

MAINE STATE LEGISLATURE

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TITLE 1

GENERAL PROVISIONS

Chap.	Sec.
1. Sovereignty and Jurisdiction	1
3. Rules of Construction	71
5. Commemorative Days	111
7. Time	151
9. Seal, Motto, Emblems and Flags	201
11. Acts, Resolves, and Constitutional Amendments	301
13. Public Records and Proceedings	401
15. State Paper; Legal Notices	551
17. Emergency Interim Executive Succession	651
19. Emergency Location of Governments	711
21. Eminent Domain; Purchase by State	811

CHAPTER 1

SOVEREIGNTY AND JURISDICTION

1. Extent of sovereignty and jurisdiction.
2. Offshore waters and submerged land.
3. Ownership of offshore waters and submerged land.
4. Certain jurisdiction and ownership unimpaired.
5. Existing jurisdiction or ownership not waived.
6. Sovereignty in space.
7. Division of State.
8. Transfer of legislative jurisdiction.
9. Compliance with certain conditions necessary for valid transfer.
10. Legislative jurisdiction transferred by operation of law unimpaired.
11. State processes executed in places ceded.
12. Governor may cede 10 acres or less to United States; compensation to owner.
13. Land for fortifications or navigation aids; taking and ceding to United States; compensation.
14. Survey of land to be taken; filing and recording.
15. Consent of Legislature to acquisition of land by United States for public buildings; record of conveyances.

Sec.

16. Property not to be taxed.
17. Acquisition of land by United States where owner disabled or unwilling; proceedings.
18. Treasurer receiving money to give bond.
19. Consent to certain acts of United States coast survey.
20. Compensation to owners for use of land.
21. Report of county commissioners filed with Superior Court; motion for new trial.
22. Tender of amends; costs.
23. Injury to works.
24. Right of entry on lands.
25. Public Utilities Commission to have charge of topographic mapping.
26. Leases of right to take kelp on submerged lands.
27. Title to certain islands.
28. Usurpation of jurisdiction by foreign power; overt acts in State.

§ 1. Extent of sovereignty and jurisdiction

The jurisdiction and sovereignty of the State extend to all places within its boundaries, subject only to such rights of concurrent jurisdiction as are granted over places ceded by the State to the United States.

R.S.1954, c. 1, § 1.

§ 2. Offshore waters and submerged land

The jurisdiction of this State shall extend to and over, and be exercisable with respect to, waters offshore from the coasts of this State as follows:

1. Marginal sea. The marginal sea to its outermost limits as said limits may from time to time be defined or recognized by the United States of America by international treaty or otherwise;

2. High seas. The high seas to whatever extent jurisdiction therein may be claimed by the United States of America, or to whatever extent may be recognized by the usages and customs of international law or by any agreement, international or otherwise, to which the United States of America or this State may be party;

3. Submerged lands. All submerged lands, including the subsurface thereof, lying under said aforementioned waters.

1959, c. 197.

§ 3. Ownership of offshore waters and submerged land

The ownership of the waters and submerged lands enumerated or described in section 2 shall be in this State unless it shall be, with respect to any given parcel or area, in any other person or entity by virtue of a valid and effective instrument of conveyance or by operation of law.

1959, c. 197.

§ 4. Certain jurisdiction and ownership unimpaired

Nothing contained in sections 2 to 5 shall be construed to limit or restrict in any way:

1. Jurisdiction because of citizenship; residence. The jurisdiction of this State over any person or with respect to any subject within or without the State which jurisdiction is exercisable by reason of citizenship, residence or for any other reason recognized by law;

2. Jurisdiction over certain waters and land; ceded to and owned by United States. Jurisdiction or ownership of or over any other waters or lands thereunder, within or forming part of the boundaries of this State. Nor shall anything in sections 2 to 5 be construed to impair the exercise of legislative jurisdiction by the United States of America over any area to which such jurisdiction has been validly ceded by this State and which remains in the ownership of the United States of America.

1959, c. 197.

§ 5. Existing jurisdiction or ownership not waived

Nothing in sections 2 to 5 shall alter the geographic area to which any statute of this State applies if such statute specifies such area precisely in miles or by some other numerical designation of distance or position. Nothing in any such statute or in sections 2 to 5 shall be construed as a waiver or relinquishment of jurisdiction or ownership by this State over or in any area to which such jurisdiction or ownership extends by virtue of sections 2 to 5 or any other provision or rule of law.

1959, c. 197.

