

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
Lewiston, Maine
1988

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
and
SECOND REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

Sec. 78. Transition for members of the Electricians' Examining Board. Members of the Electricians' Examining Board who have been appointed to terms extending beyond the effective date of this Act shall continue their service on the board until they complete their current terms of appointment.

Those members of the board who have served a single 5-year term of appointment which expires after the effective date of this chapter shall be eligible for one 3-year reappointment.

Those members of the board who have been appointed to 2 terms of service prior to the effective date of this chapter shall not be eligible for reappointment.

Sec. 79. Transition for members of the Maine Council on Alcohol and Drug Abuse Prevention and Treatment. Members of the Maine Council on Alcohol and Drug Abuse Prevention and Treatment who have been appointed to terms extending beyond the effective date of this Act shall continue their service on the council until their current terms expire. Current council members shall continue to serve until new appointments are commissioned in June of that year.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 19, 1988.

CHAPTER 736

H.P. 1791 — L.D. 2452

AN ACT to Abolish the Office of Complaint Justice and Replace it with the Office of Justice of the Peace.

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

Whereas, the judicial functions currently performed by complaint justices are essential to the administration of justice in the State; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§5. Oath of office; before whom taken

The Justices of the Supreme Judicial Court and of the Superior Court and all state officials elected by the Legislature shall take and subscribe the oath or affirmation required by the Constitution, before the Governor. Every other person elected or appointed to any civil office shall take and subscribe the oath before any ~~magistrate~~ dedimus justice commissioned by the Governor for that purpose, except when the Constitution otherwise provides.

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

§82. Appointment of notaries public; renewal of commissions

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

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

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

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

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

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

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

3. Complaint for dogs presenting immediate threat to public. After filing of complaint in District Court or Superior Court and before hearing, if the dog poses an immediate threat to the public, the dog shall be subject to muzzling, restraint or confinement to its premises upon order of the sheriff or local law enforcement officer who filed the complaint. Upon failure to comply, the

officer to whom complaint was made may apply to District Court, Superior Court or a ~~complaint~~ justice of the peace for an ex parte order for authorization to take possession of the dog which poses an immediate threat to the public and turn it over to the applicant or other suitable person.

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

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

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

C. The owner shall submit an affidavit setting forth specific facts to substantiate such findings as will serve to modify or dissolve the order. The applicant shall have the burden of presenting evidence to substantiate the original findings.

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

A. Form of libel:

STATE OF MAINE

County of SS To the Honorable

Clerk, Judge of
~~Complaint Justice~~ Justice of the Peace

Court.

Your libelant, of, Maine, a warden,

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

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

.....
.....
.....

That the items seized and described were either taken, bought, sold, shipped, transported, possessed or used in violation of a provision of the Maine Revised Statutes, Title 12, chapters 601 to 627, or in violation of a regula-

tion authorized by those chapters. The specific violation of statute or regulation is . . .

Wherefore he prays for a decree of forfeiture of these items in accordance with the provisions of the Maine Revised Statutes, Title 12, section 6207.

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

(Signed) . . .
Warden

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

§2691. Warrant for calling meetings

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

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

§2732. Officers sworn

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

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

§2904. Refusal of assessors

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

Sec. 11. 13 MRSA §3111, as amended by PL 1981, c. 456, Pt. A, §47, is further amended to read:

§3111. Different denomination; division of time

When a house of public worship is owned by persons of different denominations and when an organized soci-

ety, or its members, own 5 pews therein, one or more of the minority owning not less than 5 pews may apply to a ~~notary public~~ justice of the peace to obtain a division of the time of occupying the house. He shall call a meeting of the owners by posting a notice in a public place in or about the house, 30 days at least before the meeting, stating the time, place and object thereof.

Sec. 12. 14 MRSA §2002, as amended by PL 1981, c. 456, Pt. A, §50, is further amended to read:

§2002. Appraisers sworn; view of land

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

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

§2102. Ascertainment of amount due

The debtor may have the amount due ascertained by ~~3 notaries public chosen, one by the debtor, one by the creditor and the other by those 2~~ a justice of the peace. ~~If after notice the creditor declines, the debtor may choose 2, and after~~ After a hearing before the 3, they ~~or 2 of them~~ justice of the peace, the justice of the peace shall make in writing and sign a certificate of the sum found due, which is conclusive. The debtor may tender that sum, which is effectual to redeem, although he had before tendered a different sum.

