

MAINE STATE LEGISLATURE

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(EMERGENCY)
SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2452

H.P. 1791 House of Representatives, March 4, 1988
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Judiciary suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative MacBRIDE of Presque Isle.
Cosponsored by Representatives BEGLEY of Waldoboro, COTE
of Auburn and Senator GAUVREAU of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-EIGHT

1 AN ACT to Abolish the Office of Complaint
2 Justice and Replace it with the Office of
3 Justice of the Peace.
4

5 Emergency preamble. Whereas, Acts of the
6 Legislature do not become effective until 90 days
7 after adjournment unless enacted as emergencies; and

8 Whereas, the judicial functions currently
9 performed by complaint justices are essential to the

1 administration of justice in the State; and

2 Whereas, a substantial constitutional question
3 exists concerning the existing manner of appointments
4 of complaint justices; and

5 Whereas, such a question would not arise if the
6 judicial functions in question were performed by an
7 officer denominated "justice of the peace"; and

8 Whereas, in the judgment of the Legislature, these
9 facts create an emergency within the meaning of the
10 Constitution of Maine and require the following
11 legislation as immediately necessary for the
12 preservation of the public peace, health and safety;
13 now, therefore,

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

16 Sec. 1. 4 MRSa §9, first ¶ is amended to read:

17 The Supreme Judicial Court shall have the power
18 and authority to prescribe, repeal, add to, amend or
19 modify rules of pleading, practice and procedure with
20 respect to any and all proceedings through final
21 judgment, review and post-conviction remedy in
22 criminal cases before complaint justices of the
23 peace, District Courts, Superior Courts and the
24 Supreme Judicial Court.

25 Sec. 2. 4 MRSa §9-A, first ¶, as enacted by PL
26 1973, c. 675, is amended to read:

27 The Supreme Judicial Court shall have the power
28 and authority to prescribe, repeal, add to, amend or
29 modify rules of evidence with respect to any and all
30 civil actions or other proceedings, and any and all
31 proceedings in criminal cases before complaint
32 justices of the peace, District Courts, probate
33 courts, Superior Courts and the Supreme Judicial Court.

34 Sec. 3. 4 MRSa §161, as amended by PL 1985, c.
35 737, Pt. A, §12, is further amended to read:

36 §161. Justice of the peace; appointment; duties;
37 salary

1 The Chief Judge of the District Court may
2 authorize any attorney-at-law, who is duly licensed to
3 practice law in the State of Maine and who is also a
4 notary public, to receive complaints and to issue
5 process for the arrest of persons charged with
6 offenses, to issue search warrants and to endorse
7 certificates of commitment of the mentally ill, all in
8 accordance with law, and to perform all other such
9 acts and duties that are or may be authorized by law.
10 That attorney shall be known as a complaint justice
11 of the peace.

12 Any complaint so received or process so issued
13 ~~shall be in his capacity as a notary public.~~

14 The complaint justice of the peace shall serve
15 at the pleasure of the Chief Judge of the District
16 Court, but no term for which a justice of the peace is
17 appointed may exceed 5 years.

18 The complaint justice of the peace shall
19 receive such salary as shall be determined by the
20 Chief Judge and paid as an expense of the District
21 Court.

22 The Chief Judge of the District Court may also
23 authorize any clerk or deputy clerk of the District
24 Court to issue process for the arrest of persons
25 charged with offenses if the Chief Judge is satisfied
26 that the clerk or deputy clerk has the necessary
27 training and learning to perform that function. When
28 acting in that capacity, the clerk or deputy clerk
29 shall be considered a justice of the peace and shall
30 serve at the pleasure of the Chief Judge.

31 Sec. 4. 5 MRSA §5, as repealed and replaced by
32 PL 1975, c. 771, §27, is amended to read:

33 §5. Oath of office; before whom taken

34 The Justices of the Supreme Judicial Court and of
35 the Superior Court and all state officials elected by
36 the Legislature shall take and subscribe the oath or
37 affirmation required by the Constitution, before the

1 Governor. Every other person elected or appointed to
2 any civil office shall take and subscribe the oath
3 before any magistrate dedimus justice commissioned
4 by the Governor for that purpose, except when the
5 Constitution otherwise provides.

6 Sec. 5. 5 MRSA §82, as repealed and replaced by
7 PL 1981, c. 456, Pt. A, §15, is amended to read:

8 §82. Appointment of notaries public; renewal of
9 commissions

10 The Secretary of State shall appoint justices of
11 the peace who for the purpose of their official duties
12 shall bear the title "Justice of the Peace or Notary
13 Public." They have all the statutory power of a
14 notary public and are subject to all statutory
15 requirements-and-rules-applying-to-notaries-public.

16 The Secretary of State may appoint and renew
17 commissions of all notaries public.

18 Notaries public shall serve terms of 7 years and
19 exercise their power and duties in any county. Only
20 adult residents of this State may be appointed to the
21 offices.

22 The Secretary of State shall adopt rules relating
23 to the appointment and renewal of commissions of
24 notaries public. The rules shall include criteria and
25 a procedure to be applied by the Secretary of State in
26 appointment and renewal. The Secretary of State may
27 not refuse to appoint or renew solely because the
28 applicant lives or works in a specific geographic area
29 or because of political party affiliation.

30 The Secretary of State shall provide written
31 notice of the expiration of their commission to
32 notaries public 30 days prior to the expiration date.
33 Failure to receive a notice does not affect the
34 expiration date of a commission.

1 The Secretary of State, upon receiving notice of
2 the qualification of any notary public, shall
3 immediately notify the register of probate and the
4 clerk of the judicial courts or the county where the
5 officer resides of the officer's appointment and
6 qualification.

7 Sec. 6. 7 MRSA §3952, sub-§§3 and 4, as enacted
8 by PL 1987, c. 383, §3, are amended to read:

9 3. Complaint for dogs presenting immediate threat
10 to public. After filing of complaint in District
11 Court or Superior Court and before hearing, if the dog
12 poses an immediate threat to the public, the dog shall
13 be subject to muzzling, restraint or confinement to
14 its premises upon order of the sheriff or local law
15 enforcement officer who filed the complaint. Upon
16 failure to comply, the officer to whom complaint was
17 made may apply to District Court, Superior Court or
18 a complaint justice of the peace for an ex parte
19 order for authorization to take possession of the dog
20 which poses an immediate threat to the public and turn
21 it over to the applicant or other suitable person.

22 4. Court action; ex parte. An order may be
23 entered ex parte upon findings by the court or
24 complaint justice of the peace that there is a
25 reasonable likelihood that the dog is dangerous or
26 vicious, its owner has failed to muzzle, restrain or
27 confine it and that such failure poses an immediate
28 threat of harm to the public.

29 A. Upon 2 days' notice or such shorter period as
30 the court may prescribe, the owner whose animal
31 has been possessed pursuant to an ex parte order
32 may appear in the District Court or Superior Court
33 and move the dissolution or modification of the ex
34 parte order.

35 B. The court shall hear and determine such motion
36 as expeditiously as justice requires.

37 C. The owner shall submit an affidavit setting
38 forth specific facts to substantiate such findings

1 as will serve to modify or dissolve the order.
2 The applicant shall have the burden of presenting
3 evidence to substantiate the original findings.

