

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

OF R.

STATE OF MAINE
SENATE
107TH LEGISLATURE

CONFERENCE COMMITTEE AMENDMENT "A" to HP 16, LD 24, RESOLUTION,
Proposing an Amendment to the Constitution to Abolish the Executive
Council and Reassign its Constitutional Powers to the Governor.

Amend said Resolution by striking out all of the Title
and inserting in place thereof the following:

RESOLUTION, Proposing an Amendment to the Constitution to
Abolish the Executive Council and to Reassign its Constitu-
tional Powers to the Governor and the Legislature, to Eliminate
The Office of Notary Public as a Constitutional Office and
To Prohibit Appointment of Legislators to Offices Requiring
Legislature
Approval of the / for Appointment.'

Further amend said Resolution by striking out everything
after the first paragraph and inserting the following:

'Constitution, Art. IV, Pt. 1, §5, 4th sentence, is
amended to read:

The Governor and Council 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, Art. IV, Pt. 2, §4, is amended to read:

Section 4. Examination of lists; summons to persons
who appear to be elected. The Governor and Council shall,
as soon as may be, examine the copies of such lists, and at
least twenty days before the said first Wednesday of January,

AMENDMENT

D OF R.

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, Art. IV, Pt. 3, §10, is amended to read:

Section 10. Members not to be appointed to certain offices.

No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which requires the approval of the Legislature for appointment or which shall have been created, or the emoluments of which increased during such term, except such offices as may be filled by elections by the people.

Constitution, Art. V, Pt. 1, §8, is repealed and the following enacted in place thereof:

Section 8. To appoint officers. He shall nominate, and, subject to confirmation as provided herein, appoint all judicial officers except judges of probate and justices of the peace, and all other civil and military officers whose appointment is not by this Constitution, or shall not by law be otherwise provided for.

The procedure for confirmation shall be as follows: an appropriate legislative committee comprised of members of both houses, in reasonable proportion to their membership, as provided by law shall recommend confirmation or denial by majority vote of committee members present and voting. The committee recommendation shall be reviewed by the Senate and upon review shall become final action of confirmation or denial unless the Senate by vote

of two thirds of those members present and voting overrides the committee recommendation. The Senate vote shall be by the yeas and nays.

All statutes enacted to carry out the purposes of this section shall require the affirmative vote of two-thirds of the members of each House present and voting.

Either the Governor or the President of the Senate shall have the power to call the Senate into session for the purpose of voting upon confirmation of appointments.

He shall nominate and appoint justices of the peace for an initial term only, and additional terms of these officers shall be by renewal of commission, as provided by law.

Every nomination by the Governor shall be made seven days at least prior to appointment of the nominee.

Constitution, Art. V, Pt. 1, §11, first sentence, is amended to read:

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.

CONFERENCE COMMITTEE

AMENDMENT "A" to H.P. 16, L.D. 24

Constitution, Art. V, Pt. 2, §§1-4 are repealed.

Constitution, Art. V, Pt. 3, §3 is amended to read:

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, Art. V, Pt. 3, §4 is amended to read:

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, Art. VI, §6, last sentence of 1st paragraph is amended to read:

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 Council,~~ may fill said vacancies by appointment, and the persons so appointed shall hold their offices until the first day of

CONFERENCE COMMITTEE AMENDMENT "A" to
H.P. 16, L.D. 24

January next after the election aforesaid.

Constitution, Art. IX, §1, last ¶ is amended to read:

The oaths or affirmations shall be taken and subscribed by the Governor and ~~Councillers~~ 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 Counciller~~ 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, Art. IX, §4 is amended to read:

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, Art. IX, §5, 1st sentence is amended to read:

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, Art. IX, §6 is amended to read:

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, Art. IX, §10, last ¶, is amended to read:

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 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.

Constitution, Art. IX, §11 is amended to read:

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 of the Council~~ subject to confirmation as required by this Constitution for Justices of the Supreme Judicial Court.

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 a 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 to Reassign its Constitutional Powers to the Governor and the Legislature, to Eliminate the Office of Notary Public as a Constitutional Office and to Prohibit Appointment of Legislators to Offices Requiring Approval of the Legislature for Appointment ?"

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 on January 4, 1977, 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

The purpose of this amendment is to provide that certain Constitutional and other officers shall be appointed after

Confirmation by a Legislative Committee, Provided that the Senate does not overrule the action of the Committee. The amendment also eliminates constitutional appointment of Notaries Public and provides for interim appointments of the Attorney General by the Governor with confirmation as provided for other officers. This amendment incorporates provisions of the original bill to abolish the Executive Council and to redistribute its constitutional powers.