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

§2204. No disclosure; compulsion by deposition

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

Sec. 15. 14 MRSA §5524, as amended by PL 1981, c. 456, Pt. A, §54, is further amended to read:

§5524. Detention for bailable offense; admission to bail

If the party is imprisoned and detained for a bailable offense, he shall be admitted to bail if sufficient bail is offered. If not, he shall be remanded, with an order of the court or justice expressing the sum in which he shall be held to bail and the court at which he shall be bound to appear. A ~~notary public~~ justice of the peace may, at

any time before the sitting of the court, bail the party pursuant to the order.

Sec. 16. 14 MRSA §6201, sub-§3, as amended by PL 1981, c. 279, §7, is further amended to read:

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

Sec. 17. 14 MRSA §6203-E, as enacted by PL 1967, c. 424, §2, is amended to read:

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

No action for a deficiency shall be brought by the holder of the mortgage note or other obligation secured by mortgage of real estate after foreclosure by exercise of the power of sale, unless a notice in writing of the mortgagee's intention to foreclose the mortgage shall have been served on the mortgagor or its representative in interest or the same has been sent by registered mail with return receipt requested at its last address then known to the mortgagee, to such address as may be agreed upon in said mortgage, together with a naming of liability for the deficiency, in substantially the form below, at least 21 days before the date of the sale under the power in the mortgage, and an affidavit has been signed and sworn to, within 30 days after the foreclosure sale, of the mailing of such notice. A notice mailed as aforesaid shall be a sufficient notice, and such an affidavit made within the time specified shall be prima facie evidence in such action of the mailing of such notice.

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

FORM

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

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

You are hereby notified in accordance with the statute, of my intention, on _____ (date of sale), to foreclose by sale under the Power of Sale for breach of condition, the Mortgage held by me on property located on _____ Street, Town of _____, County of _____ and State of _____ dated _____ and recorded in the _____ County

Registry of Deeds, Book _____, Page _____, to secure a note (or other obligation) signed by you, for the whole, or any part, of which you may be liable to me and in case of a deficiency in the proceeds of the Foreclosure Sale to hold you liable for the whole or any part thereof still remaining unpaid.

Very truly yours,

(Name of holder of said Mortgage)

Affidavit

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

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

~~Justice of the Peace~~
Notary Public

Sec. 18. 14 MRSA §6512 is amended to read:

§6512. Oath

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

Sec. 19. 14 MRSA §7153, as amended by PL 1981, c. 456, Pt. A, §56, is further amended to read:

§7153. Appraisal

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

Sec. 20. 15 MRSA §55, as repealed and replaced by PL 1979, c. 343, §1, is amended to read:

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

A judge of the District Court or a ~~complaint~~ justice of the peace shall issue search warrants for any place in the State for such purposes as the Constitution of the United States and the Constitution of Maine permit. The evidence presented to the magistrate in support of the search warrant may consist of affidavits and

other evidence under oath or affirmation which is capable of being reduced to a record for purposes of review. The Supreme Judicial Court shall by rule provide the procedure of the application for and issuance of search warrants; provided, that where no procedure is specified, the judge or complaint justice of the peace shall proceed in any reasonable manner which will allow the issuance of a search warrant for any constitutional purpose.

Sec. 21. 15 MRSA §702, as amended by PL 1965, c. 356, §20, is further amended to read:

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

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

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

§703. Officer's oath to complaint

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

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

When complaint is made to any Judge of the District Court, to a complaint justice of the peace or to any other officer of the District Court authorized to issue process charging a person with the commission of an offense, such judge, complaint justice of the peace or other officer shall issue a warrant in the name of the District Court for the arrest of such person, in such form and under such circumstances as the Supreme Judicial Court shall by rule provide. Such complaint justice of the peace or other officer shall not have authority to preside at any trial, and neither shall appear as counsel in any criminal case in which he has heard the complaint. A clerk of the District Court may accept a guilty plea upon payment of fines as set by the judge.

