

ASSEMBLY, No. 71

STATE OF NEW JERSEY

INTRODUCED AUGUST 16, 1948

By Mr. McCAY

Referred to Committee on Law Revision

AN ACT providing for the ordering and making known that certain laws and joint resolutions have become inoperative and void, and amending sections 1:7-1 to 1:7-7, inclusive.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1:7-1 of the Revised Statutes is amended to read as follows:

1:7-1. If, at any time within one year after any law or joint resolution has been filed with the Secretary of State pursuant to sections 1:2-5, 1:2-6 or 1:2-7 of this Title, the Governor, or person administering the government, has reason to believe that any such law or joint resolution was not duly passed by both houses of Legislature, or approved by the Governor or otherwise made effective as law in the manner required by the Constitution, he may direct the Attorney-General to present a petition to the [Supreme] Appellate Division of the Superior Court, setting forth the facts and circumstances and praying that the law or joint resolution may be [decreed] adjudged to be null and void, whereupon the Attorney-General shall prepare, sign, present and prosecute the petition.

2. Section 1:7-2 of the Revised Statutes is amended to read as follows:

1:7-2. The [Supreme] Court, upon the presentation to it of a petition as provided by section 1:7-1 of this Title, shall inquire summarily into the

5 facts and circumstances alleged in the petition, and, for that purpose, to
 6 order the petition to be filed by the clerk of the court and order witnesses
 7 to be subpoenaed and sworn and their depositions taken, to appoint a time for
 8 hearing the petition, and to order such notice to be given of the taking of dep-
 9 ositions and the hearing of the petition by publication in newspapers or
 10 otherwise as it deems reasonable and just. [The final hearing shall be had
 11 before the Chief Justice and at least three of the associate justices of the
 12 court.]

1 3. Section 1:7-3 of the Revised Statutes is amended to read as fol-
 2 lows:

3 1:7-3. After a full hearing and consideration of the petition mentioned
 4 in section 1:7-1 of this Title and of the facts and circumstances proved, the
 5 [Supreme] Court may dismiss the petition, or, if satisfied that the consti-
 6 tutional and statutory provisions relating to the enactment and approval of
 7 laws and joint resolutions have not been complied with, the Court may [de-
 8 cree] adjudge the law or joint resolution or any part thereof null and void
 9 [; but no judgment of annulment shall be made without the concurrence of
 10 at least three of the justices].

1 4. Section 1:7-4 of the Revised Statutes is amended to read as fol-
 2 lows:

3 1:7-4. Any two or more citizens of the State may, within the time pre-
 4 scribed by section 1:7-1 of this Title, present to the [Supreme] Appellate
 5 Division of the Superior Court such a petition, signed by them, as is author-
 6 ized by said section 1:7-1 to be presented by the Attorney-General, and the
 7 [Supreme] Court shall proceed thereon in the manner provided by sections
 8 1:7-2 and 1:7-3 of this Title. The petitioners may appear before the Court
 9 and prosecute the petition in person or by counsel, and the Attorney-General
 10 may, if required so to do by the Governor or person administering the gov-
 11 ernment, appear and defend on behalf of the State.

1 5. Section 1:7-5 of the Revised Statutes is amended to read as
2 follows:

3 1:7-5. Any citizen of the State may, when a petition is filed under au-
4 thority of either section 1:7-1 or section 1:7-4 of this Title, appear before
5 the [Supreme] Court, in person or by counsel, subpoena and examine and
6 cross-examine witnesses and defend the petition.

1 6. Section 1:7-6 of the Revised Statutes is amended to read as
2 follows:

3 1:7-6. If the [Supreme] Court, upon the final hearing of a petition au-
4 thorized by this chapter, shall [decree] determine any law or joint resolu-
5 tion, or any part thereof, to be null and void, [such decree shall be drawn
6 in writing and signed by the Chief Justice and shall be recorded at length in
7 the minutes of the court and filed by the clerk of the court.] judgment shall
8 be entered to that effect. The clerk shall thereupon make a true copy of
9 such [decree] judgment, certify the same under his hand and seal of the
10 court and deliver the copy to the Governor or person administering the gov-
11 ernment, who shall issue his proclamation under the great seal of the State,
12 setting forth such [decree] judgment. The proclamation shall be filed, pub-
13 lished and printed with the laws as other proclamations are required to be
14 filed, published and printed, and shall be judicially noticed and received in
15 evidence in all courts of the State in the same manner and to the same ex-
16 tent that the law or joint resolution therein specified would have been if such
17 [decree] judgment had not been made; and no law or joint resolution, or
18 part thereof, [decreed] adjudged to be null and void shall, after the [mak-
19 ing] entry of such [decree] judgment as provided in this chapter, be judi-
20 cially noticed or received in evidence by any of the courts of the State.

1 7. Section 1:7-7 of the Revised Statutes is amended to read as
2 follows:

3 1:7-7. When a petition presented under authority of [either section
4 1:7-1 or] section 1:7-4 of this Title is [either] dismissed [or a final de-

5 crec made thereon,] the [Supreme] Court shall allow and tax the costs and
6 necessary expenses of the Attorney-General, including a fee to the Attorney-
7 General of not to exceed five hundred dollars (\$500.00) in any one case, and
8 shall order the payment thereof [by the State Treasurer, or, if the petition
9 dismissed was presented by citizens under authority of said section 1:7-4,]
10 by such citizens, [in which case the] and payment thereof may be enforced
11 by [attachment or otherwise] execution.