4 Sec. 7. 12 MRSA §6206, sub-§2, ¶A, as enacted
5 by PL 1977, c. 661, §5, is amended to read:

6 A. Form of libel:

7 STATE OF MAINE

8 County of SS To the Honorable

9 Clerk, Judge of

10 ~~Complaint-Justice~~ Justice of the Peace

11 Court.

12 Your libelant, of, Maine, a warden,

13 states that on the day of, 19.., at

14 in this county, he seized certain fish, shellfish,
15 lobsters, or other marine species, or parts thereof,
16 or certain equipment, described as follows:

17

18

19

20 That the items seized and described were either
21 taken, bought, sold, shipped, transported, possessed
22 or used in violation of a provision of the Maine
23 Revised Statutes, Title 12, chapters 601 to 627, or in
24 violation of a regulation authorized by those
25 chapters. The specific violation of statute or
26 regulation is ...

27

28

29 Wherefore he prays for a decree of forfeiture of these

1 items in accordance with the provisions of the Maine
2 Revised Statutes, Title 12, section 6207.

3 Signed at,
4 in this county, this day of, 19..

5 (Signed)....
6 Warden

7 Sec. 8. 13 MRSA §2691, as amended by PL 1981,
8 c. 456, Pt. A, §40, is further amended to read:

9 §2691. Warrant for calling meetings

10 When any 5 or a majority of the proprietors of
11 lands or wharves held in common desire a meeting of
12 the proprietors for the purpose of forming a
13 corporation or for any other purpose, they may make
14 written application signed by them or their agents to
15 any notary public justice of the peace residing in
16 the county in which the lands or wharves are
17 situated. The notary justice of the peace shall
18 thereupon issue his warrant calling a meeting at the
19 time and place and for the purposes distinctly stated
20 in the application, directed to one of the
21 proprietors, requiring him to give notice thereof.

22 Sec. 9. 13 MRSA 2732, as amended by PL 1981, c.
23 456, Pt. A, §41, is further amended to read:

24 §2732. Officers sworn

25 The clerk, treasurer, assessors and collector
26 shall be sworn by the moderator or a notary public
27 dedimus justice, and the clerk shall record the votes
28 passed at all meetings.

29 Sec. 10. 13 MRSA §2861, as amended by PL 1981,
30 c. 456, Pt. A, §42, is further amended to read:

31 §2861. Meeting to form parish

32 Any person of age 18 or older, desirous of
33 becoming an incorporated parish or religious society,
34 may apply to a notary-public justice of the peace,

1 who shall issue his warrant to one of them, directing
2 him to notify the other applicants to meet at some
3 proper place expressed in the warrant. He shall give
4 notice of the meeting 7 days at least before holding
5 the same, by posting a notification thereof on the
6 outer door of the meetinghouse or place of public
7 worship of the society, if any, otherwise at such
8 place as the notary justice of the peace appoints.

9 Sec. 11. 13 MRSA §2904, as amended by PL 1981,
10 c. 456, Pt. A, §43, is further amended to read:

11 §2904. Refusal of assessors

12 If the assessors unreasonably refuse, any notary
13 public justice of the peace on like application may
14 issue his warrant to one of the applicants, who shall
15 notify such meeting as prescribed in section 2861 or
16 as agreed on by parish vote.

17 Sec. 12. 13 MRSA §3022, as amended by PL 1981,
18 c. 456, Pt. A, §44, is further amended to read:

19 §3022. Notice of meeting

20 When 3 or more members of the church who are
21 voters according to section 3023 shall apply in
22 writing to any notary public justice of the peace
23 in the county for the purpose of incorporating the
24 church, the notary justice of the peace shall issue
25 his warrant addressed to one of the applicants,
26 stating the time, place and purposes of the meeting
27 and directing him to notify the members of the church
28 by posting a certified copy of the warrant in a
29 conspicuous place near the main entrance to the usual
30 place of meeting of the church and in one other public
31 and conspicuous place in the same town, for 7 days, at
32 least, prior to the meeting.

33 Sec. 13. 13 MRSA 3107, as amended by PL 1981,
34 c. 456, Pt. A, §45, is further amended to read:

35 §3107. Owners may incorporate

36 The owners of a meeting house or building for

1 public worship and the pew owners may be incorporated,
2 when any 3 or more of them apply therefor to a
3 notary public justice of the peace, who shall issue
4 his warrant to one of them, stating the time, place
5 and purpose of the meeting, and directing him to
6 notify the owners by posting a certified copy of it
7 for 14 days on the principal outer door of the
8 building and in one or more public places in the same
9 town.

10 **Sec. 14.** 13 MRSA §3110, as amended by PL 1981,
11 c. 456, Pt. A, §46, is further amended to read:

12 §3110. Meetings of owners

13 When there has been no meeting of the incorporated
14 pew owners, or proprietors or owners of a meetinghouse
15 or building for public worship for 3 years, a meeting
16 may be called on application of 3 or more members
17 thereof to a notary public justice of the peace,
18 who shall issue his warrant to one of them stating the
19 time, place and purposes of the meeting, directing him
20 to notify the meeting by posting a certified copy of
21 the warrant, 3 weeks before the time of meeting, on
22 the principal outer door of the building, and in one
23 or more public places in the same town and publishing
24 it in a newspaper published in the county, if any,
25 otherwise in an adjoining county or in the state paper.

26 **Sec. 15.** 13 MRSA §3111, as amended by PL 1981,
27 c. 456, Pt. A, §47, is further amended to read:

28 §3111. Different denomination; division of time

29 When a house of public worship is owned by persons
30 of different denominations and when an organized
31 society, or its members, own 5 pews therein, one or
32 more of the minority owning not less than 5 pews may
33 apply to a notary public justice of the peace to
34 obtain a division of the time of occupying the house.
35 He shall call a meeting of the owners by posting a
36 notice in a public place in or about the house, 30
37 days at least before the meeting, stating the time,
38 place and object thereof.

1 Sec. 16. 14 MRSA §2002, as amended by PL 1981,
2 c. 456, Pt. A, §50, is further amended to read:

3 §2002. Appraisers sworn; view of land

4 The appraisers may be sworn by the officer without
5 fee or by a notary public dedimus justice,
6 faithfully and impartially to appraise the real estate
7 to be taken, and a certificate of the oath shall be
8 made, stating the date of its administration on the
9 back of the execution by the person who administered
10 it. They shall then proceed with the officer to view
11 and examine the land so far as is necessary for a just
12 estimate of its value.

13 Sec. 17. 14 MRSA §2102, as amended by PL 1981,
14 c. 456, Pt. A, §51, is further amended to read:

15 §2102. Ascertainment of amount due

16 The debtor may have the amount due ascertained by
17 3 notaries public justices of the peace chosen, one
18 by the debtor, one by the creditor and the other by
19 those 2. If after notice the creditor declines, the
20 debtor may choose 2, and after a hearing before the 3,
21 they or 2 of them shall make in writing and sign a
22 certificate of the sum found due, which is
23 conclusive. The debtor may tender that sum, which is
24 effectual to redeem, although he had before tendered a
25 different sum.

