

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE - HUNDRETH LEGISLATURE

Legislative Document

No. 733

H. P. 535

House of Representatives, January 24, 1961

Referred to the Committee on State Government, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Berman of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

AN ACT Providing for Emergency Interim Legislative Succession.

Be it enacted by the People of the State of Maine, as follows:

R. S., c. 10, §§ 8-A - 8-O, additional. Chapter 10 of the Revised Statutes, as amended, is further amended by adding 15 new sections to be numbered 8-A to 8-O, to read as follows:

'Emergency Interim Legislative Succession.

Sec. 8-A. Short title. Sections 8-A to 8-O shall be known as the "Emergency Interim Legislative Succession Act."

Sec. 8-B. Declaration of policy. The Legislature declares that recent technological developments make possible an enemy attack of unprecedented destructiveness, which may result in the death or inability to act of a large proportion of the membership of the Legislature; that to conform in time of attack to existing legal requirements pertaining to the Legislature would be impracticable, would admit of undue delay, and would jeopardize continuity of operation of a legally constituted Legislature; and that it is therefore necessary to adopt special provisions for the effective operation of the Legislature.

Sec. 8-C. Definitions. As used in sections 8-A to 8-O:

I. Attack. "Attack" means any action or series of actions taken by an enemy of the United States resulting in substantial damage or injury to persons or property in this State whether through sabotage, bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological or biological means or other weapons or methods;

II. Unavailable. "Unavailable" means absent from the place of session, other than on official business of the Legislature, or unable, for physical, mental or legal reasons, to exercise the powers and discharge the duties of a legislator, whether or not such absence or inability would give rise to a vacancy under existing constitutional or statutory provisions.

Sec. 8-D. Designation of emergency interim successors to legislators. Each legislator shall designate not fewer than 3 nor more than 7 emergency interim successors to his powers and duties and specify their order of succession. Each legislator shall review and, as necessary, promptly revise the designations of emergency interim successors to his powers and duties to insure that at all times there are at least 3 such qualified emergency interim successors.

Sec. 8-E. Status, qualifications and term of emergency interim successors. An emergency interim successor is one who is designated for possible temporary succession to the powers and duties, but not the office, of a legislator. No person shall be designated or serve as an emergency interim successor unless he may under the Constitution and statutes hold the office of the legislator to whose powers and duties he is designated to succeed, but no constitutional or statutory provision prohibiting a legislator from holding another office or prohibiting the holder of another office from being a legislator shall be applicable to an emergency interim successor. An emergency interim successor shall serve at the pleasure of the legislator designating him or of any subsequent incumbent of the legislative office.

Sec. 8-F. Contingent method of designating emergency interim successors. Prior to an attack, if a legislator fails to designate the required minimum number of emergency interim successors within 30 days following the effective date of sections 8-A to 8-O or, after such period, if for any reason the number of emergency interim successors for any legislator falls below the required minimum and remains below such minimum for a period of 30 days, then the floor leader of the same political party in the same house as such legislator shall promptly designate as many emergency interim successors as are required to achieve such minimum number, but the floor leader shall not assign to any of his designees a rank in order of succession higher than that of any remaining emergency interim successor previously designated by a legislator for succession to his own powers and duties. Each emergency interim successor designated by the floor leader shall serve at the pleasure of the person designating him, but the legislator for whom the emergency interim successor is designated or any subsequent incumbent of his office may change the rank in order of succession or replace at his pleasure any emergency interim successor so designated.

Sec. 8-G. Recording and publication. Each designation of an emergency interim successor shall become effective when the legislator or alternate as designated in section 8-F making the designation files with the Secretary of State the successor's name, address and rank in order of succession. The removal of an emergency interim successor or change in order of succession shall become effective when the legislator or alternate as designated in section 8-F so acting files this information with the Secretary of State. All such data shall be open to public inspection. The Secretary of State shall inform the Governor, the state office of civil defense, the official in charge of keeping the journal of the house

concerned and all emergency interim successors, of all such designations, removals and changes in order of succession. The official in charge of keeping the journal of each house shall enter all information regarding emergency interim successors for the house in its public journal at the beginning of each legislative session and shall enter all changes in membership or order of succession as soon as possible after their occurrence.

