

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND FOURTH LEGISLATURE

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**Legislative Document**

**No. 545**

S. P. 171

In Senate, February 4, 1969

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Tanous of Penobscot.

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## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-NINE

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**RESOLVE, Proposing an Amendment to the Constitution to Provide for Temporary Assignments of Justices of the Superior Court to the Supreme Judicial Court.**

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

**Constitution, Article V, Part First, Section 8, amended.** Section 8 of Part First of Article V of the Constitution is amended by adding at the end the following new sentence:

The temporary assignment by the Chief Justice of the Supreme Judicial Court or any Justice of the Superior Court, or other inferior court created by the Legislature in place thereof, to sit and act as a Justice of the Supreme Judicial Court, as provided by Article VI, Section 7, shall not be deemed to be an appointment within the meaning of this section.

**Constitution, Article VI, Section 5, amended.** Section 5 of Article VI of the Constitution is amended to read as follows:

**Section 5. Limitation on holding other office.** No Justice of the Supreme Judicial Court or any other court shall hold office under the United States or any other state, nor under this State, except as justice of the peace or as member of the Judicial Council; provided that Justices of the Superior Court, or other inferior court created by the Legislature in place thereof, may, on temporary assignment, sit and act as Justices of the Supreme Judicial Court as provided by Article VI, Section 7.

**Constitution, Article VI, Section 7, additional.** Article VI of the Constitution is amended by adding a new section 7 to read as follows:

**Section 7. Assignment to Supreme Judicial Court sitting as a law court.** Whenever in the opinion of the Chief Justice of the Supreme Judicial Court it becomes necessary because of illness, disqualification or other cause, he may assign a Justice or Justices of the Superior Court, or other inferior court created by the Legislature in place thereof, as provided by rules of the Supreme Judicial Court, to serve temporarily in the Supreme Judicial Court when sitting as a law court. While so serving, such justice shall have the authority of a Justice of the Supreme Judicial Court, but shall be deemed to be thereby discharging a judicial duty of his office as a justice of such inferior court.

**Constitution, Article IX, Section 2, amended.** Section 2 of Article IX of the Constitution is amended to read as follows:

**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 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; provided that a Justice of the Superior Court, or other inferior court created by the Legislature in place thereof, may, on temporary assignment, sit and act as a Justice of the Supreme Judicial Court as provided by Article VI, Section 7.

**Form of question, date when amendments shall be voted upon.**

**Resolved:** That the aldermen of cities, the selectmen of town 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 general election in the month of November or special state-wide election on the Tuesday following the first Monday of November following the passage of this resolve, to give in their votes upon the amendments proposed in the foregoing resolution, and the question shall be:

“Shall the Constitution be amended as proposed by a resolution of the Legislature to Provide for Temporary Assignments of Justices of the Superior Court to the Supreme Judicial Court?”

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 amendments, the Governor shall forthwith make known the fact by his proclamation, and the amendments 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 resolve, accompanied by a copy thereof.