

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1756

H. P. 1266

House of Representatives, April 2, 1975

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

EDWIN H. PERT, Clerk

Presented by Mr. Silverman of Calais.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

RESOLUTION, Proposing an Amendment to the Constitution to Establish
a Judicial Nominating Commission.

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 V. Pt. 1, § 8, is repealed and the following enacted in place thereof:

Section 8. To nominate officers. The Governor shall nominate, and with the advice and consent of the Council, appoint all civil and military officers, except for full-time judicial officers, whose appointment is not by this Constitution, or shall not by law be otherwise provided for; and every such nomination shall be made seven days, at least, prior to such appointment.

Constitution, Art. V, Pt. I, § 8-A, is enacted to read:

Section 8-A. Judicial Nominating Commission. There shall be a Judicial Nominating Commission to consist of five members, residents of this State, four of whom shall be appointed by the Governor with the advice and consent of the Council. The Chief Justice of the Supreme Judicial Court shall be a member and chairman of the commission ex officio. The other four members shall consist of one member who shall be an attorney admitted to practice in the courts of Maine, one member who shall be a full-time officer or employee of a law enforcement agency of the State or a political subdivision thereof and two members who shall not be attorneys or law enforcement officers. Such members shall serve for four years and until their successors are duly appointed and qualified, except that of the four members

first appointed, one shall be appointed for a term of four years, one for a term of three years, one for a term of two years and one for a term of one year; thereafter, all appointments shall be for a term of four years. No more than three of the members of the commission shall be members of the same political party. No member of the commission, except the Chief Justice of the Supreme Judicial Court, may hold any other office or position of profit under the United States or the State, nor shall any member hold any official position in any political party. No member of the commission shall be eligible to serve more than all or part of two terms. No member of the commission shall be eligible for nomination to the Governor for appointment as a full-time judicial officer during the term of office for which such member shall have been appointed. The commission shall act by concurrence of three or more members and according to rules which it adopts. The chairman shall vote only in the event of a tie vote. The commission shall meet at least once every two months and at such other times as the membership or the chairman shall deem necessary. The commission may elect a secretary from among the members. No member of the commission shall receive any compensation for his services; but the commission and the members shall be allowed, out of any appropriation made for the purpose, such expenses for clerical and other services, travel and incidentals as the chairman shall approve.

When any vacancy occurs in the office of any justice of the Supreme Judicial Court or in the office of any full-time judicial officer in any other court that the Legislature may have established, the judicial nominating commission shall nominate to the Governor a person possessing the qualifications for such office. The Governor may accept or reject such nomination. If the Governor rejects such nomination the commission shall nominate another person possessing the qualifications for such office. If the Governor rejects three successive nominations to the same office, the commission shall nominate, and with the advice and consent of the Governor and Council, appoint to such office a person possessing the qualifications for such office. If the Governor accepts a nomination, he shall with the advice and consent of the Council, appoint such person. When the term of any full-time judicial officer expires, the commission shall, if that officer so wishes, nominate him or her to another term, unless the commission votes not to do so after a public hearing on the qualifications of such officer and his conduct in office. This section shall be self-executing. The Legislature may enact further regulations to implement this section.

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 establish a judicial nominating commission?”

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 the resolution is to amend the constitutional procedure for nomination and appointments of all full-time judges in the State. The resolution establishes a non-partisan 5-member Judicial Nominating Commission, composed of the Chief Justice of the Supreme Judicial Court, ex officio, who shall vote only in case of a tie, an attorney member, a law enforcement member and two public members. They shall nominate qualified persons to the Governor. If he approves, he shall appoint that person, with the advice and consent of the Council. If he rejects, the commission shall nominate another. If he rejects three in succession for the same office, the commission shall nominate a person who shall be appointed by a vote of the Governor and Council together.