

MAINE STATE LEGISLATURE

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Chapter 11.

Executive Department. Council.

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Governor.

Sec. 1. Official residence of governor; office hours; private secretary; salary.—The governor shall have his official residence at Augusta during his term of office, and shall keep his office at the state house open for the transaction of the business of the state during all normal working hours of the state house.

In the absence of the governor, his private secretary shall be in attendance and the private secretary shall devote his entire time to the duties of his office.

The governor shall receive an annual salary of \$10,000. (R. S. c. 11, § 1. 1947, c. 285, § 1. 1953, c. 186.)

See c. 14, § 1, re commander in chief of militia.

Sec. 2. Governor's expense account. — The "governor's expense account", as heretofore established, shall be credited with such amounts as are appropriated by the legislature therefor. This appropriation shall be available for expenditure by the governor at his discretion. This account shall not be subject to audit, except as to total amount to be paid. (R. S. c. 11, § 2.)

Executive Council.

Sec. 3. Executive council.—Each member of the executive council shall receive the same compensation and travel as a representative to the legislature, for services as a councilor during the session of the council commencing in January and closing immediately after the adjournment of the legislature. For services at other sessions of the council, each member thereof shall receive \$20 for each session, and actual expenses; for authorized services on committees when the council is not in session, each councilor shall receive \$5 a day and actual expenses. (R. S. c. 11, § 3.)

Sec. 4. Orders of governor's council to expire at end of its term.—Any order issued by the governor and council, except orders relating to the appointment of officers and employees of the state authorized by law, of fixing their compensation, and orders authorizing contracts which may not be wholly performed during the term of the council passing such orders, shall cease to be of any effect or validity at the end of the biennium for which the council passing the order was elected. (R. S. c. 11, § 4.)

See c. 1, § 8, re land for parks, etc.; c. 18, § 15, re investment of state funds.

Tenure of Office and Qualification of Officers.

Sec. 5. Tenure of office; citizenship.—All civil officers, appointed by the

governor and council, whose tenure of office is not fixed by law or limited by the constitution, otherwise than during the pleasure of the governor and council, except ministers of the gospel appointed to solemnize marriages and persons appointed to qualify civil officers, shall hold their respective offices for 4 years and no longer, unless reappointed, and shall be subject to removal at any time within said term by the governor and council.

All such officers so appointed and all state employees shall be citizens of the United States of America. (R. S. c. 11, § 5.)

Purpose of section.—This section was passed for the purpose of establishing uniformity in the duration of official life. Opinion of the Justices, 72 Me. 542.

Section applies to all civil officers.—This section is general and applies to all civil officers. The exceptions from the section are specially named. Opinion of the Justices, 72 Me. 542, holding that the reporter for the law court comes within the provisions of this section.

Officer not removable by governor alone.—Under this section, an officer to whom it applies does not hold his office at the will and pleasure of the governor alone,

and is not removable by him. He is removable only by the governor by and with the advice and consent of the council. Opinion of the Justices, 72 Me. 542.

In all cases where the governor appoints with the advice and consent of the council, they remove. When the appointing power is in the governor alone, he may remove. Opinion of the Justices, 72 Me. 542.

History of section.—See Opinion of Justices, 72 Me. 542.

Applied in *Lothrop v. Rockland & Rockport Lime Co.*, 110 Me. 296, 86 A. 123.

Cited in *Bowen v. Portland*, 119 Me. 282, 111 A. 1.

Sec. 6. Civil officers, other than judicial officers, to serve until successors qualified.—All civil officers, other than judicial officers, appointed by the governor with the advice and consent of the council and whose terms of office are fixed by law, shall hold office during the term for which they were appointed and until their successors in office have been appointed and qualified, unless sooner removed in accordance with law. (1947, c. 4.)

Sec. 7. Dedimus justices, how appointed.—The governor, with the advice and consent of the council, may appoint in every county persons who shall be designated as dedimus justices, before whom the oath required by the constitution to qualify civil officers may be taken and subscribed. Such persons shall exercise their powers and duties, and shall be commissioned to act within and for every county. This section shall apply to such persons appointed and commissioned prior to the 30th day of June, 1911, and shall validate any acts theretofore or thereafter done by them which would be valid hereunder. (R. S. c. 11, § 6.)

Cited in Opinion of the Justices, 70 Me. 570, 591.

Sec. 8. Certain officers to take oath before the governor and council; others before member of council or magistrate.—The justices of the supreme judicial court and of the superior court, and all state officials elected by the legislature shall take and subscribe the oath or affirmation required by the constitution, before the governor and council, when in session, and in their recess, before any 2 members of the council; and every other person elected or appointed to any civil office shall take and subscribe the oath before any one member of the council, or before any magistrate commissioned by the governor for that purpose, except when the constitution otherwise provides. (R. S. c. 11, § 7.)

