

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 942

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H. P. 732

House of Representatives, February 15, 1973

Referred to the Committee on State Government. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Snowe of Auburn.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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**RESOLUTION, Proposing an Amendment to the Constitution to Abolish the Executive Council and Make Changes in the Matter of Gubernatorial Appointments and their Confirmation.**

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**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, Article IV, Part First, Section 5, amended.** The 4th sentence of Section 5 of Part First of Article IV of the Constitution is amended to read as follows:

The Governor and ~~Council~~ **the Secretary of State** shall examine the returned copies of such lists and twenty days before the first Wednesday of January biennially, shall issue a summons to such persons as shall appear to have been elected by a plurality of all votes returned, to attend and take their seats.

**Constitution, Article IV, Part Second, Section 4, amended.** Section 4 of Part Second of Article IV of the Constitution, as repealed and replaced by chapter 87 of the resolves of 1965, is amended to read as follows:

**Section 4. Examination of lists; summons of persons who appear to be elected.** The Governor and ~~Council~~ **the Secretary of State** shall, as soon as may be, examine the copies of such lists, and at least twenty days before the said first Wednesday of January, issue a summons to such persons, as shall appear to be elected by a plurality of the votes in each senatorial district, to attend that day and take their seats.

**Constitution, Article V, Part First, Section 8, amended.** Section 8 of Part First of Article V of the Constitution is amended to read as follows:

**Section 8. To nominate officers.** He shall nominate, and, with the advice and consent of the **Legislative** Council, appoint all judicial officers (except judges of probate), coroners, and notaries public; and he shall also nominate, and with the advice and consent of the **Legislative** Council, appoint all other civil and military officers, whose appointment is not by this Constitution, or shall not by law be otherwise provided for, except the land agent; and every such nomination shall be made seven days, at least, prior to such appointment.

**Constitution, Article V, Part First, Section 11, amended.** The first sentence of Section 11 of Part First of Article V of the Constitution is amended to read as follows:

He shall have power, ~~with the advice and consent of the Council~~ to remit, after conviction, all forfeitures and penalties, and to grant reprieves, commutations and pardons, except in cases of impeachment, upon such conditions, and with such restrictions and limitations as may be deemed proper, subject to such regulations as may be provided by law ~~relative to the manner of applying for pardons.~~

**Constitution, Article V, Part Second, Sections 1 to 4, repealed and replaced.** Sections 1 to 4 of Part Second of Article V of the Constitution are repealed and the following enacted in place thereof:

**Section 1. Constitution of Legislative Council.** There shall be a **Legislative Council** to consist of the President of the Senate, the majority leader of the Senate, the minority leader of the Senate, one other Senator elected by the Senate and for the House of Representatives, the Speaker of the House, the majority leader of the House, the minority leader of the House and four other members of the House elected by the House, one of whom shall be from the minority party. The **Legislative Council** shall have such powers and duties as provided by the Constitution and conferred upon it by law.

**Section 2. Appointment; vacancies.** The members shall be appointed and take office biennially on the second Wednesday of January. Vacancies shall be filled in the same manner as original appointments for the unexpired term. In the case of a vacancy created in the position of the President of the Senate, the majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, the majority leader of the House of Representatives or the minority leader of the House of Representatives when the Legislature is not in session, the vacancy shall be filled by the Senate members of the Council selecting an additional Senator and the House members of the Council selecting an additional House member.

**Section 3. Journal; meetings.** The resolutions and advice of the **Legislative Council** shall be recorded in a journal. The Governor shall have the power, at his discretion, to assemble the **Legislative Council**, and the duly elected Chairman of the Council shall have the power and assemble the Council at his discretion.

**Constitution, Article V, Part Third, Section 3, amended.** Section 3 of Part Third of Article V of the Constitution is amended to read as follows:

**Section 3. Attend the Governor.** He shall attend the Governor ~~and Council~~, Senate and House of Representatives, in person or by his deputies as they shall respectively require.