26 Sec. 18. 14 MRSA §2204 is amended to read:

27 §2204. No disclosure; compulsion by deposition

28 If the disclosure mentioned in section 2203 is not
29 furnished within that time, the creditor may apply to
30 any magistrate notary public authorized to take
31 depositions, in the county where the land lies or
32 where the mortgagee resides, who shall take his
33 deposition in relation to the facts required to be
34 disclosed, and may exercise the power to compel
35 attendance and disclosure which is authorized for
36 taking a deposition in perpetuum.

1 Sec. 19. 14 MRSA 5524, as amended by PL 1981,
2 c. 456, Pt. A, §54, is further amended to read:

3 §5524. Detention for bailable offense; admission to
4 bail

5 If the party is imprisoned and detained for a
6 bailable offense, he shall be admitted to bail if
7 sufficient bail is offered. If not, he shall be
8 remanded, with an order of the court or justice
9 expressing the sum in which he shall be held to bail
10 and the court at which he shall be bound to appear.
11 A ~~notary public~~ justice of the peace may, at any
12 time before the sitting of the court, bail the party
13 pursuant to the order.

14 Sec. 20. 14 MRSA §6201, sub-§3, as amended by
15 PL 1981, c. 279, §7, is further amended to read:

16 3. Entry, if not opposed. He may enter peaceably
17 and openly, if not opposed, in the presence of 2
18 witnesses and take possession of the premises. A
19 certificate of the fact and time of such entry shall
20 be made, signed and sworn to by such witnesses before
21 a justice of the peace, a notary public or an
22 attorney-at-law. Such certificate shall be recorded in
23 each registry of deeds in which the mortgage is or by
24 law ought to be recorded, within 30 days after the
25 entry is made.

26 Sec. 21. 14 MRSA §6203-E, as enacted by PL
27 1967, c. 424, §2, is amended to read:

28 §6203-E. Liability for deficiency on sale; necessity
29 of notice; form; affidavit

30 No action for a deficiency shall be brought by the
31 holder of the mortgage note or other obligation
32 secured by mortgage of real estate after foreclosure
33 by exercise of the power of sale, unless a notice in
34 writing of the mortgagee's intention to foreclose the
35 mortgage shall have been served on the mortgagor or
36 its representative in interest or the same has been
37 sent by registered mail with return receipt requested
38 at its last address then known to the mortgagee, to

1 such address as may be agreed upon in said mortgage,
2 together with a naming of liability for the
3 deficiency, in substantially the form below, at least
4 21 days before the date of the sale under the power in
5 the mortgage, and an affidavit has been signed and
6 sworn to, within 30 days after the foreclosure sale,
7 of the mailing of such notice. A notice mailed as
8 aforesaid shall be a sufficient notice, and such an
9 affidavit made within the time specified shall be
10 prima facie evidence in such action of the mailing of
11 such notice.

12 The following form of notice and affidavit may be
13 used and may be altered as circumstances require; but
14 nothing herein shall be construed to prevent the use
15 of other forms:

16 FORM

17 Notice of Intention to Foreclose and of Liability
18 for Deficiency After Foreclosure of Mortgage

19 To: A.B. of _____ Street, Town of _____
20 County of _____ and State of _____.

21 You are hereby notified in accordance with the
22 statute, of my intention, on _____ (date of
23 sale), to foreclose by sale under the Power of Sale
24 for breach of condition, the Mortgage held by me on
25 property located on _____ Street, Town
26 of _____, County of _____ and State
27 of _____ dated _____ and recorded in
28 the _____ County Registry of Deeds, Book _____,
29 Page _____, to secure a note (or other obligation)
30 signed by you, for the whole, or any part, of which
31 you may be liable to me and in case of a deficiency in
32 the proceeds of the Foreclosure Sale to hold you
33 liable for the whole or any part thereof still
34 remaining unpaid.

35 Very truly yours,

36 _____
37 (Name of holder of said Mortgage)

38 Affidavit

1 I hereby certify on oath that on the _____
2 day of _____ 19____, I mailed by registered mail with
3 return receipt requested, the notice a copy of which
4 is hereinabove set forth, direct to such person or
5 persons at the address therein named which was the
6 last address of such person known to me at the time of
7 mailing or to such person or persons at the address
8 therein named which was the person and the address
9 agreed upon in said Mortgage.

10 Subscribed and sworn to before me this _____ day
11 of _____ 19__.

12 ~~Justice of the Peace~~
13 Notary Public

14 Sec. 22. 14 MRSA §6512 is amended to read:

15 §6512. Oath

16 Before proceeding to discharge their duty, the
17 commissioners shall be sworn to the faithful and
18 impartial performance of it. The dedimus justice of
19 the peace before whom they are sworn shall make his
20 certificate thereof on the back of their warrant.

21 Sec. 23. 14 MRSA §7153, as amended by PL 1981,
22 c. 456, Pt. A, §56, is further amended to read:

23 §7153. Appraisal

24 The value shall be ascertained by the appraisement
25 of 3 disinterested men persons mutually chosen by
26 the parties, or, if they cannot agree, by a notary
27 public justice of the peace in the county.

28 Sec. 24. 15 MRSA §55, as repealed and replaced
29 by PL 1979, c. 343, §1, is amended to read:

30 §55. Search warrants; issuance by district judge or
31 justice of the peace

32 A judge of the District Court or a complaint
33 justice of the peace shall issue search warrants for
34 any place in the State for such purposes as the

1 Constitution of the United States and the Constitution
2 of Maine permit. The evidence presented to the
3 magistrate in support of the search warrant may
4 consist of affidavits and other evidence under oath or
5 affirmation which is capable of being reduced to a
6 record for purposes of review. The Supreme Judicial
7 Court shall by rule provide the procedure of the
8 application for and issuance of search warrants;
9 provided, that where no procedure is specified, the
10 judge or complaint justice of the peace shall
11 proceed in any reasonable manner which will allow the
12 issuance of a search warrant for any constitutional
13 purpose.

14 Sec. 25. 15 MRSA §702, as amended by PL 1965,
15 c. 356, §20, is further amended to read:

16 §702. Justices, judges and justices of the peace may
17 issue processes

18 The Justices of the Supreme Judicial Court and of
19 the Superior Court and, Judges of the District
20 Court and justices of the peace may issue processes
21 for the arrest of persons charged with offenses.

22 Sec. 26. 15 MRSA §703, as amended by PL 1965,
23 c. 425, §9, is further amended to read:

24 §703. Officer's oath to complaint

25 When it is the duty of an officer to make
26 complaint before any judge, clerk or complaint
27 justice of the peace, he may make oath to it according
28 to his knowledge and belief.

