

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

December 12, 1967

Joseph T. Edgar, Secretary of State

Secretary of State

George C. West, Deputy

Attorney General

Constitutional Amendment Effective Upon Future Act of Legislature.

FACTS:

Chapter 77 of the Resolves of 1967 is a proposed constitutional amendment repealing the Office of Judges and Registers of Probate. The resolve provides:

" . . . and the amendment shall become effective at such time as the Legislature by proper enactment shall establish a different Probate Court system with full-time judges."

The people voted favorably upon this amendment on November 7, 1967, and the Governor so proclaimed on November 20, 1967.

QUESTION NO. 1:

Shall this Resolve, Chapter 77, be listed as "Adopted" under the Constitutional Amendments of 1967?

ANSWER NO. 1:

See Opinion.

OPINION NO. 1:

The question is framed as though a mandatory act by the Secretary of State was involved. We do not agree there is a mandatory act involved.

1 M.R.S.A. § 351 in setting a general effective date for constitutional amendments uses the phrase "its adoption by the people." Section 352 also uses the phrase "has been adopted."

The Legislature has used the word "adopt" in relation to a favorable vote by the people. Hence, it would be proper for the Secretary of State to list Chapter 77 of the Resolves of 1967 as "Adopted."

QUESTION NO. 2:

Shall Chapter 77 of the Resolves be included in the list with an Article number as is customary?

ANSWER NO. 2:

See Opinion.

OPINION NO. 2:

Here again, as in Question No. 1, the question is framed in the mandatory sense. Again, we do not agree there is a mandatory obligation involved.

It is a matter of custom for the Secretary of State to number amendments following adoption by the people and proclamation by the Governor. We can find no authorization in the Constitution or the laws which sets forth either such a duty or a procedure governing the numbering of amendments.

In the past amendments have been numbered consecutively according to the effective date. This amendment has an unknown effective date. If your office is to follow ~~past~~ practice any number now assigned must be changed if another amendment becomes effective before the one here discussed. Actually, the numbering is not really important except historically,

Joseph T. Edgar

-3-

December 12, 1967

and would probably be only official when codified by the Chief Justice of the Supreme Judicial Court and approved by the Legislature.

George C. West
Deputy Attorney General

GCM/slf