

# MAINE STATE LEGISLATURE

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DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333

October 27, 1978

Honorable Lawrence P. Greenlaw  
Oceanville Road  
Stonington, Maine 04681

Re: Time Convening of the Legislature.

Dear Representative Greenlaw:

This responds to your request that we review and, if necessary, clarify the opinion of October 24, 1978, relating to effectiveness of Chapter 4 of the Constitutional Resolutions of 1977. That Chapter changes the date for convening of the Legislature from the first Wednesday following the first of January following the general election to the first Wednesday of December following the general election.

Our review conducted as you requested and based on original documents discloses the following: The text of the amendment published with the pending constitutional amendments, Maine Revised Statutes Annotated, Volume 1 (1978 Supp. p. 153) is incomplete. Based on the text published therein, we concluded that the Resolution specified no effective date and that, therefore, the provisions of 1 M.R.S.A. § 351 applied to make the constitutional amendment effective January 3, 1979. A review of the original documents, however, discloses that the Resolution, as reprinted in Maine Revised Statutes Annotated, did not contain important procedural provisions. These provisions read, in pertinent part, as follows:

"The Governor shall review the returns and if it appears that a majority of the legal voters are in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment shall become part of the Constitution on the date of the proclamation."

This sentence was part of the Constitutional Resolution as enacted by the Legislature. It specifies that the effective date of the constitutional amendment shall be on proclamation by the Governor, and thus it complies with the provisions of 1 M.R.S.A. § 351 relating to separate specification of an effective date.

This does not mean, however, that if the amendment is approved, the 109th Legislature will necessarily convene in December, 1978. Section 4 of the Constitutional Amendment amends Article IV, Part 1, Section 5 and Article IV, Part 2, Section 4 of the Constitution to require the Governor to examine the list of persons elected and to notify those persons at least 7 days before the first Wednesday in December that they shall attend and take their seats in the Legislature to be convened on the first Wednesday of December. The first Wednesday of December is December 7, 1978. Therefore, the notification under the proposed constitutional amendment would have to be issued by the Governor on or before November 30, 1978. The constitutional amendment would, therefore, have to be effective by that date for the Legislature to convene in December of 1978. Otherwise, the practical effectiveness of the constitutional amendment would be delayed until the convening of the 110th Legislature in 1980.

It is not certain the constitutional amendment will be effective by November 30, 1978. Before the Governor can proclaim a constitutional amendment, we must await submission of the election results by the Secretary of State. These results must be submitted not later than 20 days after an election, 21 M.R.S.A. § 1092. In this case, those results could be submitted as late as November 27, 1978. If the results were submitted on November 27, 1978, 1 M.R.S.A. § 352 then gives the Governor a period of 30 days to declare a constitutional resolution effective.\* Therefore, if the voters approve on November 7, the Governor could declare the constitutional amendment effective any time between November 27, 1978, and December 27, 1978. If the constitutional amendment were declared effective on or before November 30, 1978, the Governor would be compelled to issue the summonses to the Legislature on November 30, 1978, and the Legislature would be authorized and required to convene on December 7, 1978. However, if the constitutional amendment were declared by the Governor at any time after November 30, 1978, it would not be effective to require the convening of the Legislature on December 7, 1978.

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\* The 30-day proclamation period in 1 M.R.S.A. § 352 has been approved by implication by the Supreme Judicial Court in reviewing a constitutional amendment containing similar approval provisions, Opinion of the Justices, 261 A.2d 53 (Me., 1970).

I hope this information is helpful. We regret any confusion which may have been caused as a result of the incomplete text of the resolution in the Maine Revised Statutes Annotated and our reliance on that text in developing the opinion of October 24, 1978.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donald G. Alexander".

DONALD G. ALEXANDER  
Deputy Attorney General

DGA:ec

cc: Hon. James B. Longley  
Hon. Joseph Sewall  
Hon. John L. Martin