**Constitution, Article V, Part Third, Section 4, amended.** Section 4 of Part Third of Article V of the Constitution is amended to read as follows:

**Section 4. Records of executive and legislative departments.** He shall carefully keep and preserve the records of all the official acts and proceedings of the Governor ~~and Council~~, Senate and House of Representatives, and, when required, lay the same before either branch of the Legislature, and perform such other duties as are enjoined by this Constitution, or shall be required by law.

**Constitution, Article VI, Section 6, amended.** The 2nd sentence of Section 6 of Article VI of the Constitution is amended to read as follows:

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, with the advice and consent of the Legislative Council, 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.

**Constitution, Article IX, Section 1, amended.** The last paragraph of Section 1 of Article IX of the Constitution is amended to read as follows:

The oaths or affirmations shall be taken and subscribed by the Governor ~~and Councillors~~ before the presiding officer of the Senate, in the presence of both Houses of the Legislature, and by the Senators and Representatives before the Governor ~~and Council~~, and by the residue of said officers before such persons as shall be prescribed by the Legislature; ~~and whenever the Governor or any Councillor shall not be able to attend during the session of the Legislature~~ to take and subscribe said oaths or affirmations, such oaths or affirmations may be taken and subscribed in the recess of the Legislature before any Justice of the Supreme Judicial Court and provided further that, if the Governor shall be unable to appear and administer the oath to the Senators and Representatives, such oaths shall be administered by the Chief Justice of the Supreme Judicial Court or in his absence, by the senior Associate Justice of said Supreme Judicial Court present at the State Capitol on the first day of the term for which said Senators and Representatives shall have been elected.

**Constitution, Article IX, Section 4, amended.** Section 4 of Article IX of the Constitution is amended to read as follows:

**Section 4. Elections on the first Wednesday of January may be adjourned from day to day.** And in case the elections, required by this Constitution on the first Wednesday of January biennially, by the two Houses of the Legislature, shall not be completed on that day, the same may be adjourned from day to day, until completed, in the following order: The vacancies in the

Senate shall first be filled; the Governor shall then be elected, if there be no choice by the people; ~~and afterwards the two Houses shall elect a Council.~~

**Constitution, Article IX, Section 5, amended.** The first sentence of Section 5 of Article IX of the Constitution is amended to read as follows:

Every person holding any civil office under this State, may be removed by impeachment, for misdemeanor in office; and every person holding any office, may be removed by the Governor ~~with the advice of the Council~~ on the address of both branches of the Legislature.

**Constitution, Article IX, Section 6, amended.** Section 6 of Article IX of the Constitution is amended to read as follows:

**Section 6. Tenure of office.** The tenure of all offices, which are not or shall not be otherwise provided for, shall be during the pleasure of the Governor and the **Legislative Council**.

**Constitution, Article IX, Section 10, amended.** The first sentence of the last paragraph of Section 10 of Article IX of the Constitution is amended to read as follows:

Whenever the Governor ~~and Council~~ upon complaint, due notice and hearing shall find that a sheriff is not faithfully or efficiently performing any duty imposed upon him by law, the Governor may remove such sheriff from office and with the advice and consent of the **Legislative Council** appoint another sheriff in his place for the remainder of the term for which such removed sheriff was elected.

**Constitution, Article IX, Section 11, amended.** The 2nd sentence of Section 11 of Article IX of the Constitution is amended to read as follows:

Vacancy in said office occurring when the Legislature is not in session, may be filled by appointment by the Governor, with the advice and consent of the **Legislative Council**.

**Form of question and date when amendments 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 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 resolution 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 Abolish the Executive Council and Make Changes in the Matter of Gubernatorial Appointments and their Confirmation?”

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 resolution, accompanied by a copy thereof.

#### STATEMENT OF FACT

This Constitutional amendment abolishes the Executive Council and creates a Legislative Council to consist of eleven members. The eleven members are the President of the Senate, the majority leader of the Senate, the minority leader of the Senate, one other senator elected by the Senate, the Speaker of the House of Representatives, the majority leader of the House of Representatives, minority leader of the House and four other members of the House elected by the House, two from each party. The Legislative Council will have the legal duties conferred upon it by the Constitution and those conferred upon it by statute.