29 Sec. 27. 15 MRSA §706, 2nd ¶, as repealed and
30 replaced by PL 1965, c. 356, §23, is amended to read:

31 When complaint is made to any Judge of the
32 District Court, to a complaint justice of the peace
33 or to any other officer of the District Court
34 authorized to issue process charging a person with the
35 commission of an offense, such judge, complaint
36 justice of the peace or other officer shall issue a
37 warrant in the name of the District Court for the
38 arrest of such person, in such form and under such

1 circumstances as the Supreme Judicial Court shall by
2 rule provide. Such complaint justice of the peace
3 or other officer shall not have authority to preside
4 at any trial, and neither shall appear as counsel in
5 any criminal case in which he has heard the
6 complaint. A clerk of the District Court may accept a
7 guilty plea upon payment of fines as set by the judge.

8 **Sec. 28.** 15 MRSA §707, as amended by PL 1981,
9 c. 456, Pt. A, §57, is repealed.

10 **Sec. 29.** 15 MRSA §708, first ¶, as repealed and
11 replaced by PL 1977, c. 579, ¶E, §1, is amended to
12 read:

13 The clerk may, in the absence or unavailability of
14 a complaint justice of the peace or of a
15 prosecuting attorney or any of his assistants, prepare
16 and draft complaints upon the request of any law
17 enforcement officer, except that no complaint shall
18 issue to any person who is not a law enforcement
19 officer or for any criminal homicide or Class A, B or
20 C crime unless approved by the district attorney or
21 his designee or the Attorney General or his designee.

22 **Sec. 30.** 15 MRSA §5822, sub-§6, as enacted by
23 PL 1987, c. 420, §2, is amended to read:

24 6. Preliminary process. Any Justice of the
25 Supreme Judicial Court or the Superior Court, Judge of
26 the District Court or Judge of the Administrative
27 Court or Complaint Justice of the peace may
28 issue, at the request of the attorney for the State,
29 ex parte, any preliminary order or process as is
30 necessary to seize or secure the property for which
31 forfeiture is or will be sought and to provide for its
32 custody. That order may include an order to a
33 financial institution or to any fiduciary or bailee to
34 require the entity to impound any property in its
35 possession or control and not to release it except
36 upon further order of the court. Process for seizure
37 of the property shall issue only upon a showing of
38 probable cause that the property is subject to
39 forfeiture under section 5821. The application for
40 process and the issuance, execution and return of

1 process shall be subject to applicable state law. Any
2 property subject to forfeiture under this section may
3 be seized upon process, except that seizure without
4 the process may be made when:

5 A. The seizure is incident to an arrest with
6 probable cause, a search under a valid search
7 warrant or an inspection under a valid
8 administrative inspection warrant;

9 B. The property subject to seizure has been the
10 subject of a prior judgment in favor of the State
11 in a forfeiture proceeding under this section or
12 any other provision of the laws of this State, any
13 other state or the United States;

14 C. There is probable cause to believe that the
15 property has been directly or indirectly dangerous
16 to health or safety; or

17 D. There is probable cause to believe that the
18 property has been used or is intended to be used
19 in violation of any criminal law of this State,
20 any other state or the United States.

21 **Sec. 31.** 17 MRSA §1021, sub-§4, ¶A, as enacted
22 by PL 1987, c. 383, §4, is amended to read:

23 A. The board, a humane agent, sheriff, deputy
24 sheriff, constable, police officer, animal control
25 officer or person authorized to make arrests may
26 apply to the District Court, Superior Court or a
27 complaint justice of the peace for an ex parte
28 order for authorization to take possession of any
29 maimed, disabled, diseased, dehydrated,
30 malnourished or injured animal or any animal whose
31 owner has cruelly abandoned or cruelly treated it
32 and turn it over to the applicant or any other
33 suitable person.

34 An order may be entered ex parte upon findings by
35 the court or complaint justice of the peace
36 that there is a reasonable likelihood that:

37 (1) The defendant is not subject to the
38 jurisdiction of the court for the purposes of

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a hearing or the owner cannot be found by reasonable deligence or is out-of-state although a resident of this State, and there is a danger that unless immediate action is taken:

(a) The condition of an injured, overworked, tormented, tortured, abandoned, poisoned or mutilated animal, animal deprived of necessary sustenance, necessary medical attention, proper shelter or protection from the weather or humanely clean conditions will be substantially impaired or worsened;

(b) The animal's life will be jeopardized; or

(c) A great degree of medical attention will be necessary to restore the animal to a normal, healthy condition;

(2) There is a clear danger that if the owner or his agent is notified in advance of the issuance of the order of court, as provided in subsection 3, he may remove the animal from the State, conceal it or otherwise make it unavailable;

(3) There is immediate danger that the owner or his agent will kill or injure the animal; or

(4) An animal is being or has been injured, overworked, tormented, tortured, abandoned, poisoned, mutilated, deprived of necessary sustenance, necessary medical attention, proper shelter or protection from the weather or humanely clean conditions and, unless an ex parte order issues allowing the applicant to take possession of the animal, the animal will die, its condition will be substantially impaired or worsened or medical attention will be necessary to restore the animal to a normal, healthy condition.

1 **Sec. 32.** 17 **MRSA §1034**, as enacted by PL 1987,
2 c. 383, §4, is amended to read:

3 §1034. Application for search warrant

4 A law enforcement officer or humane agent, having
5 probable cause to believe that a violation of section
6 1031, 1032 or 1033 has taken place or is taking place,
7 shall enter the premises where the animal is kept with
8 the consent of the owner or shall make application for
9 a search warrant. If the judge or complaint
10 justice of the peace is satisfied that probable cause
11 exists, he shall issue a search warrant directing a
12 law enforcement officer or humane agent in the county
13 to proceed immediately to the location of the alleged
14 violation and directing the law enforcement officer or
15 humane agent to search the place designated in the
16 warrant, retaining in his custody, subject to the
17 order of the court, such property or things as
18 specified in the warrant, including any animal.

19 **Sec. 33.** 17 **MRSA §2004**, all of that part
20 relating to "Form of Complaint for Single Sale" is
21 amended to read:

22 Form of Complaint for Single Sale

23 STATE OF MAINE

24 Judge of District Court

25 "....., ss. -- To Clerk

26 Complaint Justice of the Peace

27 A. B., of, in said county, on the
28 day of, in the year of our Lord one thousand nine
29 hundred, in behalf of said State, on oath
30 complains, that, of, in
31 said county, on the day of, 19..., at
32 said, in said county of, did then
33 and there sell a quantity of intoxicating liquors, to
34 wit: one of intoxicating liquor to one
35, " (or if the individual is unknown, "to some
36 person to said complainant unknown,") "against the
37 peace of said State, and contrary to the form of the
38 statute in such case made and provided.

39 A. B.

1 On the day of, 19....., said
2 makes oath, that the above complaint, by
3subscribed, is true.

4 District Court Judge
5 Before me,.....Clerk
6 Complaint Justice of the Peace."

7 Sec. 34. 17 MRSA §2004, all of that part
8 relating to "Form of Warrant upon Complaint for Single
9 Sale" is amended to read:

10 Form of Warrant upon Complaint for Single Sale

11 STATE OF MAINE

12 "....., ss. -- To the sheriff of our said
13 county of, or either of his deputies, or
14 either of the constables of the town of,
15 or of either of the towns in said county. Greeting.

