

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1676

H. P. 1275

House of Representatives, March 28, 1973

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

E. LOUISE LINCOLN, Clerk

Presented by Mrs. Najarian of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

RESOLUTION, Proposing an Amendment to the Constitution Abolishing the Executive Council and Changing the Legislature to a One Body System.

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Constitution, Article IV, Part First, Sections 1-3, repealed and replaced. Sections 1 to 3 of Part First of Article IV of the Constitution are repealed and the following enacted in place thereof:

Section 1. Legislative department. Commencing with the regular session of the Legislature to be held in January, 1981, the legislative authority of the State shall be vested in a Legislature consisting of one chamber, but the people reserve to themselves power to propose laws and enact or reject the same at the polls independent of the Legislature, and reserve the power to approve or reject at the polls any Act, bill, resolve or resolution proposed by the Legislature, and the style of the laws and Acts shall be, "Be it enacted by the People of the State of Maine." All authority vested by the Constitution or laws of the State in the Senate, House of Representatives or joint session thereof insofar as applicable, shall be, and is, vested in said Legislature of one chamber. All provisions in the Constitution and laws of the State relating to the Legislature, the Senate and House of Representatives, joint sessions of the Senate and House of Representatives, Senators or Members of the House of Representatives shall, insofar as said provisions are applicable, apply to and mean said Legislature of one chamber hereby created. All references to Clerk of the House of Representatives or Secretary of the Senate shall mean when applicable the Clerk of the Legislature of one chamber. All references to

Speaker of the House of Representatives or President of the Senate shall mean Speaker of the Legislature. Wherever any provisions of the Constitution require the submission of any matter to, or action by, the House of Representatives, the Senate or joint session thereof, or the members of either body or both, they shall after January 1, 1981, be construed to refer to the Legislature herein provided for.

Section 2. Number of Legislators. The Legislature shall consist of seventy-five members, to be elected by the qualified electors and hold their office two years from the day next preceding the biennial meeting of the Legislature. The Legislature shall, following every Federal Decennial Census cause the number of inhabitants of the State to be ascertained, exclusive of foreigners not naturalized. The number of members to the Legislature shall at such periods of making such enumeration, be fixed and apportioned by the Legislature, as near as may be, according to the number of inhabitants of the State and computed according to the following rules:

1. By dividing the total population of the State by seventy-five and causing the State to be divided into seventy-five single member districts equal in population to the unit base number so obtained, disregarding, except as hereinafter provided in this section, the remainder, if any, after the process of division.

2. Each single member Legislative District shall have equal population as nearly as practicable based upon the most recent Federal Decennial Census and shall be entitled to elect one legislator. Each such district shall be formed of contiguous and compact territory, crossing political subdivision lines the least number of times reasonably necessary to establish equally populated districts. Whenever a municipality has population less than the unit base number, it shall be united with an adjoining municipality or municipalities or portions thereof to produce a district electing one legislator. Whenever a municipality has population entitling it to one or more legislators, such area of population in excess of the unit base number shall be united with an adjoining municipality or municipalities or portions thereof to produce a district electing one legislator. Whenever a municipality has population entitling it to two or more legislators, it shall be divided into single member districts.

In the event that the Legislature shall fail to make an apportionment according to the Federal Census, the Supreme Judicial Court shall, within sixty days following the end of the period in which the Legislature is required to act, but fails to do so, make the apportionment.

Section 3. Election of Speaker. At the beginning of each regular session, the Legislature shall elect from its membership a presiding officer, who shall be known as the Speaker and who shall serve during the entire 2-year term, or at the pleasure of two-thirds the entire membership of the Legislature.

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 First, Sections 7 and 8, repealed and replaced. Sections 7 and 8 of Part First of Article IV of the Constitution are repealed and the following enacted in place thereof:

Section 7. To choose own officers; power of impeachment. The Legislature shall choose their clerk and other officers and have the power of impeachment.

Constitution, Article IV, Part Second, repealed. Part Second of Article IV of the Constitution is repealed.

Constitution, Article IV, Part Third, Section 5, amended. Section 5 of Part Third of Article IV of the Constitution is amended to read as follows:

Section 5. Shall keep a journal; yeas and nays. ~~Each House~~ The Legislature shall keep a journal, and from time to time publish its proceedings, except such parts as in ~~their~~ its judgment may require secrecy; and the yeas and nays of the Members of ~~either House~~ the Legislature on any question, shall, at the desire of one-fifth of those present, be entered on the journals.

Constitution, Article IV, Part Third, Section 15, amended. Section 15 of Part Third of Article IV of the Constitution is amended to read as follows:

Section 15. Constitutional conventions. The Legislature shall, by a two-thirds ~~concurrent~~ vote of both branches, have the power to call constitutional conventions, for the purpose of amending this Constitution.

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 Speaker of the Legislature, the Majority Leader and five other members elected by the Legislature, no more than three of whom shall be from the same political 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.

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 to 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~~ and the Legislature 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 Legislature, 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 Councilors~~ before the presiding officer of the ~~Senate~~ Legislature, in the

presence of both Houses of the Legislature, and by the ~~Senators and Representatives Members of the Legislature~~ 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 Members of the Legislature~~, 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 Members of the Legislature~~ 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 Legislature~~ 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 Change the Legislature to a One Body System?”

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 establishes a unicameral Legislature and abolishes the Executive Council by conferring its duties on a Legislative Council to consist of seven members.