

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2040

S. P. 673

In Senate, June 15, 1973

Reported by the Majority from Committee on State Government pursuant to Joint Order H. P. 1556 and printed under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

RESOLUTION, Proposing an Amendment to the Constitution to Provide for Annual Sessions of the Legislature and to Limit the Matters Which May be Considered in the Second Regular Session; to Provide for Single Member Districts in the House of Representatives; to Provide for Reduction of the Number of Representatives and Reapportionment of the House of Representatives and the Senate in 1983; to Establish an Apportionment Commission to Plan for all Reapportionments of the House of Representatives and Senate; to Abolish the Executive Council and Reassign Certain Constitutional Powers to a Legislative Council; and to Provide that Oaths and Subscriptions of Office of the Governor, Representatives and Senators shall be Taken before the Chief Justice of the Supreme Judicial Court.

Constitutional amendment. 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Constitution, Article IV, Part First, Section 2, repealed and replaced. Section 2 of Part First of Article IV of the Constitution is repealed and the following enacted in place thereof:

Section 2. Number of Representatives; biennial terms. The House of Representatives shall consist until 1984 of one hundred and fifty-one members, to be elected by the qualified electors and hold their office two years from the day next preceding the first Wednesday in January following the general election. In the general election of 1984, and thereafter, the qualified electors shall elect ninety-nine members to the House of Representatives, to hold office two years from the day next preceding the first Wednesday following the general election.

Constitution, Article IV, Part First, Section 3, repealed and replaced. Section 3 of Part First of Article IV of the Constitution is repealed and the following enacted in place thereof:

Section 3. Apportionment within districts. The number of Representatives shall be fixed and apportioned by the Legislature as follows. The Legislature which shall convene in the First Regular Session after the adoption of this amendment shall cause the State to be divided into one hundred fifty-one districts for the choice of one Representative for each district, using the method outlined below.

The Legislature which shall convene in 1983 and every 10th year thereafter shall cause the State to be divided into ninety-nine districts for the choice of one Representative for each district. The number of inhabitants of the State as determined by the latest Federal Decennial Census shall be divided by the number of Representatives to determine a median population figure for each Representative district. Each district shall be formed of contiguous and compact territory and shall cross political subdivision lines the least number of times reasonably necessary to establish equally populated districts as nearly as practicable. Whenever the population of a municipality entitles it to more than one district, whole districts shall be drawn within the municipal boundaries. Any population remainder within the municipality shall be included in a district drawn to cross the municipal boundary, provided that such population remainder of the municipality must be contiguous to another municipality or municipalities in the district.

The apportionment plan of the commission established under Article IV, Part Third, Section 1-A shall be submitted to the Clerk of the House of Representatives on or before the date of convening the first regular session of the Legislature after the commission has been organized. The Legislature shall enact the submitted plan of the commission or a plan of its own, by a vote of two-thirds of the members, within one hundred calendar days after the convening of that Legislature. Such action shall be subject to the Governor's approval as provided in Article IV, Part Third, Section 2.

In the event that an apportionment plan has not been enacted into law within one hundred calendar days after the convening of the Legislature in the year in which said apportionment is required by this Constitution, 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.

The Supreme Judicial Court shall have original jurisdiction to hear any challenge to an apportionment law enacted by the Legislature, as registered by any citizen or group thereof. If the challenge is sustained, the Supreme Judicial Court shall make the apportionment.

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~~ **Secretary of State** shall examine the returned copies of such lists and twenty days before the first Wednesday of January

biennially, the **Governor** 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 1, amended. Section 1 of Part Second of Article IV of the Constitution, as last repealed and replaced by chapter 28 of the resolves of 1969, is amended to read as follows:

Section 1. Number of Senators. The Senate shall consist until 1984 of an odd number of Senators, not less than thirty-one nor more than thirty-five, elected at the same time and for the same term as Representatives by the qualified electors of the districts into which the State shall be from time to time divided.

In the general election of 1984, and thereafter, the qualified electors shall elect thirty-three members for the Senate, at the same time and for the same term as Representatives, from the districts into which the State shall be from time to time divided.