16 [L. S.] Whereas, A. B., of, on the
17 day of, in the year of our Lord one
18 thousand nine hundred, in behalf of said
19 State, on oath complained to me, the
20 subscriber, one of the Judges of the
21 District Court
22 Clerks , that

23 Complaint Justices of the Peace
24 of, in said county, on the day
25 of, 19....., at said, in said county of
26, did sell a quantity of intoxicating
27 liquors, to wit: one of intoxicating liquor
28 to one, against the peace of said State and
29 contrary to the form of the statute in such case made
30 and provided.

31 Therefore, in the name of the State of Maine, you
32 are commanded forthwith to apprehend said,
33 if he may be found in your precinct, and bring him
34 before said court, the subscriber, to answer to said
35 State upon the complaint aforesaid.

1 Witness, my hand and seal at aforesaid,
2 this day of, in the year of our Lord
3 nineteen hundred

4 Judge
5Clerk
6 Complaint Justice of the Peace."

7 Sec. 35. 17 MRSA §2004, all of that part
8 relating to "Form of Complaint in Case of Seizure" is
9 amended to read:

10 Form of Complaint in Case of Seizure

11 STATE OF MAINE

12 "....., ss To A.B., esquire,
13 District Court Judge
14 Clerk
15 Complaint-Judge Justice of the Peace
16 District, Division

17 A.B., of, in said county, competent to
18 be a witness in civil actions, on the day
19 of, in the year nineteen hundred, in
20 behalf of said State, on oath complains, that he
21 believes, that on the day of,
22 19.... at said, intoxicating liquors were,
23 and still are kept and deposited by of
24, in said county, in" (here
25 describe with precision the place to be searched,)
26 "and that said liquors then and there were, and now
27 are intended by said for sale in
28 violation of law, against the peace of the State and
29 contrary to the form of the statute in such case made
30 and provided.

31 I therefore pray, that due process be issued to
32 search the premises hereinbefore mentioned, where said
33 liquors are believed to be deposited, and if there
34 found, that said liquors and vessels be seized and
35 safely kept until final action and decision be had
36 thereon, and that said be forthwith apprehended
37 and held to answer to said complaint, and to do and
38 receive such sentence as may be awarded against him.

1 , ss. -- On the day of ,
2 19....., said A. B. made oath that the above complaint
3 by him signed is true.

4 Before me,
5 District Court Judge
6 Clerk
7 Complaint Justice of the Peace.

8 Sec. 36. 17 MRSA §2004, all of that part
9 relating to "Form of Warrant in Case of Seizure" is
10 amended to read:

11 Form of Warrant in Case of Seizure

12 STATE OF MAINE

13 District
14 Division of

15 "....., ss. To the sheriff of our
16 several counties or any of their deputies, or any of
17 the constables or police officers of any municipality
18 in said State or any State Police officer.

19 [L. S.] Whereas A. B., of, in said
20 county, competent to be a witness in civil actions, on
21 the day of, in the year nineteen
22 hundred, in behalf of said State, on oath
23 complained to the subscriber, an officer of the
24 District Court, that he believes, that on the
25 day of, 19....., at said,
26 intoxicating liquors were and still are deposited and
27 kept by, of, in said county, in
28 " (here follows a precise description of
29 the place to be searched,) "and that said
30 then and there intended and now intends that the same
31 shall be sold, in violation of law as fully appears by
32 the complaint hereunto annexed, and prayed that due
33 process be issued to search the premises hereinbefore
34 mentioned, where said liquors are believed to be
35 deposited, and, if there found, that said liquors and
36 vessels be seized and safely kept until final action
37 and decision be had thereon, and that said
38 be apprehended and held to answer to said complaint,
39 and to do and receive such sentence as may be awarded
40 against him: --

1 You are therefore required in the name of the
2 State, to enter the before named, and
3 therein to search for said liquors, and, if there
4 found, to seize and safely keep the same, with the
5 vessels in which they are contained, until final
6 action and decision is had on the same; and to
7 apprehend said forthwith, if he may be
8 found in your precinct, and bring him before said
9 court, and to do and receive such sentence as may be
10 awarded against him.

11 Witness,, at aforesaid, this
12 day of, in the year of our Lord
13 nineteen hundred
14 District Court Judge
15Clerk
16 Complaint Justice of the Peace

17 Sec. 37. 17 MRSA §2004, all of that part
18 relating to "Form of Libel," as amended by PL 1965,
19 c. 431, §15, is further amended to read:

20 Form of Libel
21 STATE OF MAINE
22 District.....
23 Division of
24 "County of, ss. -- To A.B., District Court Judge
25 Clerk
26 Complaint Justice of the Peace

27 The libel of C.D., of, shows that he
28 had, by lawful seizure, seized certain intoxicating
29 liquors and the vessels in which the same were
30 contained, described as follows: (here
31 follows a description of the liquors.) "because the
32 same were kept and deposited at"
33 (describing the place) "in the said county of
34, and were intended for sale, in violation
35 of law. Wherefore he prays for a decree of forfeiture
36 of said liquors and vessels, according to the
37 provisions of law in such case made and provided.

1 Dated at, in said county, this
2 day of, in the year of our Lord nineteen
3 hundred
4 (Signed.)"

5 Sec. 38. 17 MRSA §2004, all of that part
6 relating to "Form of Monition and Notice" is amended
7 to read:

8 Form of Monition and Notice

9 STATE OF MAINE

10 District
11 Division of

12 "County of, ss.

13 [L. S.] To all persons interested in"
14 (here insert the description of the liquors, as in the
15 libel).

16 "The libel of C. D., hereunto annexed, this day
17 filed in said District Court shows that he has seized
18 said liquors and vessels because" (insert as in the
19 libel), "and prays for a decree of forfeiture of the
20 same according to the provisions of law in such case
21 made and provided.

22 You are, therefore, hereby notified thereof, that
23 you may appear before this court on the day
24 of, 19...., and then and there show cause why
25 said liquors and the vessels in which they are
26 contained should not be declared forfeited.

27 Given under my hand and seal at, on
28 the day of, in the year of our Lord
29 nineteen hundred

30 District Court Judge
31, Clerk
32 Complaint Justice of the Peace."

33 Sec. 39. 17 MRSA §2004, all of that part
34 relating to "Form of Complaint in Case of Seizure of
35 Automobile" is amended to read:

1 sale and the vessels containing them, by virtue of a
2 warrant therefor issued in conformity with the
3 provisions of the law, did find upon the above
4 described premises, one, bearing engine
5 number, and the 19 license number
6 plates numbered, which said automobile
7 then and there contained, which said
8 automobile was not ~~than~~ then and there a common
9 carrier, and which said automobile was not then and
10 there engaged in the business of a common carrier; and
11 which said automobile was then and there in the
12 possession, care and control of the said
13 and which said automobile was then and there knowingly
14 used by the said for the illegal
15 transportation of intoxicating liquors from place to
16 place in said with intent that the said
17 intoxicating liquors should be sold in violation of
18 law; and which intoxicating liquors as aforesaid, and
19 the vessels containing the same, were then and there
20 kept, deposited and intended for unlawful sale as
21 aforesaid, and said automobile was then and there
22 being used for the illegal transportation of said
23 liquors as aforesaid, within said State by the said
24 persons unknown, and did then and there by virtue of
25 this authority as a deputy sheriff as aforesaid, seize
26 the above described automobile, intoxicating liquors
27 and the vessels containing the same, to be kept in
28 some safe place for a reasonable time, and hath since
29 kept and does still keep said automobile, liquors and
30 vessels to procure a warrant to seize the same.

