

MAINE STATE LEGISLATURE

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N I N E T I E T H

L E G I S L A T U R E

Legislative Document

No. 1028

(Transmitted from the Revisor of Statutes under Joint Order)

H. P. 1705

House of Representatives, March 19, 1941.

Referred to Committee on Legal Affairs. Sent up for concurrence and 650 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. LaFleur of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-ONE

AN ACT Relating to Elected Officials of the State in Military Service.

Emergency preamble. Whereas, several of the elected officials of the state have been or are about to be inducted into the military service of the federal government, and

Whereas, in the case of some of these officials there is no provision in the statutes for taking care of the duties of their offices while the officials are absent because of such service, and

Whereas, the enforcement of the laws of the state and the administration of its affairs and the affairs of its subdivisions will suffer unless a provision is made for filling these vacancies, and

Whereas, in the judgment of the legislature, these facts create an emergency within the meaning of section 16 of Article XXXI of the constitution of the state of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. County attorneys in military service. Chapter 93 of the revised

statutes is hereby amended by adding thereto a new section to be numbered 15-A, and to read as follows :

‘Sec. 15-A. County attorneys in military or naval service; substitutes. Whenever a county attorney, during his term of office, shall, in time of war, contemplated war, emergency or limited emergency, enlist, enroll, be called or ordered or be drafted into the military or naval service of the United States or any branch or unit thereof, he shall not be deemed or held to have thereby resigned from or abandoned his said office, nor shall he be removable therefrom during the period of his said military or naval service except that his term of office shall not be held to have been lengthened by reason of the provisions of this section. From the time of his induction into such service he shall be regarded as on leave of absence without pay from his said office, and the governor, with the advice and consent of the council, shall appoint a competent attorney, a resident of the county so affected, to fill said office while said county attorney is in the federal service but not for a longer period than the remaining portion of the term of said county attorney. During the period of said military or naval service, the treasurer of state shall pay to said substitute attorney, a salary at the same rate as the rate of pay of the county attorney and amounts so paid shall be deducted from the salary of said county attorney. The attorney so appointed to fill the temporary vacancy shall have the title of “substitute county attorney” and shall possess all the rights and powers and be subject to all the duties and obligations of the county attorney for whom he is substituting.’

Sec. 2. R. S., c. 93, additional. Chapter 93 of the revised statutes is hereby amended by adding thereto a new section to be numbered 21-A, and to read as follows :

‘Sec. 21-A. Appointment of substitute in case of death or removal of county attorney. Whenever the office of county attorney becomes vacant by reason of the death, permanent incapacity or removal from the county of the incumbent of the office except as provided for in section 15-A, the governor with the advice and consent of the council, shall appoint a competent attorney, a resident of the county affected, to fill out the term of office of said incumbent.’

Sec. 3. County commissioners in military service. Chapter 92 of the revised statutes is hereby amended by adding thereto a new section to be numbered 3-A, and to read as follows :

‘Sec. 3-A. County commissioners in military or naval service; substi-

tutes. Whenever a county commissioner, during his term of office, shall, in time of war, contemplated war, emergency or limited emergency, enlist, enroll, be called or ordered or be drafted into the military or naval service of the United States or any branch or unit thereof, he shall not be deemed or held to have thereby resigned from or abandoned his said office, nor shall he be removable therefrom during the period of his said military or naval service except that his term of office shall not be held to have been lengthened by reason of the provisions of this section. From the time of his induction into such service, he shall be regarded as on leave of absence without pay from his said office, and the governor, with the advice and consent of the council, shall appoint a competent citizen, a resident of the county so affected, to fill said office while said county commissioner is in the federal service but not for a longer period than the remaining portion of the term of said county commissioner. During the period of said military or naval service, the county shall pay to said substitute county commissioner, a salary at the same rate as the rate of pay of the county commissioner and amounts so paid shall be deducted from the salary of said county commissioner. The citizen so appointed to fill the temporary vacancy shall have the title of "substitute county commissioner" and shall possess all the rights and powers and be subject to all the duties and obligations of the county commissioner for whom he is substituting.'

