

Please review my latest initiatives and legislative activities. In addition, listing of district events and links to various Rhode Island government resources will be available. Feel free to email your concerns and read the latest news releases.

Being a responsive lawmaker is an important aspect of making our government work for all of us. Your participation is welcomed and added to making Rhode Island government one in which all its citizens can be proud.

Again, thank you for visiting this web site and please return often.

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Press Releases

[Printer Friendly View](#)

1/19/05 **Rep. Davey appointed to Separation of Powers, House Judiciary committees**

STATE HOUSE – Rep. James F. Davey (R-Dist. 15) of Cranston has been appointed to serve on the Separation of Powers Committee and the House Judiciary Committee, House Speaker William J. Murphy has announced.

"I'm eager to begin working on such significant committees," said Representative Davey, who is serving his first term in the House of Representatives. "I have been committed to the separation of powers issue for quite some time, and look forward to taking part in discussions and votes that will help shape the future of Rhode Island.

"The Judiciary Committee will be a good fit as well, considering my background and interest in judicial administration."

As a member of Common Cause of Rhode Island, Representative Davey served on its Separation of Powers Task Force. From 1970 to 1991 he served as Clerk of the U.S. District Court for the District of Columbia, and during his retirement helped the republics of Estonia and Macedonia establish new court systems.

The Separation of Powers Committee, a relatively new House committee, handles all bills stemming from and regarding implementation of the Separation of Powers constitutional amendment approved by voters last November. The House Judiciary Committee handles matters dealing with criminal and civil law and procedure, measures involving the Rhode Island Constitution and other laws, and legislation pertaining to election laws, the penal code and the judicial system.

For more information, contact:
Dana Rae Lavery, Publicist
State House Room 20
Providence, RI 02903
(401) 222-2457



 Provided by
The Legislative Press

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Press Releases

2/17/05 **Legislators introduce Taxpayers Relief Act of 2005**

STATE HOUSE - Legislators today unveiled the Taxpayers Relief Act of 2005, a bill designed to provide significant property tax relief for all Rhode Islanders.

"It is a well known fact that Rhode Island's property tax burden is oppressive. We are currently ranked sixth in the nation in this category," said Rep. James F. Davey (R-Dist. 15) of Cranston, the bill's main sponsor. "Our bill is designed to reduce the costs driving up property taxes rather than merely shifting how these costs are paid (from property taxes to sales taxes, income taxes or lottery revenues). Many of its provisions are not new. They have been introduced in the General Assembly before but this is the first time they have been bundled together as part of a comprehensive package designed to reduce property taxes."

The bill has five main categories – pension reform, relief from unfunded mandates, education accountability, management rights and health care reform.

The pension reform provisions would apply to all teachers, municipal employees, fire fighters and police in the state system who have less than 20 years service. (This covers 81 percent of existing employees.)

In its report entitled "State Pension Reform in RI" released earlier this week, the Rhode Island Public Expenditure Council said: "The increasing costs of the state and teacher pension systems are major drivers of the growth in state spending. The immediate fiscal impact of the growth in the state and local contribution to these funds will make it increasingly difficult to control costs and target resources to other priorities.

"In FY 2006 the taxpayers will have to increase their payment for teachers' pensions from \$128.5 million to \$179.7 million – an increase of \$51.2 million. 60 percent of that increase will have to be paid by cities and towns."

If nothing is done to reform the teachers' pension system, RIPEC projects the taxpayers contribution will rise from \$128.5 million this year to \$400 million in 2022.

Under the bill, teachers and municipal employees will be eligible to retire at 55 with 30 years service. Maximum pension 75 percent of average high 3 years. (Currently 28 years of service at any age and pension at 80 percent for teachers and 30 years at any age and pension at 75 percent for municipal employees.)

Police and fire fighters will continue to be able to retire at 55 with 10 years of service or 50 with at least 20 years of service. However, the current provision of retirement at any age with 25 years of service would be eliminated. The earliest age you could start receiving a pension would be 50.

