

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 246

H. P. 197

House of Representatives, January 31, 1979

Referred to the Committee on State Government. 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-NINE

RESOLUTION, Proposing an Amendment to the Constitution of Maine Repealing the Offices of Judges of Probate and Registers of Probate as Constitutional Officers.

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

Sec. 1. Constitution, Art. V, Pt. 1, § 8, first sentence, as repealed and replaced by CR 1975, c. 4, is amended to read:

He shall nominate, and, subject to confirmation as provided herein, appoint all judicial officers ~~except judges of probate~~ and justices of the peace, and all other civil and military officers whose appointment is not by this Constitution, or shall not by law be otherwise provided for.

Sec. 2. Constitution, Art. VI, § 6, as last amended by CR 1975, c. 4, is repealed as follows:

~~**Section 6. Judges and registers of probate, election and tenure. Vacancies.** Judges and registers of probate shall be elected by the people of their respective counties, by a plurality of the votes given in, at the~~

~~biennial election on the Tuesday following the first Monday of November, and shall hold their offices for four years, commencing on the first day of January after their election. Vacancies occurring in said offices by death, resignation or otherwise, shall be filled by election in manner aforesaid at the November election, next after their occurrence, and in the meantime, the Governor may fill said vacancies by appointment, and the persons so appointed shall hold their offices until the first day of January next after the election aforesaid.~~

Sec. 3. Constitution, Art. IX, § 2, is amended to read:

Section 2. Offices incompatible with each other. Election to Congress disqualifies. No person holding the office of Justice of the Supreme Judicial Court, or of any inferior court, Attorney General, ~~county district~~ attorney, Treasurer of the State, Adjutant General, ~~judge of probate, register of probate, register of deeds~~ sheriffs or their deputies, clerks of the judicial courts, shall be a member of the Legislature; and any person holding either of the foregoing offices, elected to, and accepting a seat in the Congress of the United States, shall thereby vacate said office; and no person shall be capable of holding or exercising at the same time within this State, more than one of the offices before mentioned.

Constitutional referendum procedure; form of question; effective date. Resolved: That the city aldermen, town selectmen and plantation assessors of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at a special statewide election on the Tuesday following the first Monday of November following the passage of this resolution, to vote upon the ratification of the amendments proposed in this resolution by voting upon the following question:

“Shall the Constitution of Maine be amended to repeal the offices of judges of probate and registers of probate as constitutional offices?”

The legal voters of each city, town and plantation shall vote by ballot on this question, and shall designate their choice by a cross or check mark placed within the corresponding square below the word “Yes” or “No.” The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if it appears that a majority of the legal votes are in favor of the amendments, the Governor shall proclaim that fact without delay and the amendments shall become part of the Constitution on January 1, 1983.

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purpose of this referendum.

STATEMENT OF FACT

The purpose of this resolution is to remove the judges and registers of probate as constitutional officers. The resolution will merely remove the constitutional provisions, and will not affect present statutes governing the judges and registers, or their offices.

This resolution will become effective on January 1, 1983, which will allow all judges presently serving to complete the terms for which they were elected.