§ 6. Sovereignty in space

Sovereignty in the space above the lands and waters of the State is declared to rest in the State, except where granted to and

assumed by the United States pursuant to a constitutional grant from the people of this State.

R.S.1954, c. 1, § 2.

§ 7. Division of State

The State is divided into counties, districts, towns, plantations and unorganized territory.

R.S. 1954, c. 1, § 3.

§ 8. Transfer of legislative jurisdiction

1. Notice. In order to acquire all, or any measure of, legislative jurisdiction of the kind involved in the Constitution of the United States, Article I, Section 8, Clause 17 over any land or other area; or in order to relinquish such legislative jurisdiction, or any measure thereof, which may be vested in the United States; the United States acting through a duly authorized department, agency or officer, shall file a notice of intention to acquire or relinquish such legislative jurisdiction, hereinafter called notice, together with a sufficient number of duly authenticated copies thereof to meet the recording requirements of subsection 3, with the Governor. The notice shall contain a description adequate to permit accurate identification of the boundaries of the land or other area for which the change in jurisdictional status is sought and a precise statement of the measure of legislative jurisdiction sought to be transferred. Immediately upon receipt of the notice, the Governor shall furnish the Attorney General with a copy thereof and shall request his comments and recommendations thereon.

2. Legislative approval of transfer of jurisdiction. The Governor shall transmit said notice together with his comments and recommendations, if any, and the comments and recommendations of the Attorney General, if any, to the next session of the Legislature which shall be constitutionally competent to consider the same. Unless prior to the expiration of the legislative session to which said notice is transmitted as provided, the Legislature has adopted an act approving the transfer of legislative jurisdiction as proposed in said notice, the said transfer shall not be effective.

3. Recordation. The Governor shall cause a duly authenticated copy of the notice and act to be recorded in the registry of deeds of the county where the land or other area affected by the

transfer of jurisdiction is situated, and upon such recordation the transfer of jurisdiction shall take effect. If the land or other area shall be situated in more than one county, a duly authenticated copy of the notice and act shall be recorded in the registry of deeds of each such county.

4. Filing. The Governor shall cause copies of all documents recorded pursuant to sections 8 to 10 to be filed with the Secretary of State.

1959, c. 213, § 1.

§ 9. Compliance with certain conditions necessary for valid transfer

In no event shall any transfer of legislative jurisdiction between the United States and this State take effect nor shall the Governor transmit any notice proposing such a transfer pursuant to section 8, subsection 2, unless under the applicable laws of the United States:

1. Title acquired by United States. The United States of America has acquired title to such land by purchase, condemnation or otherwise.

2. Jurisdiction of State to tax. This State shall have jurisdiction to tax private persons, private transactions and private property, real and personal, resident, occurring or situated within such land or other area to the same extent that this State has jurisdiction to tax such persons, transactions and property resident, occurring or situated generally within this State.

3. Service and execution of process. Any civil or criminal process, lawfully issued by competent authority of this State or any of its subdivisions, may be served and executed within such land or other area to the same extent and with the same effect as such process may be served and executed generally within this State; provided only that the service and execution of such process within land or other areas over which the Federal Government exercises jurisdiction shall be subject to such rules and regulations issued by authorized officers of the Federal Government, or of any department, independent establishment or agency thereof, as may be reasonably necessary to prevent interference with the carrying out of federal functions.

4. Jurisdiction of State and United States. This State shall exercise over such land or other area the same legislative jurisdiction which it exercises over land or other areas generally with-

in this State, except that the United States shall not be required to forego such measure of exclusive legislative jurisdiction as may be vested in or retained by it over such land or other area pursuant to sections 8 to 10, and without prejudice to the right of the United States to assert and exercise such concurrent legislative jurisdiction as may be vested in or retained by it over such land or other area.

1959, c. 213, § 1.

§ 10. Legislative jurisdiction transferred by operation of law unimpaired

Nothing in sections 8 to 10 shall be construed to prevent or impair any transfer of legislative jurisdiction to this State occurring by operation of law.

1959, c. 213, § 1.

§ 11. State processes executed in places ceded

Civil, criminal and military processes, lawfully issued by an officer of the State, may be executed in places ceded to the United States, over which a concurrent jurisdiction has been reserved for such purpose.

R.S.1954, c. 1, § 5.