If there is no governor and council, or, being a governor and council, they refuse to administer the oath, it may be taken before a magistrate authorized to administer oaths. Opinion of the Justices, 70 Me. 570, 592.

Sec. 9. Officers to qualify within 30 days or office deemed vacant.—All public officers appointed by the governor and council shall, within 30 days

after being commissioned, qualify to perform the duties of their office and the certificate of such qualification shall be filed in the office of the secretary of state. Any such officer who fails to qualify and file a certificate of qualification in the office of the secretary of state within 30 days, as above provided, shall be deemed to have forfeited his appointment and the office may be declared vacant by the governor and council and a new appointment made. (R. S. c. 11, § 8.)

Stated in *Lesieur v. Lausier*, 148 Me. 500, 96 A. (2d) 585.

Insurrection and Invasion.

Sec. 10. Governor may call out militia to suppress insurrection.—When an insurrection exists to obstruct the course of justice or the due execution of the laws, the governor is empowered to detach and call into actual service such part of the militia as in his opinion is adequate to suppress the same. (R. S. c. 11, § 9.)

Sec. 11. Governor and council may employ armed vessels to protect the coast of the state.—When the governor and council deem it necessary to protect the coast of the state from invasion, they may procure, equip, officer and man, such armed vessels as they think expedient, to cruise along the coast of the state for the purpose of protecting the inhabitants thereof; and fix the relative rank and compensation of the officers, and the number and compensation of seamen employed. (R. S. c. 11, § 10.)

National Arbor Day.

Sec. 12. National Arbor Day. — The governor shall annually issue a proclamation setting apart the last Friday in April as National Arbor Day, recommending its observance by the public in the planting of trees, shrubs and vines, in the promotion of forest growth and culture, in the adornment of public and private grounds, places and ways, and in such other efforts and undertakings as shall harmonize with the general character of the day. He shall further recommend that such day be observed in rural and suburban schools by exercises appropriate to National Arbor Day. (R. S. c. 11, § 11. 1949, c. 27.)

Insurance on Public Buildings.

Sec. 13. Insurance on public buildings and property. — All fire and liability insurance upon public buildings and other property belonging to the state shall be placed thereon by the several heads of departments having said property in charge, subject to the approval of the governor and council, or by the governor and council, and all expense therefor shall be paid from the several appropriations for insurance on said property. The policies for all insurance so placed shall be deposited with the insurance commissioner, and a record thereof kept by the governor and council and said commissioner. (R. S. c. 11, § 12.)

Sec. 14. Insurance money available for replacement. — Whenever any officer or department of the state has taken out fire insurance on property owned by the state, or for which the state is responsible, and the property has been destroyed, the money paid by the insurance companies on the loss shall, with the approval of the governor and council, be made immediately available for the use of such office or department in replacing the destroyed property, or otherwise, as may be needed in the work of the office or department. (R. S. c. 11, § 13.)

Acceptance of Federal Grants and Other Gifts.

Sec. 15. State authorized to accept federal grants.—The governor,

with the advice and consent of the council, is authorized and empowered to accept for the state any federal funds or any equipment, supplies or materials apportioned under the provisions of federal law and to do such acts as are necessary for the purpose of carrying out the provisions of such federal law. The governor, with the advice and consent of the council, is further authorized and empowered to authorize and direct departments or agencies of the state, to which are allocated the duties involved in the carrying out of such state laws as are necessary to comply with the terms of the federal act authorizing such granting of federal funds or such equipment, supplies or materials, to expend such sums of money and do such acts as are necessary to meet such federal requirements. (R. S. c. 11, § 14.)

Sec. 16. State authorized to accept gifts.—The governor, with the advice and consent of the council, is authorized to accept in the name of the state any and all gifts, bequests, grants or conveyances to the state of Maine. (R. S. c. 11, § 15.)

See c. 1, § 21, re leases for taking kelp VI re acceptance of gifts and bequests for
from submerged lands; c. 36, § 34, sub-§ state parks.

Audit of Books of State.

Sec. 17. Governor and council to authorize audit of state's books.
—Whenever it seems advisable to the governor and council, they may cause the books and accounts of the state or any department or agency thereof to be audited, and for that purpose may employ auditors other than those employed by the state department of audit. In any event, the governor and council shall cause an audit of the books of the state to be made at least once in every 4 years by auditors other than those employed by the state department of audit. (1945, c. 347.)