For Cranston police and firefighters, longevity pay and legal holiday pay would no longer be included in their pensions and their pensions would be based on the average of their highest three years rather than their final pay check.

COLAs would be limited to the consumer price index and capped at 3 percent.

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For teachers alone, we believe savings will significantly exceed the FY 2006 savings of \$35.8 million estimated under Governor Carcieri's proposal. (Although our proposal enables teachers to retire at age 55 with 30 years of service compared to the Governor's proposal for age 60, our proposal covers more employees - 11,000 - than the Governor's - 7000.)

There will be millions of dollars of additional savings when the proposed pension reforms are implemented for municipal employees and police and firemen, said Representative Davey.

The bill's cosponsors include Rep. Nicholas Gorham (R-Dist. 40, Foster, Coventry, Glocester), Rep. Matthew J. McHugh (D-Dist. 36, South Kingstown, Charlestown, New Shoreham, Westerly), Rep. Laurence W. Ehrhardt (R-Dist. 32, North Kingstown) and Rep. Richard W. Singleton (R-Dist. 52, Cumberland).

For more information, contact:

Dana Rae Laverty, Publicist

dlaverty@rilin.state.ri.us

State House Room 20

Providence, RI 02903

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Legislative Press & Information Bureau, R.I. State House, Room 20

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News: Recent Press Releases Op-Ed Publications About the Legislative Press Bureau

Press Releases

[Printer Friendly View](#)

3/1/05 **Rep. Davey introduces package of open government bills**

STATE HOUSE - Rep. James F. Davey (R-Dist. 15) has introduced several bills dealing with open government.

"I've been a strong proponent of open government for many years," said Representative Davey, who represents part of Cranston. "Citizens should be able to thoroughly examine and hold up to the light any true democratic institution. It's the only way to ensure a fair and honest government."

Two bills address the Joint Committee on Legislative Services (JCLS), the administrative arm of the General Assembly. The measures (2005 - H5172, (2005 - H5174) would require JCLS to undergo an annual audit by an independent auditor chosen by the auditor general. It would also require JCLS to provide an expenditure report to the General Assembly on a quarterly basis. The report would also be posted on the General Assembly's Web site and available to the public free of charge.

Another bill (2005 - H5028), sponsored by Rep. Nicholas Gorham (R-Dist. 40, Coventry, Foster, Glocester) and cosponsored by Representative Davey, would require that all legislative grants awarded by the General Assembly be listed in the state budget.

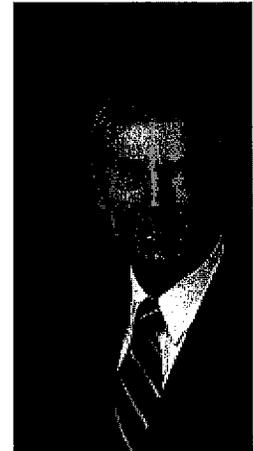
A separate bill (2005 - H5196) sponsored by Representative Davey would require all public bodies, such as boards, offices, school committees and fire districts, to post their collective bargaining agreements relating to their public employees on either their Web site or on the Department of Labor and Training's Web site.

"Contracts such as these should be clearly posted and easily accessible to the public," said Representative Davey, who serves on the House Separation of Powers and the House Judiciary committees. "After all, taxpayers fund these jobs and deserve to know how their hard-earned dollars are being used."

Another measure (2005 - H5010) sponsored by Rep. Carol A. Mumford (R-Dist. 41, Cranston, Scituate) and cosponsored by Representative Davey would repeal the inheritance tax in Rhode Island.

A member of Common Cause of Rhode Island, Representative Davey has served on its Separation of Powers Task Force.

For more information, contact:
Dana Rae Laverty, Publicist
State House Room 20
Providence, RI 02903
(401) 222-2457



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Tab 19