§ 12. Governor may cede 10 acres or less to United States; compensation to owner

The Governor, with the advice and consent of the Council, reserving such jurisdiction, may cede to the United States for purposes named in its Constitution any territory not exceeding 10 acres, but not including any highway; nor any public or private burying ground, dwelling house or meetinghouse, without consent of the owner. If compensation for land is not agreed upon, the estate may be taken for the intended purpose by payment of a fair compensation, to be ascertained and determined in the same manner as, and by proceedings similar to those provided for ascertaining damages in locating highways, in Title 23, chapters 201 to 209.

R.S.1954, c. 1, § 6.

§ 13. Land for fortifications or navigation aids; taking and ceding to United States; compensation

Whenever the public exigencies require it, the Governor, with the advice and consent of the Council, may take in the name of the State, by purchase and deed, or in the manner denoted, any lands or right of ways, for the purpose of erecting, using or maintaining any fort, fortification, arsenal, military connection, way, railroad, lighthouse, beacon or other aid to navigation, with all necessary rights, powers and privileges incident to their use, and may deliver possession and cede the jurisdiction thereof to the United States, on such terms as are deemed expedient.

The owner of any land or rights taken shall have a just compensation therefor, to be determined as prescribed in section 12, provided that application is made within 5 years after the land is taken.

R.S.1954, c. 1, § 7.

§ 14. Survey of land to be taken; filing and recording

When the Governor and Council determine that a public exigency requires the taking of any land or rights as provided for in section 13, they shall cause the same to be surveyed, located and so described that the same can be identified, and a plan thereof, with a copy of the order in Council, shall be filed in the office of the Secretary of State and there recorded. The filing of said plan and copy shall vest the title to such land and rights in the State of Maine or their grantees, to be held during the pleasure of the State and, if transferred to the United States, during the pleasure of the United States.

R.S.1954, c. 1, § 8.

§ 15. Consent of Legislature to acquisition of land by United States for public buildings; record of conveyances

In accordance with the Constitution of the United States, Article 1, Section VIII, Clause 17, and acts of Congress in such cases provided, the consent of the Legislature is given to the acquisition by the United States, or under its authority, by purchase, condemnation or otherwise, of any land in this State required for the erection of lighthouses or for sites for customhouses, court-houses, post offices, arsenals or other public buildings, or for any other purposes of the government. Deeds and conveyances or title papers for the same shall be recorded upon the land rec-

ords of the county or registry district in which the land so conveyed may lie; and in like manner may be recorded a sufficient description by metes and bounds, courses and distances, of any tracts and legal divisions of any public lands belonging to the United States set apart by the general government for either of the purposes before mentioned, by an order, patent or other official paper so describing such land.

R.S.1954, c. 1, § 9.

§ 16. Property not to be taxed

Lands with the tenements and appurtenances acquired for the purposes mentioned in section 15 shall be and continue exempt from all state, county and municipal taxation, assessment or other charges which may be levied or imposed under the authority of this State, so far as the taxation of such property is prohibited under the Constitution and laws of the United States, so long as the said lands shall remain the property of the United States, and no longer.

R.S.1954, c. 1, § 11; 1963, c. 188.

§ 17. Acquisition of land by United States where owner disabled or unwilling; proceedings

Whenever, upon application of an authorized agent of the United States, it is made to appear to the Superior Court that the United States desires to purchase a tract of land and the right of way thereto, within the State, for the erection of a lighthouse, beacon light, range light or light keeper's dwelling, forts, batteries or other public buildings, and that any owner is a minor, or is mentally ill, or is from any cause incapable of making perfect title to said lands, or is unknown, or a nonresident, or from disagreement in price or any other cause refuses to convey such land to the United States, said court shall order notice of said application to be published in some newspaper in the county where such land lies, if any, otherwise in a paper in this State nearest to said land, once a week for 3 weeks, which notice shall contain an accurate description of said land, with the names of the supposed owners, provable in the manner required for publications of notice in Title 14, and shall require all persons interested in said land on a day specified in said notice to file their objections to the proposed purchase. At the time so specified said court shall empanel a jury, in the manner provided for the trial of civil actions, to assess the value of said land at its fair market value and all dam-

ages sustained by the owner of such land by reason of such appropriation. Such amount when so assessed, with the entire costs of said proceedings, shall be paid into the treasury of said county, and thereupon the sheriff thereof, upon the production of the certificate of the treasurer that said amount has been paid, shall execute to the United States and deliver to its agent a deed of said land, reciting the proceedings in said cause, which deed shall convey to the United States a good and absolute title to said land against all persons. The money paid into such county treasury shall there remain until ordered to be paid out by a court of competent jurisdiction.

