

MAINE STATE LEGISLATURE

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NEW DRAFT

E I G H T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 814

S. P. 551

In Senate, Mar. 3, 1933.

Reported by Senator Weeks of Somerset from Committee on Judiciary and laid on table to be printed under joint rules.

ROYDEN V. BROWN, Secretary.

New Draft of S. P. 67.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-THREE

AN ACT to Revise the Municipal Court Chapter of the Revised Statutes.

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

Sec. 1. "Municipal court" defined. Section 6 of chapter 1 of the revised statutes is hereby amended by adding thereto a new sub-section to be numbered XXXI, and to read as follows:

'XXXI. The term "municipal court" or "municipal courts" shall mean "municipal and police courts".'

Sec. 2. Clerks of courts to administer oaths. Chapter 93 of the revised statutes is hereby amended by adding thereto a new section to be numbered 4-A, and to read as follows:

'Sec. 4-A. Clerks of courts may administer oaths. Clerks of courts may administer oaths required by law unless another officer is specially required to do it.'

MUNICIPAL COURTS

Sec. 3. Chapter 144, § 1, amended. Section 1 of chapter 144 of the revised statutes is hereby amended to read as follows:

'Sec. 1. Appointment of municipal judges; salaries; all fees to be paid over. Judges of municipal ~~and police~~ courts shall be appointed and shall hold their offices as provided in the constitution. Their salaries, unless

established by law, shall be fixed by the municipal officers of their towns, and paid quarterly from the treasuries thereof, and shall not be diminished during their continuance in office; and all fees received by them shall be paid quarterly into said treasuries, except when their compensation is fixed by law, by the allowance to them in whole or in part, of the fees accruing in their courts. All fees of such courts paid to the jailed after commitment, shall be paid over by him, quarterly, into said treasuries.'

Sec. 4. Chapter 144, § 2, amended. Section 2 of chapter 144 of the revised statutes is hereby amended to read as follows:

'Sec. 2. Qualification of judges. No person shall be eligible for appointment as judge of any municipal ~~or police~~ court unless he shall be a member of the bar ~~in~~ **of this state and a resident of** the county in which such court is located.'

Sec. 5. P. L., 1931, cc. 162, 241, revised. Chapter 144 of the revised statutes is hereby amended by striking out sections 3 to 10, inclusive, and inserting in place thereof the following sections to be numbered as below designated:

'Sec. 3. Municipal court terms. All municipal courts shall have terms for the transaction of criminal business, which terms shall commence on the return days of the civil terms as set forth in their respective charters and shall continue to and include the days prior to the next civil return days.'

'Sec. 4. Criminal jurisdiction of municipal courts. Each municipal court shall have jurisdiction, concurrent with the superior court and with all other municipal courts in the counties where they are located, of all crimes and offenses including violations of any statute, or by-law of a town, village corporation or local board of health, or breaches of the peace, not punishable by imprisonment in the state prison, and may for such crimes and offenses impose any of the fines or sentences provided by law to be imposed therefor.'

'Except as hereinafter provided, judges of municipal courts within their respective jurisdictions shall have exclusive original jurisdiction over all offenses committed by children under the age of 15 years. No adjudication or judgment under the provisions of sections 5 to 5-C, inclusive, shall be deemed to constitute a conviction for crime, but the foregoing shall not apply to sentences under paragraph 2 of section 5-B hereof. Provided, however, that for the purpose of determining the guilt of any person charged as an accessory to any offense committed by a child under the age of 15 years, such offense shall be deemed to be the same as if committed by a person over 15 years of age.'

'Sec. 5. Hearings on juvenile cases. Sessions of said courts held under

the provisions of the 2nd paragraph of section 4, and sections 5 to 5-C, inclusive, shall be at such times and at such places within their jurisdiction as the court may determine and hearings may be adjourned from time to time as justice may require. In the hearing of any such case the general public shall be excluded and only such persons admitted as have a direct interest in the case. Records of such cases shall not be open to inspection by the public except by permission of the court.'

'Sec. 5-A. Special probation officers for juveniles. The judge of any such court may appoint special probation officers to care for offenders under the age of 15 years whenever it shall appear to him that such action will best promote the interests of all concerned. Such special probation officers shall be reimbursed by the county for actual expenses incurred in the performance of their duties.'

'Sec. 5-B. Powers of the court in juvenile cases. A municipal court may place children under the age of 15 years under the supervision, care and control of a probation officer or an agent of the department of health and welfare or may order the child to be placed in a suitable family home subject to the supervisions of a probation officer or the department of health and welfare or may commit such child to the department of health and welfare or make such other disposition as may seem best for the interests of the child and for the protection of the community including commitment of such child to the state school for boys or state school for girls.'

'Unless the offense is aggravated or the child is of a vicious or unruly disposition no court shall sentence or commit a child under the age of 15 years to jail, reformatory, or prison, or hold such child for the grand jury.'

