

# MAINE STATE LEGISLATURE

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## NINETY - NINTH LEGISLATURE

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**Legislative Document**

**No. 1213**

H. P. 850

House of Representatives, March 11, 1959

Referred to the Committee on State Government. Sent up for concurrence and 750 copies ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Plante of Old Orchard Beach.

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### STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-NINE

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**RESOLVE, Proposing an Amendment to the Constitution to Abolish the Council and Make Changes in the Matter of Gubernatorial Appointments and Their Confirmation.**

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**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, Article IV, Part First, Section 5, amended.** The 5th sentence of Section 5 of Part First of Article IV of the Constitution is amended to read as follows:

‘And the Governor ~~and council~~ shall examine the returned copies of such lists, and also all lists of votes of citizens in the military service, returned to the secretary’s office as provided in article second, section four, of this Constitution; and twenty days before the said first Wednesday of January biennially, shall issue a summons to such persons as shall appear to be elected by a plurality of all votes returned, to attend and take their seats.’

**Constitution, Article IV, Part Second, Section 3, amended.** Section 3 of Part Second of Article IV of the Constitution is amended to read as follows:

‘**Section 3. Examination of returns; summons of electors.** The Governor ~~and council~~ shall, as soon as may be, examine the returned copies of such lists, and also the lists of votes of citizens in the military service, returned into the secretary’s office, and, twenty days before the said first Wednesday of January, issue a summons to such persons, as shall appear to be elected by a plurality of the votes in each district, to attend that day and take their seats.’

**Constitution, Article V, Part First, Section 8, amended.** Section 8 of Part First of Article V of the Constitution is amended to read as follows:

**'Section 8. Nomination and appointment of officers.** He shall nominate, and, with the advice and consent of the ~~council~~ Senate, appoint all judicial officers (except judges of probate and justices of the peace) ~~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.~~ Whenever the Governor is authorized to make any appointment to office with the advice and consent of the Senate, and the Legislature is not in session at the time such office should be filled, he may make a temporary appointment thereto, subject to the approval of the Senate at the next succeeding session of the Legislature, and all such appointments shall be as valid and effectual from the time when so made until twenty days after such meeting of the Legislature as if he possessed the absolute power of appointment. No person, after being rejected by the Senate, shall again be nominated for the same office at the same session, unless at the request of the Senate, or be appointed to the same office during the recess of the Senate.'

**Constitution, Article V, Part First, Section 11, amended.** The first sentence of Section 11 of Part First of Article V of the Constitution is amended to read as follows:

'He shall have power ~~with the advice and consent of the council~~ to remit, after conviction, all forfeitures and penalties, and to grant reprieves, commutations and pardons, except in cases of impeachment, upon such conditions, and with such restrictions and limitations as may be deemed proper, subject to such regulations as may be provided by law ~~relative to the manner of applying for pardons.~~

**Constitution, Article V, Part Second, Sections 1 to 4, repealed.** Sections 1 to 4 of Part Second of Article V of the Constitution are repealed.

**Constitution, Article V, Part Third, Section 3, amended.** Section 3 of Part Third of Article V of the Constitution is amended to read as follows:

**'Section 3. Attending Governor and branches of Legislature.** He shall attend the Governor ~~and council,~~ Senate and House of Representatives, in person or by his deputies as they shall respectively require.'

**Constitution, Article V, Part Third, Section 4, amended.** Section 4 of Part Third of Article V of the Constitution is amended to read as follows:

**'Section 4. Records of executive and legislative departments.** He shall carefully keep and preserve the records of all the official acts and proceedings of the Governor ~~and council,~~ Senate and House of Representatives, and, when required, lay the same before either branch of the Legislature, and perform such other duties as are enjoined by this Constitution, or shall be required by law.'

**Constitution, Article V, Part Fourth, Section 4, amended.** Section 4 of Part Fourth of Article V of the Constitution is amended to read as follows:

**'Section 4. Warrants required to draw money; publishing account of receipts and expenditures.** No money shall be drawn from the treasury, but by warrant from the Governor ~~and council~~, and in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money, shall be published at the commencement of the biennial session of the Legislature.'