R.S.1954, c. 1, § 12; 1959, c. 242, § 3; 1961, c. 417, § 1.

§ 18. Treasurer receiving money to give bond

The court directing the money to be paid to a county treasurer, in accordance with sections 15 to 17, shall require of such treasurer a bond in double the amount ordered to be paid to him, with 2 or more sufficient sureties, or with a surety company, as surety, to be approved by said court. Such bonds shall be payable to the people of the State of Maine, for the use of such persons, severally, as are entitled to said money, and shall be approved and filed with the clerk of said court before payment of the money to the treasurer.

R.S.1954, c. 1, § 13; 1961, c. 417, § 2.

§ 19. Consent to certain acts of United States coast survey

Persons employed under the Government of the United States in the coast survey may enter on any land in the State and erect thereon such buildings and do such other acts as the objects of the survey require.

R.S.1954, c. 1, § 14.

§ 20. Compensation to owners for use of land

If satisfactory compensation is not made to the owner by the officers or agents of the United States under whose direction such lands are taken, he may make complaint to the county commissioners who, after not less than 14 days' notice to the parties of the time and place of hearing, shall view the premises, hear the parties and assess the damages sustained by the taking of the land for said purposes, including the time during which it will be required

for such use, order them to be paid at such time as they direct and award costs to the prevailing party.

R.S.1954, c. 1, § 15.

§ 21. Report of county commissioners filed with Superior Court; motion for new trial

The commissioners shall file in the office of the clerk of the Superior Court a report of their doings, which shall be conclusive upon the parties, unless one of them within 30 days files in court his motion for a new trial, which after due notice to the opposite party may for due cause be granted, to be had in said court.

R.S.1954, c. 1, § 16; 1959, c. 317, § 1.

§ 22. Tender of amends; costs

The person entering upon land as provided in section 19 may tender to the party injured sufficient amends, and if the damages finally assessed do not exceed the tender, judgment shall be rendered against the owner for costs. Costs recovered by the prevailing party shall be taxed as in case of appeal from judgments of the District Court.

R.S.1954, c. 1, § 17; 1963, c. 402, § 1.

§ 23. Injury to works

Whoever willfully injures said buildings or works mentioned in section 19, or apparatus used therewith, forfeits not more than \$50, to be recovered by indictment to the use of the prosecutor; and is also liable in a civil action for damages.

R.S.1954, c. 1, § 18.

§ 24. Right of entry on lands

All persons employed in the work of topographic mapping under the law are authorized to enter and cross all lands within the State, provided that in so doing no damage shall be done to private property.

R.S.1954, c. 1, § 19.

§ 25. Public Utilities Commission to have charge of topographic mapping

The Public Utilities Commission shall have charge of topographic mapping on behalf of the state. Said commission is authorized and directed to enter into such agreements with the director of the United States Geological Survey as will assure the progress of the work in an efficient and economical manner.

R.S.1954, c. 1, § 20.

§ 26. Leases of right to take kelp on submerged lands

The power to lease the right to gather and harvest kelp on the submerged lands and reefs within the jurisdiction of the State, seaward of mean low-water mark, and east of 69 degrees 45 minutes west longitude, is vested in the Governor and Council who shall have authority to make leases to such persons and upon such terms and for such length of time, except as otherwise limited, as they may prescribe. No lease shall be executed for a period of over 30 years, but any lease executed may be renewed by the lessee for a further period to be fixed by the parties. The rental to be paid to the State for these rights shall be not less than \$3 per year per square mile of territory covered by said lease and shall be determined by the Governor and Council. The lessee shall file with the Secretary of State a plot showing the location of the territory desired to be leased with the boundaries located thereon.

R.S.1954, c. 1, § 21.

§ 27. Title to certain islands

The title to all islands located in great ponds within the State and title to all islands located in the sea within the jurisdiction of the State, except such as have been previously granted away by the State or are now held in private ownership, shall remain in the State and be reserved for public use.

R.S.1954, c. 36, §§ 63, 64.

§ 28. Usurpation of jurisdiction by foreign power; overt acts in State

If a person, claiming authority from any foreign government or magistrate, enters upon any lands, cuts any timber, serves any process, exercises any jurisdiction, authority or ownership, claims

any right, or threatens to do any of said acts within the limits of the State, as described by the treaties of 1783 and 1842 between the United States and Great Britain, he and every person aiding and encouraging the same shall be punished by fine and imprisonment, at the discretion of the court.

R.S.1954, c. 143, § 5.