

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

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

Legislative Document

No. 1260

NEW DRAFT OF S. P. 590 — L. D. 1203.

S. P. 618

In Senate, January 20, 1942.

New Draft of Senate Paper 590, Legislative Document 1203, 1000 copies ordered printed. Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-TWO

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

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. Powers of the governor. The governor is hereby empowered and directed to provide for the security, health and welfare of the people of the state, including the civilian defense of the state and to cooperate with the federal government and with other state governments to carry out the purpose of this act. 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 pre-

cautions; air-raid shelters; black-outs; evacuations; 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 the force and effect of law forthwith, 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 promulgated or issued 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. Such members of the said corps as the governor may designate, during the time they are engaged in the carrying out and the enforcement of the rules and regulations promulgated or issued under this act shall have the powers and immunities 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, borrow 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 governor 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 with the advice and consent of the council 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. The governor, with the advice and consent of the council, may re-direct the activities of any department or agency of the state, excepting the courts, for the purpose of carrying out of any of the provisions of this act.

Sec. 6. Appropriations and authorizations of expenditures. There is hereby established a fund to be known as the "Emergency War Fund."

The governor, with the advice and consent of the council, is hereby authorized to transfer to this fund any money 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. 7. 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 proclaim 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 man-power, and all the material 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 powers granted under the provisions of this section are granted for a period of 30 days only from the date of the proclamation of the emergency provided for herein, unless within said period of 30 days from the date of said proclamation the governor shall cause the legislature to convene.

Sec. 8. Emergency compensation boards. There is hereby established an emergency compensation board in and for each county of the state. The emergency compensation board for each county shall be composed of the county commissioners of such county who are serving for the time being. The boards 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, to be paid out of the Emergency War Fund within 30 days after final adjudication of any award.

Any owner or owners of any such property may file a petition for award of damages to the emergency compensation board in the county in which the said property was located at the time of the taking, naming the state of Maine as defendant by serving a copy of said petition on the attorney-general.

The board shall thereupon, after reasonable and proper notice to the petitioner, grant a hearing upon such petition within 90 days. Any party in interest aggrieved by the decree or award of said board shall have the right of appeal to the next term of the superior court to be held in the county after 30 days from the date of the decision or award of the board by filing notice of his appeal with said board within the time above limited and by serving a copy of said notice upon the adverse party.

No petition shall be brought more than 1 year 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 1 year 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.

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. 9. 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. 10. Civil liability. The state shall provide defense and indemnity for any claims and suits for alleged negligence or lack of permission instituted against any person by reason of his action in pursuance of authority granted hereunder, provided such person, within 14 days after written notice to him of such claim, gives written notice thereof to the attorney-general.

Sec. 11. 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 an individual, 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. 12. 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. 13. 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; provided, however, that this act shall survive for the purpose of prosecuting and defending all pending suits and causes of suits to which said state or any

person affected thereby is, or may be, a party, and all needful processes growing out of the same, including the payment of all judgments or debts which may be rendered against said state or exist in favor of any creditor.

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