

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1273

H. P. 1005

House of Representatives, March 20, 1975

On Motion of Mr. Cooney of Sabattus, referred to the Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Rolde of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

RESOLUTION, Proposing an Amendment to the Constitution to Provide an Additional Means for Removal of Judges and Justices of the Several Courts.

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, Art. VI, § 4 is amended to read:

Section 4. Tenure of judicial officers. All judicial officers shall hold their offices for the term of seven years from the time of their respective appointments (unless sooner removed by impeachment or by address of both branches of the Legislature to the executive or by order of the Supreme Judicial Court, provided further that justices of the peace may be removed from office in such manner as the Legislature may provide) and no longer, unless reappointed thereto.

Constitution, Art. VI, § 7 is enacted to read:

Section 7. Commission on Judicial Qualifications. The Commission on Judicial Qualifications consists of one Justice of the Supreme Judicial Court, one Justice of the Superior Court and one Judge of the District Court, each appointed by the Supreme Judicial Court; one member of the Supreme Judicial Court who has practiced law in this State for ten years, appointed by the Board of Directors of the Maine Bar Association; and two citizens of this State who are not Judges or Justices, Retired Judges or Justices or members of the bar of this State, appointed by the Governor with the advice and consent of the Executive Council. All terms are four years. Com-

mission membership terminates if a member ceases to hold the position that qualified him for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

Constitution, Art. VI, § 8, is enacted to read:

Section 8. Judges; disqualification; suspension; retirement; rules. A Justice or Judge is disqualified from acting as a Justice or a Judge, without loss of salary, while there is pending an indictment or an information charging him in the United States with a crime punishable as a felony under Maine or federal law, or a recommendation to the Supreme Judicial Court by the Commission on Judicial Qualifications for his removal or retirement.

On recommendation of the Commission on Judicial Qualifications or on its own motion, the Supreme Judicial Court may suspend a Justice or Judge from office without salary when in the United States he pleads guilty or no contest or is found guilty of a crime punishable as a felony under Maine or federal law or of any other crime that involves moral turpitude under that law. If his conviction is reversed suspension terminates, and he shall be paid his salary for the period of suspension. If he is suspended and his conviction becomes final, the Supreme Judicial Court shall remove him from office.

On recommendation of the Commission on Judicial Qualifications, the Supreme Judicial Court may retire a Justice or Judge for disability that seriously interferes with the performance of his duties and is or is likely to become permanent, and censure or remove a Justice or Judge for action occurring not more than six years prior to the commencement of his current term that constitutes willful misconduct in office, willful and persistent failure to perform his duties, habitual intemperance or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

A Justice or Judge retired by the Supreme Judicial Court shall be considered to have retired voluntarily. A Justice or Judge removed by the Supreme Judicial Court is ineligible for judicial office and, pending further order of the court, he is suspended from practicing law in this State.

The Supreme Judicial Court shall make rules implementing this section and providing for confidentiality of proceedings.

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 a Commission on Judicial Qualifications and for removal of judicial officers by order 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.

STATEMENT OF FACT

The purpose of this resolution is to establish a Commission on Judicial Qualifications and for removal of judicial officers by order of the Supreme Judicial Court. The 2 methods for removal of judicial officers now available are impeachment or address and non-reappointment. Such methods are inadequate. This resolution would provide an additional and more delicate mechanism for discipline or removal.