

# MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

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N I N E T I E T H                      L E G I S L A T U R E

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**Legislative Document**

**No. 1203**

S. P. 590

In Senate, January 13, 1942.

Referred to Committee on Judiciary. Sent down for concurrence and 1000 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Senator Dow of Oxford.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-TWO

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**AN ACT to Create the Maine Civilian Defense Corps and Provide for the  
Safety of the State in Time of War.**

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**Emergency preamble.** Whereas, a state of war exists between the United States and Germany, Italy, Japan and other foreign countries; and

Whereas, in the judgment of the legislature this fact creates an emergency within the meaning of section 16 of Article XXXI of the constitution of Maine and requires 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. Emergency powers of the governor.** The governor is hereby empowered and directed to provide for the security of the state, including the civilian defense of the state and the health and welfare of the people of the state. The governor is hereby empowered and directed to make, issue, and enforce such rules and regulations as he may deem necessary to carry out the provisions of this act, including but in no way limited to such rules and regulations as will provide for air-raid precautions; air-raid shelters; black-outs; evacuations; the survey, manufacture, use, and storage of fire-arms, ammunitions and explosives, and for the carrying out of any and all

other such activities and actions as will aid in the carrying out of the purposes of this act. All the rules and regulations promulgated or issued by the governor under the provisions of this act shall have full force and effect of law, and all such rules and regulations shall be published in the state paper for 3 consecutive days. The governor may appoint and delegate to such persons as he deems necessary, authority to enforce and carry out or require the carrying out of such rules and regulations as may be issued or promulgated by him under and in accordance with the provisions of this act.

**Sec. 2. Maine Civilian Defense Corps.** The governor is hereby empowered and directed to establish and organize a civilian defense corps to be known as "Maine Civilian Defense Corps", which shall be under his direction and control and which shall be composed of such persons as he shall designate, to serve at his pleasure, and which shall be governed by rules and regulations promulgated by him. The said corps shall take all necessary action to train and instruct and aid the people to protect themselves against fire, famine, violence, riot, insurrection, disaster, bombing, sabotage, subversive activities and the exigencies and vicissitudes of modern warfare; and to carry out such other duties as the governor may delegate to it under the provisions of this act; and shall enforce such rules and regulations as the governor may prescribe for the carrying out of their duties. All members of the said corps during the time they are engaged in the carrying out and the enforcement of the rules and regulations of the governor promulgated under this act shall have the powers of constables throughout the state regardless of town or county boundaries.

No black-out or test black-out shall be held except as provided for by the rules and regulations of the governor.

**Sec. 3. Special powers of towns and cities.** Each city, town, and village corporation in the state is hereby authorized and empowered to appropriate and expend such sums of money as it may deem necessary or advisable for the purpose of assisting in any manner the carrying out of the purposes of this act.

The government may order, and delegate the authority to so order, the police and fire departments of any city, town, or village corporation to extend such aid, under such conditions and restrictions as he may prescribe, to any other city, town, or village corporation; and he may make such rules and regulations as shall provide for the compensation to any such city, town, or village corporation rendering such aid.

**Sec. 4. Contracts.** The governor may authorize any department or

agency of the state exercising functions in connection with the carrying out of the purposes of this act, in accordance with rules and regulations prescribed by him for the protection of the interests of the state, to enter into contracts and into amendments or modifications of contracts heretofore or hereafter made and to make advance, progress, and other payments thereon, without regard to the provisions of law relating to the making, performance, amendment, or modification of contracts whenever he deems such action would facilitate the carrying out of the purposes of this act; provided, that nothing herein shall be construed to authorize the use of the cost-plus-a-percentage-of-cost system of contracting.

**Sec. 5. Regulations of departmental activities and authorization of expenditures.** The governor may re-direct the activities of any department or agency of the state for the purpose of carrying out any of the provisions of this act. The commissioner of finance is hereby directed to establish an account to be known as the "Governor's Emergency War Fund." The governor is hereby authorized to transfer to this fund any moneys in the general funds of the state that are not appropriated and any and all unexpended appropriation balances existing at the end of each fiscal year, except those that carry forward as provided by law, after the contingent fund has been provided for.

