

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1969

S. P. 778

In Senate, February 29, 1980

The Committee on Judiciary suggested and ordered printed.

Submitted by the Maine Probate Law Revision Commission Pursuant to P&SL 1973, c. 126; P&SL 1975, c. 147, and PL 1977, c. 712.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

**RESOLUTION, Proposing an Amendment to the Constitution of Maine Repealing the Exclusion of Judges of Probate from the Governor's Authority to Appoint all Judicial Officers.**

**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**Constitution, Article V, Pt. 1, § 8, first sentence,** as repealed and replaced by CR 1975, c. 4, is amended to read:

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.

**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 following 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 repeal the exclusion of Judges of Probate from the Governor's authority to appoint all judicial officers?”

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 word "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 effective at such time as the Legislature by proper enactment shall establish a different Probate Court system with full-time judges.

**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 purposes of this referendum.

#### STATEMENT OF FACT

The purpose of this resolution is to remove the constitutional prohibition on the appointment of judges of probate by the Governor in the same manner provided for the appointment of other judicial officers and to conform the Maine Constitution, Article V, Part 1, Section 8, with the previous amendment to Article VI, Section 6, proposed by the Legislature and ratified by the people in 1967. The ratification of this amendment would make no change in the Constitution of this amendment would make no change in the Constitution except to enable the Legislature to pass legislation providing for the appointment of judges of probate at such time as the Legislature sees fit.