Constitution, Article IV, Part Second, Section 2, repealed and replaced. Section 2 of Part Second of Article IV of the Constitution, as enacted by chapter 87 of the resolves of 1965 and as repealed and replaced by chapter 28 of the resolves of 1969, is repealed and the following enacted in place thereof:

Section 2. Division. The Legislature which shall convene in 1983 shall cause the State to be divided into thirty-three districts for the choice of a Senator from each district. Each district shall consist of three contiguous and compact Representative districts. Whenever Representative districts are reapportioned, Senate districts shall also be reapportioned accordingly.

The Apportionment Commission established by Article IV, Part Third, Section 1-A shall develop, in accordance with the requirements of this Constitution, a plan for apportioning the Senate. The apportionment plan of the commission shall be submitted to the Secretary of the Senate on or before the date of convening the first regular session of the Legislature after the commission has been organized. The Legislature shall enact the submitted plan of the commission or a plan of its own, by a vote of two-thirds of the members, within one hundred calendar days after the convening of that Legislature. Such action shall be subject to the Governor's approval as provided in Article IV, Part Third, Section 2.

In the event that an apportionment plan has not been enacted into law within one hundred calendar days after the convening of the Legislature in the year in which said apportionment is required by this Constitution, 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.

The Supreme Judicial Court shall have original jurisdiction to hear any challenge to an apportionment law enacted by the Legislature, as registered by any citizen or group thereof. If the challenge is sustained, the Supreme Judicial Court shall make the apportionment.

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~~ **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, ~~the Governor shall~~ 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 IV, Part Third, Section 1, amended. Section 1 of Part Third of Article IV of the Constitution, as amended by chapter 74 of the resolves of 1969, is further amended to read as follows:

Section 1. To meet annually. The Legislature shall convene on the first Wednesday of January ~~biennially and~~ following the general election in what shall be styled the first regular session of the Legislature; and shall further convene on the first Wednesday of January in the subsequent year in what shall be styled the second regular session of the Legislature; provided however that the business of the second regular session of the Legislature shall be limited to budgetary matters; legislation in the Governor's message; legislation recommended by the Legislative Council; and legislation referred to committees for study and report by the first regular session. The Legislature may convene at such other times on the call of the President of the Senate and Speaker of the House, with the consent of a majority of the members of the Legislature of each political party, all members of the Legislature having first been polled. ~~and~~ **The Legislature**, with the exceptions hereinafter stated, shall have full power to make and establish all reasonable laws and regulations for the defense and benefit of the people of this State, not repugnant to this Constitution, nor to that of the United States.

Constitution, Article IV, Part Third, Section 1-A, additional. Part Third of Article IV of the Constitution is amended by adding a new Section 1-A to read as follows:

Section 1-A. Commission on apportionment; established. There shall be established on or after the first day of January and before the fifteenth day of January of the year prior to each year in which the House of Representatives and the Senate are required to be apportioned, a commission to develop, in accordance with the requirements of this Constitution, a plan for apportioning the House of Representatives and the Senate. The commission shall be composed of two members from the political party holding the largest number of seats in the House of Representatives, who shall be appointed by the Speaker; two members from the political party holding the majority of the remainder of the seats in the House of Representatives, who shall be appointed by the Floor Leader of that party in the House; two members from the political party holding the largest number of seats in the Senate, who shall be appointed by the President of the Senate; two members from the political party holding the majority of the remainder of the seats in the Senate, who shall be appointed by the floor leader of that party in the Senate;

and three members from the public generally, two of whom shall be selected by the political parties, one each by the four members of the commission representing the same political party, and the third of whom shall be selected by the other two public members. The Speaker of the House shall be responsible for organizing the commission and be chairman pro tem thereof only until a permanent chairman is selected by the commission from within its membership. Any action by the commission shall require the affirmative votes of seven of the eleven members.