**Constitution, Article VI, Section 3, amended.** Section 3 of Article VI of the Constitution is amended to read as follows:

**'Section 3. Opinions to be given when required by either branch of government.** They shall be obliged to give their opinion upon important questions of law, and upon solemn occasions, when required by the Governor, ~~council~~ Senate or House of Representatives.'

**Constitution, Article VI, Section 7, amended.** The 2nd sentence of Section 7 of Article VI of the Constitution, as amended by Article LXXXIII, is further amended to read as follows:

'Vacancies occurring in said offices by death, resignation or otherwise, shall be filled by election in manner aforesaid at the November election, next after their occurrence; and in the meantime, the Governor ~~with the advice and consent of the council~~, may fill said vacancies by appointment, and the persons so appointed shall hold their offices until the first day of January next after the election aforesaid.'

**Constitution, Article IX, Section 1, amended.** The last paragraph of Section 1 of Article IX of the Constitution is amended to read as follows:

'The oaths or affirmations shall be taken and subscribed by the Governor ~~and counsellors~~ before the presiding officer of the Senate, in the presence of both houses of the Legislature, and by the Senators and Representatives before the Governor ~~and council~~, and by the residue of said officers before such persons as shall be prescribed by the Legislature; and whenever the Governor ~~or any counsellor~~ shall not be able to attend during the session of the Legislature to take and subscribe said oaths or affirmations, such oaths or affirmations may be taken and subscribed in the recess of the Legislature before any Justice of the Supreme Judicial Court.'

**Constitution, Article IX, Section 4, amended.** Section 4, of Article IX of the Constitution is amended to read as follows:

**'Section 4. Adjournment of elections.** And in case the elections, required by this Constitution on the first Wednesday of January biennially, by the two houses of the Legislature, shall not be completed on that day, the same may be adjourned from day to day, until completed, in the following order: the vacancies in the Senate shall first be filled; **and** the Governor shall then be elected, if there be no choice by the people; ~~and afterwards the two houses shall elect the council.'~~

**Constitution, Article IX, Section 5, amended.** The first sentence of Section 5 of Article IX of the Constitution is amended to read as follows:

'Every person holding any civil office under this State, may be removed by impeachment, for misdemeanor in office; and every person holding any office, may be removed by the Governor ~~with the advice of the council~~, on the address of both branches of the Legislature.'

**Constitution, Article IX, Section 6, amended.** Section 6 of Article IX of the Constitution is amended to read as follows:

'**Section 6. Tenure of office.** The tenure of all offices, which are not or shall not be otherwise provided for, shall be during the pleasure of the Governor ~~and council~~.'

**Constitution, Article IX, Section 10, amended.** The last paragraph of Section 10 of Article IX of the Constitution is amended to read as follows:

'Whenever the Governor ~~and council~~ upon complaint, due notice and hearing shall find that a sheriff is not faithfully or efficiently performing any duty imposed upon him by law, the Governor may remove such sheriff from office and ~~with the advice and consent of the council~~ appoint another sheriff in his place for the remainder of the term for which such removed sheriff was elected. All vacancies in the office of sheriff, other than those caused by removal in the manner aforesaid shall be filled in the same manner as is provided in the case of judges and registers of probate.'

**Constitution, Article IX, Section 11, amended.** Section 11 of Article IX of the Constitution is amended to read as follows:

'**Section 11. Election and vacancy in office of Attorney General.** The Attorney General shall be chosen biennially by joint ballot of the Senators and Representatives in convention. Vacancy in said office occurring when the Legislature is not in session may be filled by appointment by the Governor ~~with the advice and consent of the council~~.'

**Form of question, date when amendments shall be voted upon; effective date.**

**Resolved:** That the aldermen of cities, the selectmen of towns and the assessors of the several plantations of this State are hereby 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 a special state-wide election, to be held on the Tuesday following the first Monday of November, 1959 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 Abolish the Council and Make Changes in the Matter of Gubernatorial Appointments and Their Confirmation?"

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 count 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 become a part of the Constitution as of January 1, 1960.

**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 resolve, accompanied by a copy thereof.