

# MAINE STATE LEGISLATURE

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SEVENTY-EIGHTH LEGISLATURE

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HOUSE

NO. 515

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*House of Representatives, March 7, 1917.*

*Referred to Committee on Legal Affairs and two thousand copies ordered printed. Sent up for concurrence.*

*W. R. ROIX, Clerk.*

*Presented by Mr. Morison of Corinth.*

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND SEVENTEEN

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AN ACT to create a State constabulary and State's counsel; a general measure to secure the public peace and the State-wide protection of persons and property and the enforcement of all the laws of the State; to be known and designated as The Executive Law.

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

Section 1. The office of State constable and the office of  
2 State's counsel are hereby created. There shall be such  
3 number of incumbents in either or both of said offices as the  
4 Governor, in his discretion, may appoint, whenever he has

5 reason to doubt whether any of the laws of the State are  
6 properly enforced or executed, or whenever in his opinion  
7 the public necessity shall require. It shall not be required  
8 for the Governor to appoint any incumbent for either of said  
9 offices unless he deem wise to do so.

Sect. 2. The powers, authority and duties of such state  
2 constables shall be the same as, and shall be concurrent with,  
3 those of deputy sheriffs, police of cities, and constables of  
4 towns, provided that the same shall be confined to matters  
5 pertaining to crimes, misdemeanors, vandalism, trespass by  
6 force and arms, malicious mischief, and qui tam actions, ex-  
7 cept as stated in this Act. They shall have power and au-  
8 thority to serve civil process as deputy sheriffs, coroners or  
9 constables, only when they have given bond and in cases in  
10 which the State of Maine shall be a party plaintiff or defend-  
11 ant, or in which the sheriff or any of his deputies are parties  
12 or are otherwise disqualified. The Governor may limit the  
13 power, authority and bailiwick, either or all, of such con-  
14 stables or any of them, to one or more counties, cities, towns,  
15 plantations, or unincorporated places or localities, or make  
16 the same extend throughout the State, and he may limit the  
17 power and authority of such constables or any of them to a  
18 certain subject matter, offense, crime, misdemeanor, action,  
19 or case, or group or class of matters, offenses, crimes, mis-  
20 demeanors, actions, or cases, or he may provide in such com-  
21 missions that such power and authority be general, all as he  
22 in his discretion may deem wise and in such commissions of

23 appointment shall set forth. The Governor may supplement  
24 such commissions by oral or written directions for the pur-  
25 pose and within the limits prescribed in this Act. Such con-  
26 stables shall, if ordered to do so by the Governor, give an  
27 official bond in such penal sum and so appropriately con-  
28 ditioned as the Governor may require, and shall take and  
29 subscribe an oath to support the constitution of the United  
30 States, and also take an oath to support and enforce the con-  
31 stitution and laws of the State of Maine, and to faithfully  
32 and impartially perform the duties of such office according  
33 to the tenor of their respective commissions of appointment.

Sect. 3. Such State's counsel, when appointed by the Gov-  
2 ernor pursuant to the provisions of this Act, may be retained  
3 and employed and may act in, or assist in, the conduct and  
4 transaction of any of the legal business of the State, by  
5 direction of the Governor contained in his or their commis-  
6 sions of appointment. The subject matter and scope of such  
7 retainer or employment shall be defined and limited in such  
8 commissions with ordinary certainty and clearness, and such  
9 commissions shall be so drawn as to define the position, con-  
10 nection, authority and responsibility, if any, in the premises,  
11 of the State or county attorney, who would otherwise have  
12 charge of, or be responsible for the same subject matter, so  
13 that the same may be clear to a common intent, in all cases  
14 where, by the terms of such counsel's commission of appoint-  
15 ment, his authority is not exclusive. Such commissions of  
16 appointment may, at the pleasure of the Governor, enjoin co-

17 operation, concurrence, and concert of action on the part of  
18 such attorneys, or exclude them from participation in the  
19 premises covered by the commissions of such counsel, all to  
20 be set forth in such tenor and to such effect as the Governor  
21 in his discretion may determine and provide therein. In all  
22 cases, other than those mentioned in the first clause of Sec-  
23 tion 5 of this Act, copies of the commissions of State's coun-  
24 sel shall be furnished to the Attorney General of the State  
25 and to the county attorney who would otherwise have  
26 charge in the premises, except when in the discretion of the  
27 Governor it is deemed incompatible with the public interest  
28 to do so.

Sect. 4. Such constables and such counsel shall, except as  
2 provided in Section 5 of this Act, receive such reasonable  
3 compensation and actual expenses, expenditures and dis-  
4 bursements, when incumbent in said offices, out of the State  
5 treasury, to be audited and paid in the usual course, as the  
6 Governor and Council may determine.

Sect. 5. Whenever the Governor may deem it for the pub-  
2 lic interest for any purpose or to secure the availability,  
3 efficiency and esprit de corps of the constabulary and the  
4 counsel created by this Act, he may, in his discretion, appoint  
5 and commission one or any number of such con-  
6 stables, and such counsel, either or both, by commissions  
7 more general in form and tenor than that mentioned  
8 in Section 2 of this Act, to hold and have tenure of office the  
9 same as others of said constables and counsel. All commis-

10 sions issued by virtue of the foregoing provisions of this  
11 section shall contain a direct reference hereto for the pur-  
12 pose of identification. On occasion, at the pleasure of the  
13 Governor, new, other or supplemental commissions more  
14 specifically defining their powers, authority, duties and baili-  
15 wick, drawn in the tenor and effect elsewhere provided in this  
16 Act, may be issued to the constables and counsel appointed  
17 under this section. Provided that if no such new, other or  
18 supplemental commission be granted, or is in force, the con-  
19 stables and counsel mentioned in this section shall have no  
20 actual duties and shall not receive any compensation, ex-  
21 penses, expenditures or disbursements whatsoever.

Sect. 6. The tenure of office and appointment of all in-  
2 cumbents of either or both of the said offices created by this  
3 Act, including as well those mentioned in Section 5 as in the  
4 others, are, and shall be, at the pleasure of the Governor,  
5 who may appoint, remove, and reappoint them, or any of  
6 them, or appoint others, and them remove, and commission  
7 and instruct them, or any of them, and such commissions or  
8 instructions revoke or modify, within the due limits of the  
9 executive authority and discretion and the provisions and  
10 limits of this Act.