

MAINE STATE LEGISLATURE

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

Legislative Document

No. 234

S. P. 183

In Senate, February 1, 1939.

Referred to Committee on Legal Affairs and sent down for concurrence.
500 copies ordered printed.

ROYDEN V. BROWN, Secretary.

Presented by Senator Sewall of Sagadahoc.

S T A T E O F M A I N E

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-NINE

**AN ACT to Provide for the Appointment of a Board of Commissioners
of Police for the City of Bath.**

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

Sec. 1. Organization. The police department of the city of Bath shall consist of a chief of police, 2 sergeants and patrolmen to the number determined by the mayor and city council of said city. The city constable and messenger shall be considered an employee of the police department.

Sec. 2. Board of police commissioners. A board of commissioners of police consisting of 3 resident citizens of Bath shall be appointed by the mayor and confirmed by the city council of said city, as soon as convenient may be after this act shall take effect, all of whom shall serve without pay. In the first instance, 1 shall be appointed for a term of 3 years, 1 for a term of 2 years, 1 for a term of 1 year. At the expiration of each of said terms, a commissioner shall be appointed for a full term of 3 years. In case of any vacancy in said board, the mayor and confirmed by the city council shall appoint a member thereto for the balance of the unexpired term. The members of the board shall be appointed from the two political parties receiving the largest number of votes in the last preceding city election. No more than 2 of said members shall be from the same political party.

Sec. 3. Qualifications. Each member of said board shall qualify after this appointment as aforesaid by being sworn by the city clerk of said city, or by a justice of the peace, to the faithful discharge of his duties. In the event that a member qualifies before a justice of the peace, a certificate thereof shall be forthwith filed by said justice with said city clerk.

Sec. 4. Appointing power. The board of commissioners of police hereby created shall have full power and authority, subject to the provisions of this act, to select and appoint the members of the police department of said city of Bath, as hereinafter provided, and shall have such other powers as are given them by the terms of this act.

Sec. 5. Procedure. When said board of commissioners shall have qualified, they shall meet and elect a chairman and clerk of their own number, and shall forthwith select and appoint in the manner hereinafter provided said patrolman, 1 of whom shall be designated by them as chief of police, 2 as sergeants; all of whom shall constitute the police department of said city of Bath.

Sec. 6. Applications by candidates. Candidates for appointment as patrolmen shall make application therefor to said board of commissioners of police upon blanks furnished by it. All such candidates to fill any vacancies occurring in said force, or for any new places on said force occasioned by an increase in the number thereof, shall submit to such qualification tests as may be prescribed by said board. The board by such qualification tests shall inquire into the physical, mental and moral fitness of each of the applicants for appointment. It shall place upon an eligible list all applicants who shall satisfactorily meet such tests, and every appointment shall be from persons upon said eligible list. Each applicant shall remain upon said list for a period of 1 year from the date of examination. The physical examination prescribed by said board shall be conducted by the city physician.

Sec. 7. Eligibility; term of service. Any male voter of Bath between the ages of 24 and 45 shall be eligible to appointment as a patrolman, provided he shall have made written application therefor and shall have satisfactorily passed the qualifications tests prescribed by said board. Each patrolman shall be appointed to serve until he shall arrive at the age of 65, when he may apply to be retired, unless sooner removed by a reduction in the membership of the department by the mayor and city council or unless previously removed by said board as hereinafter authorized. In the event of a reduction in said force, the latest to be appointed thereto, shall be first

removed, and shall be given preference, if still upon said list, in filling the first vacancy.

Sec. 8. Powers and duties of patrolmen. All patrolmen shall have and exercise all powers given to and shall perform all duties imposed upon constables within the limits of said city, except service of civil process, and all powers given to and all duties imposed upon police officers by the statutes of the state, the charter of said city, and its ordinances, by-laws and regulations.

