

MAINE STATE LEGISLATURE

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

Legislative Document

No. 1197

S. P. 413

In Senate, March 11, 1959

Referred to the Committee on Judiciary, sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Lessard of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-NINE

AN ACT Relating to Waiver of Indictment.

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

R. S., c. 147, § 33, amended. Section 33 of chapter 147 of the Revised Statutes, as enacted by chapter 187 of the public laws of 1955, and as amended by chapter 3 of the public laws of 1957, is further amended to read as follows :

‘Sec. 33. Waiver of indictment; petition; information; notification of rights; additional charges. Any person charged with an offense not punishable by life imprisonment, who has been bound over to await the action of a grand jury in any Superior Court, and who desires to waive indictment and have a prompt arraignment upon waiver of said indictment, may file a petition in writing with the clerk of said court requesting prompt arraignment by information.

After the filing of such petition, and after the accused in open court, or before any Justice of the Superior Court in vacation, has been advised of the nature of the offense and of his rights, said accused may waive in open court prosecution by indictment, which waiver shall be recorded. Thereupon the **Attorney General or any of the deputy or assistant attorneys general or the county attorney or the assistant county attorney, hereinafter in this section referred to as the prosecuting officer,** may proceed against the accused person by information.

The information shall be **made under the oath of the prosecuting officer upon information and belief before a justice of the peace or a notary public.** It shall be a plain, concise and definite written statement of the essential facts constitut-

ing the offense intended to be charged in the complaint. In preparing the information, errors and deficiencies, either in form or substance, appearing in said complaint may be corrected. The information may charge the accused with any lesser offense which is contained in the greater offense intended to be charged in the complaint. It shall be signed by the ~~county attorney or the assistant county attorney~~ prosecuting officer, and in such cases the Superior Court, or any Justice of the Superior Court in vacation, shall have jurisdiction, in term time or in vacation, as if an indictment had been found, and upon plea of **nolo contendere** or guilty shall thereupon impose sentence and order its execution or may dispose of the case as provided in chapter 27-A, section 6, and upon entry of any other plea shall continue the matter to the next term at which criminal trials are held. The court, or any justice thereof in vacation, under appropriate circumstances, shall have authority to place the case on file with or without plea, or to grant a motion made by the prosecuting officer to enter a nolle prosequi as to part or all of said information.

The accused person may then be arraigned upon said information at such time as the court, or any justice ~~of the Superior Court thereof~~ in vacation, may designate, whether in term time or vacation.

The court which binds over an accused person ~~will~~ shall notify him of his right to apply for waiver of indictment and prompt arraignment ~~as aforesaid~~.

~~If the county attorney or the assistant county attorney desires~~ The prosecuting officer upon investigation may elect to charge the accused person with ~~an~~ another offense or offenses not punishable by life imprisonment, and not ~~contained~~ alleged in the complaint upon which such accused person has been so bound over, in which event he may, before consenting to proceedings by information, prepare and sign an information or informations under oath setting forth such other offense or offenses, which may be either felonies or misdemeanors, and file the same with the clerk of courts and cause the accused to be served with an attested copy thereof in order that the accused may have an opportunity to waive indictment upon such other offense or offenses, and an affidavit of such waiver by the accused shall be presented to the court, or any justice ~~of the Superior Court thereof~~ in vacation, and be recorded, whereupon the case may be handled as hereinbefore provided in this section.'

The Superior Court shall, by rule, establish forms and petitions to waive indictment ~~hereunder~~, and may, by rule, make such other regulations or procedure ~~hereunder~~ as justice may require.'