

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1761

H. P. 1335

House of Representatives, April 2, 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. Faucher of Solon.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

RESOLUTION, Proposing an Amendment to the Constitution to Provide 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 amended to read:

Section 8. To nominate coroners and notaries public. He shall nominate, and with the advice and consent of the 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 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, Art. V, Pt. 1, § 8-A is enacted to read:

Section 8-A. To appoint judicial officers. He shall appoint all judicial officers from a list of three nominees submitted to him for each vacancy by the Judicial Nominating Commission, such appointment to be made within 30 days after receipt of the list.

Constitution, Art. V, Pt. 5 is enacted to read:

PART FIFTH

JUDICIAL NOMINATING COMMISSION

Section 1. Constitution of Judicial Nominating Commission. There shall be a Judicial Nominating Commission, to consist of seven persons, citizens of

the United States and residents of this State, who shall serve without compensation, to submit to the Governor a list of 3 nominees for each vacancy in a judicial office, such list to be submitted not later than 60 days after the occurrence of the vacancy.

Section 2. Appointment of commissioners. The Governor shall nominate, and with the advice and consent of the Council, appoint each of the commissioners, two of whom shall be a Justice of the Supreme Judicial Court, one of whom shall be a member of the bar of the Supreme Judicial Court who has practiced law in the State for ten years, two of whom shall be citizens and residents of this State who are not Judges, Justices or members of the bar of this State, one of whom shall be a Member of the Senate and one of whom shall be a Member of the House of Representatives. Commission membership terminates if a member ceases to hold the position that qualified him for appointment, but a consecutive reelection or reappointment to that position shall not constitute a termination of membership.

Section 3. Journal of proceedings. Each list of nominations of the commission shall be recorded in a register, and signed by the members agreeing thereto, which register may be called for by either House of the Legislature; and any commissioner may enter his disagreement with any of such nominations.

Section 4. Persons disqualified; not to be appointed to any judicial office. No Members of Congress, nor any person holding any office under the United States, past officers excepted, nor any civil officers under this State, Justices of the Supreme Judicial Court and justices of the peace and notaries public excepted, shall be members of the Judicial Nominating Commission. No such commissioner shall be appointed to any judicial office during the time for which he shall have been appointed commissioner.

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 of Maine be amended as proposed by a resolution of the Legislature to provide 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 Governor presently has absolute authority to appoint whomever he wishes to the bench. It is the purpose of this legislation to establish a commission which will screen potential candidates for judgeships and then present a list of 3 nominees to the Governor, from which he may select an individual for any particular judgeship. It is expected that this legislation will remove the selection of judges one step further away from the pressure of politics.