Sec. 9. Officers; powers and duties. The officers of the police department shall be a chief of police, and 2 sergeants. The chief of police shall be qualified by being sworn by the city clerk of Bath or by a justice of the peace to the faithful discharge of his duties. In the event that he qualifies before a justice of the peace, a certificate thereof shall be forthwith filed by said justice with said city clerk. The chief of police shall have and exercise all the powers and authority now given to and be subject to all duties imposed upon the city marshal by the charter and ordinances of Bath and by the general statutes of the state. They shall also have and exercise such special powers and be subject to such special duties as may from time to time be delegated to them by the mayor and city council of said city.

Sec. 10. Suspensions and removals. (a) The board may suspend a chief upon its own initiative or pending investigation of written charges, made by an elector of the city and filed with the clerk of the board. The board shall not remove a chief except upon such written charges.

(b) The board or the chief may suspend a subordinate for cause. If the chief suspends a subordinate he shall immediately report the same in writing, with the cause, to the chairman of the board. Any elector of the city may file written charges against a subordinate with the chairman of the board, and pending investigation thereof the board may suspend such subordinate. Only upon such written report or charges shall a subordinate be removed.

(c) Every person, chief or subordinate, against whom charges are filed shall be entitled to a copy thereof and shall have an opportunity to be heard in his own defense. Such hearing shall be public, and both the accused and the complainant may be represented by an attorney and may compel the attendance of witnesses by subpoena which shall be issued by the chairman of the board.

(d) If the board shall determine that the charges are not sustained, the accused, if he has been suspended, shall be immediately reinstated. If the board shall determine that the charges are sustained, the accused, by order of the board, may be suspended, reduced in rank, or removed, as the good of the service may require.

Sec. 11. Special patrolman. Special patrolmen shall be appointed by the commissioners from the eligible list of applicants for patrolmen, with the exception of those assigned for special duty in the institutions and industries of the city who shall not have to qualify for the several examinations by the board of commissioners. The special officers shall have same authority as now vested in them under present provisions of the charter of the city of Bath.

Sec. 12. Examination of members. The board shall from time to time examine into the mental and physical fitness of any members appointed under the provisions of this act and may remove any member who has become, due to physical or mental impairment of a permanent nature, unfitted for further service.

Sec. 13. Compensation. The compensation of the chief of police, 2 sergeants and patrolmen shall be fixed by the city council of Bath.

Sec. 14. No participation in politics. No person holding an office authorized by the provisions of this act shall hold any other public office or take any active part in politics. Any violation of the provisions of this section shall be considered cause for removal.

Sec. 15. Present members. All members of the police department of the city of Bath at the time this act becomes effective shall be exempt from the provisions of this act with respect to qualifying age restrictions.

Sec. 16. Retirement of members. The city of Bath is hereby authorized by such means as it is deemed advisable by the City Council to provide for the retirement of all members of its police department who have served in said department for a term of at least 20 years, and who may have been honorably discharged from said department, by reason of having attained the age of 65 years or by reason of permanent injuries or permanent physical incapacity, which is the result of an incident of service in said police department.

Sec. 17. Inconsistent acts repealed. Such parts of section 4 of the charter of the city of Bath, section 4 of chapter 79, of the private and special

laws of 1895 and all the other acts, or parts of acts, inconsistent herewith are hereby repealed.

Sec. 18. Effective date. This act shall take effect and be in full force upon the 3rd Monday in March following the date it is approved by a majority vote of the inhabitants of said city, qualified to vote in municipal affairs, at the next general election therein, or at a special state election, or at any prior special city election notified and called by the mayor and aldermen, in the manner prescribed by the laws of this state for notifying and calling town meetings by the selectmen of the several towns. All members of the police department of the city of Bath at the time this act becomes effective shall continue in office until their successors have been appointed and duly qualified. For the purposes of said election, the city clerk shall reduce the subject matter of this act to the following question: "Shall the act providing a board of commissioners of police for the city of Bath be approved" and the voters shall indicate by a cross, placed within a square upon their ballots, over the words "Yes" or "No" their opinion of the same.