

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1489

H. P. 1213

House of Representatives, March 27, 1979

On Motion of Mr. Hobbins of Saco, referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Laffin of Westbrook.

Cosponsor: Mrs. Martin of Brunswick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for Five-year Terms for Judges Instead of Seven-year Terms and to Provide for Legislative Action upon Public Petition of Judicial Misconduct.

Constitutional amendment. RESOLVED: Two-thirds of each branch of the Legislature concurring, that the following amendments to the Consitution of this State be proposed:

Constitution, Art. VI, § 4, as amended by CR 1975, c. 7, is repealed and the following enacted in its place:

Section 4. Tenure of judicial officers. All judicial officers shall hold their offices for the term of five 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, provided further that justices of the peace may be removed from office in such manner as the Legislature may provide); provided, however, that a judicial officer whose term of office has expired or who has reached mandatory retirement age, as provided by statute, may continue to hold office until the expiration of an additional period not to exceed six months or until his successor is appointed, whichever occurs first in time.

Constitution, Art. VI, § 4-A is enacted to read:

Section 4-A. Legislative action upon public petition of judicial misconduct. If a written petition of electors, the number of which shall not be less than 10% of the total vote for Governor cast in the last gubernatorial election preceding the filing of that petition, is addressed to and filed with the Secretary of State and requests that the Legislature consider the alleged misconduct of a judicial officer, the Secretary of State shall notify the President of the Senate and the Speaker of the House of Representatives of the receipt of that petition. The President and the Speaker shall in turn call a meeting of an appropriate legislative committee comprised of members of both Houses in reasonable proportion to their membership as provided by law, at which meeting the committee shall conduct a public inquiry into the alleged judicial misconduct. If the committee by a majority of the members present and voting finds that judicial misconduct has occurred and that punishment is warranted, the committee shall transmit its findings and recommended punishment to the Senate. The President of the Senate shall, upon receipt of a committee's findings and recommendation, call the Senate into session within a reasonable time after receipt for the purpose of reviewing the committee recommendation.

The Legislature shall enact, by statute, definitions of judicial misconduct and reasonable punishments for that misconduct and in addition shall enact all statutes needed to establish and confirm the procedures set out in this section.

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.

Constitutional referendum procedure; form of question; effective date. Resolved: That the city aldermen, town selectmen and plantation assessors of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at the next general election in the month of November or special statewide election on the Tuesday following the first Monday of November following the passage of this resolution, to vote upon the ratification of the amendment proposed in this resolution by voting upon the following question:

“Shall the Constitution of Maine be amended to provide for five-year terms for judges instead of seven-year terms and to provide for legislative action upon public petition of judicial misconduct?”

The legal voters of each city, town and plantation shall vote by ballot on this question, and shall designate their choice by a cross or check mark placed within the corresponding square below the words “Yes” or “No.” The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns, and, if it appears that a majority of the legal votes are in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment shall become part of the Constitution on the date of the proclamation.

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purpose of this referendum.

STATEMENT OF FACT

This constitutional resolution amends the Constitution to provide for a 5-year term for judges rather than a 7-year term and will thus strengthen the accountability of the judiciary to the people.

This constitutional resolution also provides for a method of forcing legislative action on public complaints of judicial misconduct. It provides that upon receipt of a petition alleging judicial misconduct signed by a number no less than 10% of the last gubernatorial vote, the Legislature shall hold a committee hearing on the alleged misconduct. If the hearing finds that there has been misconduct and recommends punishment, the findings and recommendation are reviewed by the Senate in the same manner as the Senate review of gubernatorial nominations. If the committee's findings and recommendations are not overturned, the recommended punishment shall be carried out.

This method will provide a public method of dealing with judicial misconduct, a method whose basic outline is similar to constitutional procedures concerning direct initiative legislation and confirmation of gubernatorial nominees.