31 He therefore prays, that due process be issued to
32 seize said automobile, liquors and vessels, and them
33 safely keep until final action and decision be had
34 thereon, and that said persons unknown be
35 forthwith apprehended and held to answer to said
36 complaint, and to do and receive such sentence as may
37 be awarded against them.

38 On the day of, the said
39 makes oath that the above complaint by him signed is
40 true.

41 District Court Judge
42 Before me,, Said Clerk
43 Complaint Justice of the Peace."

1 Sec. 40. 17-A MRSa §506-A, sub-§1, as amended
2 by PL 1981, c. 456, Pt. A, §59, is further amended to
3 read:

4 1. A person is guilty of harassment if, without
5 reasonable cause, he engages in any course of conduct
6 with the intent to harass, torment or threaten another
7 person, after having been forbidden to do so by any
8 sheriff, deputy sheriff, constable, police officer
9 or notary-public justice of the peace.

10 Sec. 41. 18-A MRSa §2-109, ¶(2), as enacted by
11 PL 1979, c. 540, §1, is amended to read:

12 (2) In cases not covered by paragraph (1), a
13 person born out of wedlock is a child of the mother;
14 that person is also a child of the father if:

15 (i) The natural parents participated in a
16 marriage ceremony before or after the birth of the
17 child, even though the attempted marriage is void;
18 or

19 (ii) The father adopts the child into his family;
20 or

21 (iii) The father acknowledges in writing before
22 a justice of the peace or notary public that he
23 is the father of the child, or the paternity is
24 established by an adjudication before the death of
25 the father or is established thereafter by clear
26 and convincing proof, but the paternity
27 established under this subparagraph is ineffective
28 to qualify the father or his kindred to inherit
29 from or through the child unless the father has
30 openly treated the child as his and has not
31 refused to support the child.

32 Sec. 42. 19 MRSa §121, as repealed and replaced
33 by PL 1981, c. 456, Pt. A, §61, is amended to read:

34 §121. Authorization; license

1 Every justice, judge, justice of the peace or
2 notary public residing in this State may solemnize
3 marriages in this State. Every ordained minister of
4 the gospel, clergyman engaged in the service of the
5 religious body to which he belongs or person licensed
6 to preach by an association of ministers, religious
7 seminary or ecclesiastical body, whether a resident or
8 nonresident of this State and whether or not a citizen
9 of the United States, and of either sex, may solemnize
10 marriages. A copy of the record of any marriage
11 solemnized under the provisions of this section, duly
12 made and kept, and attested or sworn to by the clerk
13 of the town in which the marriage intention was
14 recorded or in which the marriage was solemnized,
15 shall be received in all courts as evidence of the
16 fact of marriage. Notwithstanding Title 17-A, section
17 4-A, any person who violates this section, shall be
18 punished by a fine of not more than \$100 for each
19 offense, for the use of the town in which the offense
20 occurred, and the State Registrar of Vital Statistics
21 shall enforce this section as far as it comes within
22 his power and shall notify the district attorney of
23 the county in which the penalty should be enforced of
24 the facts that have come to his knowledge, and, upon
25 receipt of the notice, the district attorney shall
26 prosecute the defaulting person or persons.

27 Sec. 43. 19 MRSA §122, as amended by PL 1981,
28 c. 456, Pt. A, §62, is further amended to read:

29 §122. Lack of jurisdiction or authority

30 No marriage, solemnized before any known
31 inhabitant of the State professing to be a justice,
32 judge, justice of the peace or notary public or an
33 ordained or licensed minister of the gospel, is void,
34 nor is its validity affected by any want of
35 jurisdiction or authority in the justice, judge,
36 justice of the peace or notary or minister or by any
37 omission or informality in entering the intention of
38 marriage, if the marriage is in other respects lawful
39 and consumated consummated with a full belief, on
40 the part of either of the persons married, that they
41 are lawfully married.

1 Sec. 44. 20-A MRSA §1251, sub-§6, as enacted by
2 PL 1981, c. 693, §§5 and 8, is amended to read:

3 6. Oath of office. Before their first meeting,
4 newly elected directors shall take the following oath
5 or affirmation before a dedimus justice or notary
6 public.

7 "I do swear that I will
8 faithfully discharge to the best of my abilities the
9 duties incumbent on me as a school director of School
10 Administrative District No..... according to the
11 Constitution and laws of this State. So help me God."

12 A. A director shall take the oath or affirmation
13 and return a ~~certficate~~ certificate documenting
14 that the oath has been taken to the secretary of
15 the district to place in the district records.

16 B. If a director is conscientiously scrupulous of
17 taking an oath, the word "affirm" shall be used
18 instead of "swear" and the words "this I do under
19 the pains and penalty of perjury" instead of the
20 words "so help me God."

21 Sec. 45. 21-A MRSA §754-A, sub-§2, ¶A, as
22 enacted by PL 1985, c. 357, §§12 and 19, is amended to
23 read:

24 A. The voter must mark his ballot in the presence
25 of the following witness or witnesses: One notary
26 public, clerk of a municipality, ~~dedimus~~
27 ~~justice~~, clerk of courts or 2 other individuals.
28 The voter, before marking his ballot, must show it
29 to the witness or witnesses who must examine it to
30 be certain it is unmarked.

31 Sec. 46. 21-A MRSA §754-A, sub-§3, ¶B, as
32 enacted by PL 1985, c. 357, §§12 and 19, is amended to
33 read:

1 B. The voter or the aide must mark the ballot in
2 the presence of one of the following witnesses:
3 Notary public, clerk of a municipality, ~~dedimus~~
4 justice, clerk of courts or another individual.

5 Sec. 47. 26 MRSA §5, 3rd ¶, as repealed and
6 replaced by PL 1975, c. 460, is amended to read:

7 Said order to show cause shall specify facts
8 sufficient to justify the court to issue a preliminary
9 injunction. Said order shall be based upon testimony
10 under oath or, in the discretion of the court, upon
11 affidavits sworn to before a justice of the peace
12 or notary public. Such order shall be served upon
13 the party or parties to be restrained.

14 Sec. 48. 30 MRSA §852 is amended to read:

15 §852. Officer not to act as attorney or draw papers;
16 employee of jailer not to act as judge or
17 attorney

18 No officer shall appear before any court or
19 justice of the peace as attorney or adviser of any
20 party in an action or draw any writ, complaint,
21 declaration, citation, process or plea for any other
22 person, and all such acts done by either of them are
23 void. No person employed by the keeper of a jail in
24 any capacity shall exercise any power or duty of a
25 magistrate judicial officer or notary public or act
26 as attorney for any person confined in the jail, and
27 all such acts are void.