The governor is hereby authorized to expend the moneys in the said war fund for the purpose of carrying out the provisions of this act.

**Sec. 6. Civil liability.** No civil liability for alleged negligence shall be cast upon any person, firm, association, or corporation, or the state or any political subdivision thereof by reason of his or its act in the pursuance of any authority granted under any provision of this act.

**Sec. 7. Penalties.** Any person, firm, association, or corporation, who or which shall violate or attempt to violate any of the provisions of this act or of any rule or regulation issued thereunder and, who or which shall violate, neglect, or refuse to comply with any order of the governor or of his duly appointed subordinates issued in compliance with the provisions of this act, shall, upon conviction, be punished by a fine of not more than \$500, or, if a natural person, by imprisonment for not more than 11 months, or by both such fine and imprisonment; and the officer, director, or agent of any corporation, city, town, or other political subdivision of the state who participates in such violations shall be punished by a like fine, imprisonment, or both.

All penalties provided for in this act shall be construed to be in addition

to and not in limitation of any and all other penalties now provided by law for any violation of law.

**Sec. 8. Emergency powers.** (a) Whenever, during the life of this act, in the opinion of the governor, conditions within or without the borders of this state have become such that the lives and property of the people of the state are in imminent danger, he may declare an extraordinary emergency, and at the termination of the period of imminent danger, the governor shall make proclamation to that effect and shall thereby suspend the grant of powers conferred upon him by this section.

(b) Whenever the governor has proclaimed the existence of such a state of emergency, he may take, use, or utilize for such time as he may deem necessary, all the material and human resources in the state, whether public, private, or corporate, including those of all agencies of the state and the several political subdivisions thereof, for the assistance of the military and naval forces of the state and/or of the United States, or for the protection and welfare of the state or its inhabitants and for the enforcement of the laws of the state or of the United States.

(c) The governor may use and employ all property of which possession is taken under the provisions of this act for such times and in such manner as he shall deem for the interests of the state and/or its inhabitants, and/or of the United States.

**Sec. 9. Emergency Compensation Board.** The governor shall establish an "Emergency Compensation Board" to be composed of 5 members appointed by him and to serve for the duration of this act or at the pleasure of the governor. Any vacancy caused by the decease, resignation, or dismissal of any member shall be cared for by the appointment of another member by the governor. The board shall award reasonable compensation to the owners of any property of which the governor may take possession under the provisions of this act, and for the use of such property and for any injury thereto or destruction thereof caused by such use.

Any owner or owners of property of which possession has been taken, to whom no award has been made, or who is or are dissatisfied with the amount awarded him or them by the board as compensation, shall have the right of petition to the Superior Court, naming the State of Maine as defendant and making service by copy on the attorney-general of the state for the sole purpose of having the amount to which he is or they are entitled by way of damages determined, provided, moreover, that such petition shall not interfere with the exercise of the powers conferred upon the governor under this act.

No petition shall be brought more than 2 years after the ratification of a treaty of peace between the United States and every nation with which the United States is at war when the cause of action accrues. Provided, that in case said owner or owners shall be under any statutory disability at the time of said ratification, the petition may be filed within 2 years after the termination of said disability.

Either the petitioner or the state shall have the right to have the amount of such damages assessed by a jury in the said court. Procedure shall be in accordance with the provisions of law and the rules of court in an action on the case, except as provided otherwise herein.

Such petition shall be filed in the county in which the petitioner lives or has his usual place of business, if the petitioner either lives or has his usual place of business in the state, otherwise in the county of Kennebec.

Upon such petition full damages shall be awarded whether or not the same had fully accrued at the time of the filing of the petition. The right of petition granted by this section shall survive.

**Sec. 10. Audit of expenditures provided for.** The department of audit shall perform a post audit of all accounts and other financial records of transactions performed under the provisions of this act and shall report annually on this audit and at such other times as the legislature may require.

**Sec. 11. Constitutionality.** If any word, section, or provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

**Sec. 12. Duration of act.** This act shall remain in force until 6 months after the state of war ceases between the United States and every foreign government or until such earlier time as the legislature, by concurrent resolution, or the governor, by proclamation, may designate.

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