'Sec. 5-C. Support of child committed to custodial agency. Whenever a child under the age of 15 years is committed by the court to custody other than that of its parent and no provision is otherwise made by law for the support of such child, compensation for the care of such child, when approved by order of the court, shall be paid by the state. But the court may, after giving a parent a reasonable opportunity to be heard, adjudge that such parent shall pay in such manner as the court may direct such sum as will cover in whole or in part the support of such child, and if such parent shall wilfully fail or refuse to pay such sum he may be proceeded against as provided by law for cases of desertion or failure to provide subsistence.'

TRIAL JUSTICES

'Sec. 6. Jurisdiction of trial justices. Trial justices have jurisdiction of the offenses described in sections 1, 6, 7, 8, 10 and 12 of chapter 131, when the value of the property is not alleged to exceed \$10; they may punish for the 1st offense by a fine of not more than \$10, and by imprisonment for

not more than 2 months; and on a 2nd conviction, by a fine of not more than \$20, and by imprisonment for not more than 6 months.'

'They have jurisdiction of assaults and batteries, breaches of the peace, and violations of any statute or by-law of a town, village corporation, or local board of health, when the offense is not of a high and aggravated nature, and of offenses and misdemeanors, jurisdiction of which is conferred by law, and of all attempts to commit offenses of which they now have jurisdiction by law; and they may try and punish by a fine of not more than \$10, or by imprisonment for not more than 30 days.'

'Sec. 7. Jurisdiction of trial justices in towns where there is a municipal court. A trial justice, residing in a town in which there is a municipal court, has the same jurisdiction as other trial justices in the county in all matters, the exclusive jurisdiction of which is not conferred on such court. Warrants issued by trial justices shall be made returnable before any trial justice in the county, and such warrants may be returned before any municipal court in the same county and the same proceedings had thereon as if said warrants had originally issued from said municipal court; and a justice, for issuing one not so returnable, shall be imprisoned for 6 months and pay the costs of prosecution.'

POWERS OF MAGISTRATES

'Sec. 8. Magistrates may administer oaths; magistrates may require aid. Judges of municipal courts, trial justices and justices of the peace may administer all oaths required by law, unless another officer is specially required to do it. Upon view of an affray, riot, assault, or battery, within their county, such judges and justices may, without warrant, command the assistance of any sheriff, deputy sheriff, constable, or person present to repress the same, and to arrest all concerned therein.'

'Sec. 9. Duty of magistrates on receipt of complaints; proceedings. When complaint is made to any municipal judge, or trial justice, charging a person with the commission of an offense, he shall carefully examine, on oath, the complainant, the witnesses by him produced and the circumstances, and, when satisfied that the accused committed the offense, shall, on any day, Sundays and holidays not excepted, issue a warrant for his arrest, stating therein the substance of the charge.'

'He may, and on complaint, shall, cause to be arrested persons found within his county charged with offenses; and those having committed offenses therein who have escaped therefrom; and all persons charged with felonies, offenses, and misdemeanors, and all affrayers, rioters, breakers of the peace, and violators of the law, and may require such offenders to find sureties for keeping the peace; and when the offense on examination is

found to be one not within his jurisdiction for trial, he may cause them to recognize with sufficient sureties to appear before the superior court, and, in default thereof, shall commit them.'

'He may try those brought before him for offenses within his jurisdiction, although the penalty or fine accrues wholly or partly to his town.'

'Warrants, issued by such magistrates in criminal cases, shall be under seal, and be signed by them at the time they are issued.'

Sec. 10. Rule for prosecutions of violation of municipal ordinance. In any prosecution before a municipal court or trial justice for violation of an ordinance or by-law of a city or town, or of any by-law of a village corporation or local board of health, it shall not be necessary to recite such ordinance or by-law in the complaint, or to allege the offense more particularly than in prosecutions under a general statute.'

Sec. 6. Repealing clause. Sections 1 and 2 of chapter 162 of the public laws of 1931, and chapter 241 of the public laws of 1931 are hereby repealed.

Sec. 7. Further clerical amendments. Section 11 of chapter 144 of the revised statutes is hereby amended to read as follows:

Sec. 11. Summonses to witnesses; when witnesses shall recognize. Any judge or justice named in section ~~three~~ 8, when a warrant is issued by him, may cause such witnesses only as he is satisfied can testify to material facts to be summoned to attend the trial, by inserting their names in the warrant or otherwise; and when the case is appealed or the person is required to appear before a higher tribunal, he may order such witnesses only to recognize for their appearance where the case is to be tried or examined. He may issue summonses for witnesses in criminal cases to appear before any judicial tribunal, at the request of the attorney-general, a county attorney or the party accused, and he shall express in the summons at whose request they are summoned; and when summoned for the accused, the witnesses are not required to attend without payment or tender of their legal fees.'

Section 21 of chapter 144 of the revised statutes is hereby amended to read as follows:

Sec. 21. Respondent may appeal without trial. In all prosecutions before municipal ~~or police~~ courts or trial justices, the respondent may plead not guilty and waive a hearing, whereupon the same proceedings shall be had as to sentence and appeal as if there had been a full hearing.'