28 Sec. 49. 30 MRSA §2051, sub-§§3 and 4, as
29 amended by PL 1981, c. 456, Pt. A, §102, are further
30 amended to read:

31 3. Petition of 3 voters, if no selectmen. When a
32 town, once organized, is without selectmen, a meeting
33 may be called by a notary public justice of the
34 peace in the county on the written petition of any 3
35 voters.

36 4. Petition by voters, if selectmen refuse. If
37 the selectmen unreasonably refuse to call a town
38 meeting, it may be called by a notary public
39 justice of the peace in the county on the written
40 petition of a number of voters equal to at least 10%
41 of the number of votes cast in the town at the last
42 gubernatorial election, but in no case less than 10.

1 **Sec. 50. 30 MRSA §4154**, as amended by PL 1981,
2 c. 456, Pt. A, §104, is further amended to read:

3 §4154. Proceedings by committee; record

4 The members of the committee mentioned in section
5 4153, before acting, shall be sworn before a notary
6 public dedimus justice, and a certificate thereof
7 shall be indorsed on the warrant. They shall give
8 notice of their appointment, and of the time and place
9 of their meeting to execute it, by publishing it in
10 some newspaper in the State, to be designated by the
11 court, and by posting written notification in 2 or
12 more public places in the same plantation or town, if
13 so ordered by the court, at least 30 days next prior
14 to their meeting. They shall make return of said
15 warrant and their doings thereon, under their hands,
16 to the next Superior Court in the county after having
17 completed service; which, being accepted by the court
18 and recorded in the registry of deeds in the county or
19 registry district where the land is situated, within 6
20 months, shall be a legal assignment and location of
21 such public reserved lot or lots.

22 **Sec. 51. 30 MRSA §5604**, as amended by PL 1967,
23 c. 425, §19, is further amended to read:

24 §5604. Organization meeting

25 At the time and place appointed for meetings for
26 the organization of plantations under sections 5602
27 and 5603, a moderator shall be chosen by ballot by the
28 voters present to preside at such meeting, and the
29 person to whom the warrant was directed shall preside
30 until such moderator is chosen and by such person
31 sworn. A clerk, 3 assessors, treasurer and school
32 committee shall be chosen by ballot and sworn by the
33 moderator or a dedimus justice of the peace. Other
34 plantation officers may be chosen by ballot or other
35 method agreed on by vote of the meeting, and shall be
36 sworn as above named.

37 **Sec. 52. 33 MRSA §203**, 3rd ¶, as amended by PL
38 1981, c. 456, Pt. A, §115, is further amended to read:

39 Any notary public or justice of the peace who
40 is a stockholder, director, officer or employee of a

1 bank or other corporation may take the acknowledgment
2 of any party to any written instrument executed to or
3 by such corporation, provided such notary public or
4 justice of the peace is not a party to such
5 instrument either individually or as a representative
6 of such bank or other corporation.

7 Sec. 53. 33 M RSA §253 is amended to read:

8 §253. Administration of oaths and depositions

9 Every commissioner appointed under section 251 may
10 administer any oath lawfully required in this State to
11 any person willing to take it; and take and duly
12 certify all depositions to be used in any of the
13 courts in this State, in conformity to the laws
14 thereof, on interrogatories proposed under commission
15 from a court of this State, by consent of parties or
16 on legal notice given to the opposite party. All such
17 acts shall be as valid as if done and certified
18 according to law by a magistrate judicial officer
19 or notary public in this State.

20 Sec. 54. 33 M RSA §304, as amended by PL 1981,
21 c. 456, Pt. A, §116, is further amended to read:

22 §304. Proof before justice of the peace after
23 summons

24 In such case, a notary public justice of the
25 peace where the grantor resides or where his land
26 lies, upon application of the grantee or person
27 claiming under him, may summon the grantor to appear
28 before him at a time and place named, to hear the
29 testimony of the subscribing witnesses. The date of
30 the deed, the names of the parties and of the
31 subscribing witnesses to it must be stated in the
32 summons, which must be served 7 days before the time
33 for proving the deed.

34 Sec. 55. 33 M RSA §305, as amended by PL 1981,
35 c. 456, Pt. A, §117, is further amended to read:

36 §305. Certification

1 When the notary justice of the peace at the
2 hearing is satisfied by the testimony of witnesses
3 that they saw the deed duly executed by the grantor,
4 he shall certify the same thereon, and state in his
5 certificate the presence or absence of the grantor.

6 Sec. 56. 33 MRSA §775, forms 12 to 15, as
7 enacted by PL 1967, c. 377, are amended to read:

8 12 Acknowledgment of Individual Acting
9 in His Own Right

10 State of
11 County of, ss (Date)

12 Then personally appeared the above named A. (and
13 B.) and (severally) acknowledged the foregoing
14 instrument to be his (or their) free act and deed.

15 Before me,
16
17 ~~Justice-of-the-Peace-(or-Notary-Public)~~
18 Notary Public

19 13 Acknowledgment of an Attorney

20 State of
21 County of, ss (Date)

22 Then the above named, who signed the
23 foregoing instrument as the attorney of the above
24 named (grantor), personally appeared and acknowledged
25 the same to be his free act and deed.

26 Before me,
27
28 ~~Justice-of-the-Peace-(or-Notary-Public)~~
29 Notary Public

30 14 Acknowledgment of an Officer of a Corporation

31 State of
32 County of, ss (Date)

33 Then personally appeared the above named (name of
34 the officer who signed the deed, with his title), and

1 acknowledged the foregoing instrument to be his free
2 act and deed in his said capacity and the free act and
3 deed of said corporation.

4 Before me,
5
6 ~~Justice-of-the-Peace-(or-Notary-Public)~~
7 Notary Public

8 15 Acknowledgment of an Executor,
9 Administrator, Trustee, Guardian,
10 Conservator, Receiver or Commissioner.

11 State of
12 County of, ss (Date)

13 Then personally appeared the above named A. (and
14 B.) in his (their) said capacity and (severally)
15 acknowledged the foregoing instrument to be his
16 (their) free act and deed.

17 Before me,
18
19 ~~Justice-of-the-Peace-(or-Notary-Public)~~
20 Notary Public

21 Sec. 57. 34-B MRSA §3863, sub-§3, as enacted by
22 PL 1983, c. 459, §7, is amended to read:

23 3. Judicial review. The application and
24 accompanying certificate shall be reviewed by a
25 Justice of the Superior Court, Judge of the District
26 Court, Judge of Probate or a complaint justice of
27 the peace.

28 A. If the judge or justice finds the application
29 and accompanying certificate to be regular and in
30 accordance with the law, he shall endorse them.

31 B. No person may be held against his will in the
32 hospital under this section, whether informally
33 admitted under section 3831 or sought to be
34 involuntarily admitted under this section, unless
35 the application and certificate have been endorsed
36 by a judge or justice, except that a person for

1 whom an examiner has executed the certificate
2 under subsection 2 may be detained in a hospital
3 for a reasonable period of time, not to exceed 18
4 hours, pending endorsement by a judge or justice,
5 if:

6 (1) For a person informally admitted under
7 section 3831, the chief administrative
8 officer of the hospital undertakes to secure
9 the endorsement forthwith upon execution of
10 the certificate by the examiner; and

11 (2) For a person sought to be involuntarily
12 admitted under this section, the person or
13 persons transporting him to the hospital
14 undertake to secure the endorsement forthwith
15 upon execution of the certificate by the
16 examiner.