Sec. 8-H. Oath of emergency interim successors. Promptly after designation each emergency interim successor shall take the oath required for the legislator to whose powers and duties he is designated to succeed. No other oath shall be required.

Sec. 8-I. Duty of emergency interim successors. Each emergency interim successor shall keep himself generally informed as to the duties, procedures, practices and current business of the Legislature, and each legislator shall assist his emergency interim successors to keep themselves so informed.

Sec. 8-J. Place of legislative session. Whenever in the event of an attack, or upon finding that an attack may be imminent, the Governor deems the place of session then prescribed to be unsafe, he may change it to any place within or without the State which he deems safer and convenient.

Sec. 8-K. Convening of Legislature in event of attack. In the event of an attack, the Governor shall call the Legislature into session as soon as practicable, and in any case within 90 days following the inception of the attack. If the Governor fails to issue such call, the Legislature shall, on the 90th day from the date of inception of the attack, automatically convene at the place where the Governor then has his office. Each legislator and each emergency interim successor, unless he is certain that the legislator to whose powers and duties he is designated to succeed or any emergency interim successor higher in order of succession will not be unavailable, shall proceed to the place of session as expeditiously as practicable. At such session or at any session in operation at the inception of the attack, and at any subsequent sessions, limitations on the length of session and on the subjects which may be acted upon shall be suspended.

Sec. 8-L. Assumption of powers and duties of legislator by emergency interim successor. If in the event of an attack a legislator is unavailable, his emergency interim successor highest in order of succession who is not unavailable shall, except for the power and duty to appoint emergency interim successors, exercise the powers and assume the duties of such legislator. An emergency interim successor shall exercise these powers and assume these duties until the incumbent legislator, an emergency interim successor higher in order of succession, or a legislator appointed or elected and legally qualified can act. Each house of the Legislature shall, in accordance with its own rules, determine who is entitled under sections 8-A to 8-O to exercise the powers and assume the duties of its members. All constitutional and statutory provisions pertaining to ouster of a legislator shall be applicable to an emergency interim successor who is exercising the powers and assuming the duties of a legislator.

Sec. 8-M. Privileges, immunities and compensation of emergency interim successors. When an emergency interim successor exercises the powers and

assumes the duties of a legislator, he shall be accorded the privileges and immunities, compensation, allowances and other perquisites of office to which a legislator is entitled. In the event of an attack, each emergency interim successor, whether or not called upon to exercise the powers and assume the duties of a legislator, shall be accorded the privileges and immunities of a legislator while traveling to and from a place of session and shall be compensated for his travel in the same manner and amount as a legislator. This section shall not in any way affect the privileges, immunities, compensation, allowances or other perquisites of office of an incumbent legislator.

Sec. 8-N. Quorum and vote requirements. In the event of an attack, quorum requirements for the Legislature shall be suspended, and where the affirmative vote of a specified proportion of members for approval of a bill, resolution or other action would otherwise be required, the same proportion of those voting thereon shall be sufficient.

Sec. 8-O. Termination of operation of sections 8-A to 8-O. The authority of emergency interim successors to succeed to the powers and duties of legislators, and the operation of sections 8-A to 8-O relating to quorum, the number of affirmative votes required for legislative action, and limitations on the length of sessions and the subjects which may be acted upon, shall expire 2 years following the inception of an attack, but nothing herein shall prevent the resumption before such time of the filling of legislative vacancies and the calling of elections for the Legislature in accordance with applicable constitutional and statutory provisions. The Governor, acting by proclamation, or the Legislature, acting by concurrent resolution, may from time to time extend or restore such authority or the operation of any of such provisions upon a finding that events render the extension or restoration necessary, but no extension or restoration shall be for a period of more than one year.'