1 8. This act shall take effect September fifteenth, one thousand nine
2 hundred and forty-eight.

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 71

STATE OF NEW JERSEY

INTRODUCED AUGUST 16, 1948

By Mr. McCAY

Referred to Committee on Law Revision

AN ACT providing for the ordering and making known that certain laws and joint resolutions have become inoperative and void, and amending sections 1:7-1 to 1:7-7, inclusive.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Section 1:7-1 of the Revised Statutes is amended to read as fol-
2 lows:

3 1:7-1. If, at any time within one year after any law or joint resolution
4 has been filed with the Secretary of State pursuant to sections 1:2-5, 1:2-6
5 or 1:2-7 of this Title, the Governor, or person administering the govern-
6 ment, has reason to believe that any such law or joint resolution was not
7 duly passed by both houses of Legislature, or approved by the Governor or
8 otherwise made effective as law in the manner required by the Constitution,
9 he may direct the Attorney-General to present a petition to the Appellate
10 Division of the Superior Court, setting forth the facts and circumstances
11 and praying that the law or joint resolution may be adjudged to be null and
12 void, whereupon the Attorney-General shall prepare, sign, present and
13 prosecute the petition.

1 2. Section 1:7-2 of the Revised Statutes is amended to read as fol-
2 lows:

3 1:7-2. The court, upon the presentation to it of a petition as provided
4 by section 1:7-1 of this Title, shall inquire summarily into the facts and

5 circumstances alleged in the petition, and, for that purpose, to order the
6 petition to be filed by the clerk of the court and order witnesses to be
7 subpoenaed and sworn and their depositions taken, to appoint a time for
8 hearing the petition, and to order such notice to be given of the taking of dep-
9 ositions and the hearing of the petition by publication in newspapers or
10 otherwise as it deems reasonable and just.

1 3. Section 1:7-3 of the Revised Statutes is amended to read as fol-
2 lows:

3 1:7-3. After a full hearing and consideration of the petition mentioned
4 in section 1:7-1 of this Title and of the facts and circumstances proved, the
5 court may dismiss the petition, or, if satisfied that the constitutional and
6 statutory provisions relating to the enactment and approval of laws and joint
7 resolutions have not been complied with, the court may adjudge the law or
8 joint resolution or any part thereof null and void.

1 4. Section 1:7-4 of the Revised Statutes is amended to read as fol-
2 lows:

3 1:7-4. Any two or more citizens of the State may, within the time pre-
4 scribed by section 1:7-1 of this Title, present to the Appellate Division of
5 the Superior Court such a petition, signed by them, as is authorized by said
6 section 1:7-1 to be presented by the Attorney-General, and the court shall
7 proceed thereon in the manner provided by sections 1:7-2 and 1:7-3 of this
8 Title. The petitioners may appear before the court and prosecute the peti-
9 tion in person or by counsel, and the Attorney-General may, if required so
10 to do by the Governor or person administering the government, appear and
11 defend on behalf of the State.

1 5. Section 1:7-5 of the Revised Statutes is amended to read as
2 follows:

3 1:7-5. Any citizen of the State may, when a petition is filed under au-
4 thority of either section 1:7-1 or section 1:7-4 of this Title, appear before
5 the court, in person or by counsel, subpoena and examine and cross-examine
6 witnesses and defend the petition.

1 6. Section 1:7-6 of the Revised Statutes is amended to read as
2 follows:

3 1:7-6. If the court, upon the final hearing of a petition authorized by
4 this chapter, shall determine any law or joint resolution, or any part thereof,
5 to be null and void, judgment shall be entered to that effect. The clerk shall
6 thereupon make a true copy of such judgment, certify the same under his
7 hand and seal of the court and deliver the copy to the Governor or person
8 administering the government, who shall issue his proclamation under the
9 great seal of the State, setting forth such judgment. The proclamation shall
10 be filed, published and printed with the laws as other proclamations are
11 required to be filed, published and printed, and shall be judicially noticed and
12 received in evidence in all courts of the State in the same manner and to
13 the same extent that the law or joint resolution therein specified would
14 have been if such judgment had not been made; and no law or joint resolu-
15 tion, or part thereof, adjudged to be null and void shall, after the entry of
16 such judgment as provided in this chapter, be judicially noticed or received
17 in evidence by any of the courts of the State.

1 7. Section 1:7-7 of the Revised Statutes is amended to read as
2 follows:

3 1:7-7. When a petition presented under authority of section 1:7-4 of this
4 Title is dismissed the court shall allow and tax the costs and necessary ex-
5 penses of the Attorney-General, including a fee to the Attorney-General of
6 not to exceed five hundred dollars (\$500.00) in any one case, and shall order
7 the payment thereof by such citizens, and payment thereof may be enforced
8 by execution.

1 8. This act shall take effect September fifteenth, one thousand nine
2 hundred and forty-eight.