Sec. 4. Clerks of courts in military service. Chapter 93 of the revised statutes is hereby amended by adding thereto a new section to be numbered 1-A, and to read as follows:

'Sec. 1-A. Clerks of court in military or naval service. Whenever any clerk of court, during his term of office, shall, in time of war, contemplated war, emergency or limited emergency, enlist, enroll, be called or ordered or be drafted into the military or naval service of the United States or any branch or unit thereof, his status shall continue in the same manner as that provided in section 3-A of chapter 92 for county commissioners, and the temporary vacancy so created shall be filled by the same method as that provided above for county commissioners who have entered said service.'

Sec. 5. R. S., c. 18, § 8, amended. Section 8 of chapter 18 of the revised statutes is hereby amended to read as follows:

'Sec. 8. Staff. The staff of the commander-in-chief shall consist of the adjutant-general, who shall be ex officio chief of staff, quartermaster-general and paymaster-general with rank of brigadier-general; the senior officer on duty with each of the staff departments; and such aides-de-camp not to exceed five in number, one of whom may be a naval aid with rank of

lieutenant commander, as may be appointed by the governor. Except as hereinafter provided all staff officers must be at the time of their appointment commissioned officers of the Maine national guard, **or of the Maine state guard, or of the officers' reserve corps of the army of the United States, or on the retired list of the army of the United States and residents of the state of Maine,** on the active or retired list of or above the grade of captain, but no staff officer shall be appointed from the retired list who shall have had less than 5 years of service in the Maine national guard, **or in the officers' reserve corps of the army of the United States, or in the regular army of the United States,** the last year of which shall be within 5 years immediately preceding the appointment.

Aides-de-camp, except as hereinafter provided, may be detailed by the commander-in-chief from commissioned officers of the Maine national guard, **or of the Maine state guard,** of the grades above specified, but officers so detailed shall not be relieved thereby from their regular duties except when on duty with the commander-in-chief. Honorably discharged officers or enlisted men who served in the United States army, navy, or marine corps during any war, who are not members of the Maine national guard, **or of the Maine state guard,** may be appointed by the governor as aides-de-camp with the rank of colonel. The aides-de-camp authorized by this chapter shall be appointed by the governor and, except those detailed from the active list, shall be commissioned by him and shall serve only during the term of the governor making the appointment; provided, that the governor may detail additional aides from the officers of the Maine national guard **or of the Maine state guard** for temporary duty, subject to the provisions of this section.

Sec. 6. R. S., c. 18, § 15, amended. The 9th paragraph of section 15 of chapter 18 of the revised statutes is hereby amended to read as follows:

'The adjutant-general may appoint, subject to the approval of the governor, an officer, **who shall meet the same requirements as officers for appointment to the staff as provided for in section 8 of this chapter, as amended,** as assistant adjutant-general, who shall, assist the adjutant-general in the performance of his duties, and who shall, whenever the adjutant-general is absent or unable from any cause to perform his duties, or whenever a vacancy shall exist in the office of adjutant-general, perform the duties of the adjutant-general during such absence and disability, and who, in the case of vacancy in the said office, shall be acting adjutant-general until such vacancy shall have been filled by the commander-in-chief, as provided for in section 8 of this chapter, as amended.

Sec. 7. Chapter 124 of the revised statutes is hereby amended by adding thereto a new section to be known as Section 19-A, to read as follows:

'Sec. 19-A. Disclosure commissioners. The removal of a disclosure commissioner from the state, or from the county for which he is appointed, or his acceptance of any appointment under the federal government, shall vacate his office. This, however, shall not apply to cases of disclosure commissioners called into the military or naval service of the United States under the Selective Service Act.'

Emergency clause. In view of the emergency cited in the preamble, this resolve shall take effect when approved.