Constitution, Article IV, Part Fourth, additional. Article IV of the Constitution is amended by adding a new Part Fourth to read as follows:

ARTICLE IV

PART FOURTH

LEGISLATIVE COUNCIL

Section 1. Legislative Council; created. There shall be a Legislative Council to consist of ten members, five of whom shall be members of the Senate and five of whom shall be members of the House of Representatives. They shall be the President of the Senate, the Speaker of the House of Representatives, the floor leaders and assistants of the two major parties. Membership on the Legislative Council shall be by virtue of holding the above offices, and shall be held only during the term of the Legislature in which such offices are held. The Legislative Council shall select a chairman from within its membership.

Section 2. Powers and duties. The Legislative Council shall exercise such powers and duties as may be delegated by the provisions of this Constitution. Any action by the Legislative Council shall require the affirmative votes of six members.

Section 3. Meetings. The Legislative Council shall meet at least once monthly and at such other times as the membership or the Chairman shall deem necessary.

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~~ confirmation 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~~ confirmation 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 powers ~~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 statute.~~

Constitution, Article V, Part First, Section 13, amended. Section 13 of Part First of Article V of the Constitution is amended by adding at the end a new sentence to read as follows:

The Governor may convene the Legislative Council for the purpose of confirming appointments and to act on such other matters as he may properly bring before them.

Constitution, Article V, Part Second, Sections 1, 2, 3 and 4, repealed. Sections 1, 2, 3 and 4 of Part Second of Article V of the Constitution are repealed.

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 Legislative 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 Legislative Council, Senate and House of Representatives, and, when required, lay the same before either branch of the Legislature, or the Governor, and perform such other duties as are enjoined by this Constitution, or shall be required by law.

Constitution, Article VI, Section 6, amended. The last 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~~ confirmation 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~~ Chief Justice of the Supreme Judicial Court, in the presence of both Houses of the Legislature, and by the Senators and Representatives before the ~~Governor and Council~~ Chief Justice of the Supreme Judicial Court, 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 the oaths or affirmations~~ **oath or affirmation**, such ~~oaths or affirmations~~ **oath or affirmation** 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~~ **Chief Justice of the Supreme Judicial Court** shall be unable to appear and administer the oath to the **Governor**, 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. Section 5 of Article IX of the Constitution is amended to read as follows:

Section 5. Removal by impeachment or address. Each person holding any ~~civil elective or Constitutional~~ office under this State, may be removed by impeachment, for misdemeanor in office; and every person holding any other office, may be removed by the Governor ~~with the advice of the Council, on address of both branches of the Legislature.~~ **But before such address shall pass either House, the causes of removal shall be stated and entered on the journal of the House in which it originated, and a copy thereof served on the person in office, that he may be admitted to a hearing in his defence as provided by statute.**

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 Council.~~

Constitution, Article IX, Section 10, amended. The second paragraph of Section 10 of Article IX of the Constitution is amended to read as follows:

Whenever the Governor and **Legislative 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~~ **confirmation** of the **Legislative Council** appoint another sheriff in his place for the remainder of the term for which such removed sheriff was elected. All vacancies in the office of sheriff, other than those caused by removal in the manner aforesaid shall be filled ~~in the same manner as is provided in the case of judges and registers~~

of probate by appointment by the Governor with confirmation by the Legislative Council.

Constitution, Article IX, Section 11, amended. Section 11 of Article IX of the Constitution is amended to read as follows:

Section 11. Attorney General. The Attorney General shall be chosen biennially by joint ballot of the Senators and Representatives in convention. 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~~ **confirmation** 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 provide for annual sessions of the Legislature and to limit the matters which may be considered in the Second Regular Session; to provide for single member districts in the House of Representatives; to provide for reduction of the number of Representatives and reapportionment of the House of Representatives and the Senate in 1983; to establish an apportionment commission to plan for all apportionments of the House of Representatives and Senate; to abolish the Executive Council and reassign certain Constitutional powers to a Legislative Council; and to provide that oaths and subscriptions of office of the Governor, Representatives and Senators shall be taken before the Chief Justice of 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 resolution, accompanied by a copy thereof.