17 **Sec. 58. 34-B MRSA §3870, sub-§4, ¶B, as**
18 **enacted by PL 1983, c. 459, §7, is amended to read:**

19 B. If the order is not voluntarily complied with,
20 and if the order is endorsed by a District Court
21 Judge or ~~complaint~~ justice of the peace in the
22 county in which the patient has his legal
23 residence or is present, any health officer or
24 police officer may take the patient into custody
25 and transport him to:

26 (1) The state mental health institute, if
27 the order is issued by the chief
28 administrative officer of the state mental
29 health institute; or

30 (2) A hospital designated by the
31 commissioner, if the order is issued by the
32 commissioner.

33 **Sec. 59. 34-B MRSA §5477, sub-§4, ¶C, as**
34 **enacted by PL 1983, c. 459, §7, is amended to read:**

35 C. The application and accompanying certificate
36 shall be reviewed by a Justice of the Superior
37 Court, a Judge of the District Court, a Judge of
38 Probate or a ~~complaint~~ justice of the peace.

1 (1) If the judge or justice finds the
2 application and accompanying certificate to
3 be regular and in accordance with the law, he
4 shall endorse them.

5 (2) No person may be held against his will
6 in the facility under this subsection unless
7 the application and certificate have been
8 endorsed by a judge or justice, except that a
9 person for whom an examiner has executed the
10 certificate provided for under this
11 subsection may be detained in a facility for
12 as long as is necessary to obtain the
13 endorsement by a judge or justice, if the
14 person or persons transporting the person to
15 the facility undertake to secure the
16 endorsement forthwith upon execution of the
17 certificate by the examiner.

18 Sec. 60. 36 MRSA §898, as amended by PL 1981,
19 c. 456, Pt. A, §120, is further amended to read:

20 §898. Collector to account when taken on execution

21 When any tax collector is taken on execution under
22 section 895, the municipal officers may demand of him
23 a true copy of the tax lists, with the evidence of all
24 payments made thereon. If he complies with this
25 demand, he shall receive such credit as the municipal
26 officers, on inspection of the tax lists, adjudge him
27 entitled to, and account for the balance; but if he
28 refuses, he shall forthwith be committed to jail by
29 the officer who so took him or by a warrant from a
30 notary public justice of the peace, there to remain
31 until he complies.

32 Sec. 61. 36 MRSA §944, sub-§2, as amended by PL
33 1981, c. 557, §4, is further amended to read:

34 2. Form. The waiver of foreclosure shall be
35 substantially in the following form:

1 The foreclosure of the tax lien mortgage on real
2 estate for a tax assessed against to
3 dated (name) (name of municipality)
4 and recorded in registry of deeds in Book,
5 Page is hereby waived.
6 Dated this date of 19..

7 A.B.
8 Treasurer of

9 State of Maine
10 ss. 19....

11 Then personally appeared the above named
12 A.B. Treasurer and acknowledged the
13 foregoing instrument to be his free act and deed in
14 his said capacity.

15 Before me,
16
17 Justice-of-the-Peace
18 Notary Public

19 There shall be included in the amount secured by the
20 tax lien mortgage a charge to the municipality of 50¢
21 for the waiver of foreclosure and the charges of the
22 registry of deeds for the recording thereof which
23 shall be in accordance with the fees set forth in
24 Title 33, section 751, subsection 10.

25 Sec. 62. 37-B MRSA §1008, as enacted by PL
26 1983, c. 460, §3, is amended to read:

27 §1008. Witnesses' privileges

28 No person may be excused from attending and
29 testifying, or producing any books, papers or other
30 documents before any court, magistrate judicial
31 officer, notary public, referee or grand jury upon any
32 investigation, proceeding or trial, relating to a
33 violation of this chapter of attempt to commit the
34 violation, upon the grounds that the testimony or
35 evidence required of him by the State may tend to
36 convict him of a crime or to subject him to a penalty
37 or forfeiture. No person may be prosecuted or
38 subjected to any penalty or forfeiture for or on
39 account of any transaction, matter or thing concerning
40 which he may so testify or produce evidence and no
41 testimony so given or produced, may be received
42 against him, during any criminal investigation,
43 proceeding or trial, except upon a prosecution for
44 perjury or contempt of court based upon the giving or
45 producing of that testimony.

1 Constitution of Maine to be accomplished by any manner
2 provided by law. Section 3 of the bill makes the
3 necessary changes to the Maine Revised Statutes, Title
4 4, section 161.

5 The revival of the office of justice of the peace,
6 abolished by 1981 law, raises further problems as to
7 the assignment of functions between it and 2 other
8 offices, namely, the offices of notary public and
9 dedimus justice. The bill seeks to rectify these
10 problems by reassigning all judicial functions which
11 were assigned in 1981 to the office of a notary public
12 to the new office of justice of the peace, and to make
13 corresponding changes in the laws relating to the
14 office of dedimus justice. These changes will result
15 in the 3 offices discharging the following functions.

16 1. Justice of the peace. The new office of
17 justice of the peace will discharge the following
18 judicial functions: issuance of arrest warrants in
19 sections 3, 25, 27, 28 and 60; issuance of search
20 warrants in sections 3, 24 and 32; endorsement of
21 certificates of commitment of the mentally ill in
22 sections 3, 57, 58 and 59; issuance of orders to take
23 possession of dangerous dogs in section 6; issuance of
24 warrants to call various meetings in sections 8, 10,
25 11, 12, 13, 14, 15 and 49; ascertainment of certain
26 debts in section 17; receipt of bail in section 19;
27 appointment of appraisers in section 23; issuance of
28 orders to seize property for which forfeiture is
29 sought in section 30; issuance or orders to take
30 possession of mistreated animals in section 31;
31 issuance or orders prohibiting harassment in section
32 40; solemnizing marriages in sections 42 and 43; and
33 taking of certain testimony regarding transfers of
34 land in sections 54 and 55.

35 2. Notary public. In sections 18, 20, 41, 45,
36 46, 47 and 52, the office of notary public is restored
37 to its historic function of taking oaths required by
38 law, and issuing subpoenas in section 63.

39 3. Dedimus justice. In sections 4, 9, 16, 22,
40 44, 50 and 51, the office of dedimus justice is
41 restored to its historic function of the taking of
42 oaths of persons assuming public office.

1 In addition, the bill seeks to accomplish 3 other
2 objectives: the elimination of the assignment of any
3 responsibilities to an office bearing the title
4 "magistrate" in sections 4, 18, 48, 53 and 62; the
5 retention of the power of the Chief Judge of the
6 District Court to authorize clerks or deputy clerks,
7 who are denominated justices of the peace for the
8 purpose, to issue arrest warrants in sections 3 and
9 28; and the restoration to the judges of the State of
10 the power to solemnize marriages in sections 42 and
11 43. Any sections of the bill not referred to in this
12 statement are intended to amend the nomenclature of
13 the laws to conform to the above described principles.

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