

# MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2209

H. P. 2037

House of Representatives, February 12, 1976

Reported by Mr. Spencer from the Committee on Judiciary, pursuant to H. P. 1782 and printed under Joint Rules No. 3.

EDWIN H. PERT, Clerk

File under Joint Rule 3, H. P. 1782 (Judiciary Committee).

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SIX

**RESOLUTION, Proposing an Amendment to the Constitution to Allow Judges whose Terms of Office Expire or who Reach Mandatory Retirement Age to Continue to Hold Office for up to 6 Months until their Successors are Appointed.**

**Constitutional amendment. RESOLVED:** Two-thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of this State be proposed:

**Constitution, Art. VI, § 4,** is amended to read:

**Section 4. Tenure of judicial officers.** All judicial officers shall hold their offices for the term of seven years from the time of their respective appointments (unless sooner removed by impeachment or by address of both branches of the Legislature to the executive, provided further that justices of the peace may be removed from office in such manner as the Legislature may provide) ~~and no longer, unless reappointed thereto;~~ provided, however, that a judicial officer whose term of office has expired or who has reached mandatory retirement age, as provided by statute, may continue to hold office for an additional period not to exceed six months or until his successor is appointed, whichever occurs first in time.

**Form of question and date when amendment shall be voted upon. Resolved:** That the aldermen of cities, the selectmen of towns and the assessors of the several plantations of this State are empowered and directed to notify the inhabitants of their respective cities, towns and plantations to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of Senators and Representatives at the next gen-

eral election in the month of November following the passage of this resolution to give in their votes upon the amendment proposed in the foregoing resolution, and the question shall be:

“Shall the Constitution be amended as proposed by a resolution of the Legislature to allow judges whose terms of office expire or who reach mandatory retirement age to continue to hold office for up to 6 months until their successors are appointed?”

The inhabitants of said cities, towns and plantations shall vote by ballot on said question, and shall indicate by a cross or check mark placed against the words “Yes” or “No” their opinion of the same. The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the office of the Secretary of State in the same manner as votes for Governor and Members of the Legislature, and the Governor and Council shall review the same, and if it shall appear that a majority of the inhabitants voting on the question are in favor of the amendment, the Governor shall forthwith make known the fact by his proclamation, and the amendment shall thereupon, as of the date of said proclamation, become a part of the Constitution.

**Secretary of State shall prepare ballots. Resolved:** That the Secretary of State shall prepare and furnish to the several cities, towns and plantations ballots and blank returns in conformity with the foregoing resolution, accompanied by a copy thereof.

#### STATEMENT OF FACT

It is the purpose of this resolution to amend Article VI, section 4 of the Constitution of Maine so that judges whose terms of office expire or who reach mandatory retirement age may continue to hold office for up to 6 months until their successors are appointed.

This resolution is necessary because the confirmation of judges by legislative action instead of the Executive Council will result in a situation where the 7-year terms of many judges will expire or many judges may reach mandatory retirement age at a time during the year when the Legislature is not in session. The present provisions of Article VI, section 4, specifically provide that judges shall serve terms of seven years and no longer unless they are reappointed to office. This amendment would, therefore, provide for them to hold over in office for up to 6 months until their successor is appointed after the confirmation process has been completed.