Sec. 24. 15 MRSA §707, as amended by PL 1981, c. 456, Pt. A, §57, is repealed.

Sec. 25. 15 MRSA §708, first ¶, as repealed and replaced by PL 1977, c. 579, ¶E, §1, is amended to read:

The clerk may, in the absence or unavailability of a complaint justice of the peace or of a prosecuting attorney or any of his assistants, prepare and draft complaints upon the request of any law enforcement officer, except that no complaint shall issue to any person who is not a law enforcement officer or for any criminal homicide or Class A, B or C crime unless approved by the district

attorney or his designee or the Attorney General or his designee.

Sec. 26. 15 MRSA §5822, sub-§6, as enacted by PL 1987, c. 420, §2, is amended to read:

6. Preliminary process. Any Justice of the Supreme Judicial Court or the Superior Court, Judge of the District Court or Judge of the Administrative Court or Complaint Justice justice of the peace may issue, at the request of the attorney for the State, ex parte, any preliminary order or process as is necessary to seize or secure the property for which forfeiture is or will be sought and to provide for its custody. That order may include an order to a financial institution or to any fiduciary or bailee to require the entity to impound any property in its possession or control and not to release it except upon further order of the court. Process for seizure of the property shall issue only upon a showing of probable cause that the property is subject to forfeiture under section 5821. The application for process and the issuance, execution and return of process shall be subject to applicable state law. Any property subject to forfeiture under this section may be seized upon process, except that seizure without the process may be made when:

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

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

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

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

Sec. 27. 17 MRSA §1021, sub-§4, ¶A, as enacted by PL 1987, c. 383, §4, is amended to read:

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

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

(1) The defendant is not subject to the jurisdiction of the court for the purposes of a hearing or the owner cannot be found by reasonable diligence 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.

Sec. 28. 17 MRSA §1034, as enacted by PL 1987, c. 383, §4, is amended to read:

§1034. Application for search warrant

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

Sec. 29. 17 MRSA §2004, all of that part relating to "Form of Complaint for Single Sale" is amended to read:

Form of Complaint for Single Sale

STATE OF MAINE

....., ss. — To Judge of District Court
Clerk
Complaint Justice of the Peace

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

A. B.

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

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

Sec. 30. 17 MRSA §2004, all of that part relating to "Form of Warrant upon Complaint for Single Sale" is amended to read:

Form of Warrant upon Complaint for Single Sale

STATE OF MAINE

....., ss. — To the sheriff of our said county of, or either of his deputies, or either of the constables of the town of, or of either of the towns in said county. Greeting.

[L. S.] Whereas, A. B., of, on the day of, in the year of our Lord one thousand nine hundred, in behalf of said State, on oath complained to me, the subscriber, one of the Judges of the District Court Clerks that
....., Complaint Justices of the Peace
of, in said county, on the day of, 19...., at said, in said county of, did sell a quantity of intoxicating liquors, to wit: one of intoxicating liquor to one, against the peace of said State and contrary to the form of the statute in such case made and provided.

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

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

Judge
..... Clerk
Complaint Justice of the Peace."

Sec. 31. 17 MRSA §2004, all of that part relating
to "Form of Complaint in Case of Seizure" is amended
to read:

Form of Complaint in Case of Seizure

STATE OF MAINE

"....., ss To A.B., esquire,
District Court Judge
Clerk
Complaint Justice of the Peace
District, Division

A.B., of, in said county, competent to be
a witness in civil actions, on the day of,
in the year nineteen hundred, in behalf of said
State, on oath complains, that he believes, that on the
..... day of, 19.... at said, intox-
icating liquors were, and still are kept and deposited by
..... of, in said county, in"
(here describe with precision the place to be searched.)
"and that said liquors then and there were, and now are
intended by said for sale in violation of law,
against the peace of the State and contrary to the form
of the statute in such case made and provided.

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

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

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

Sec. 32. 17 MRSA §2004, all of that part relating
to "Form of Warrant in Case of Seizure" is amended
to read:

Form of Warrant in Case of Seizure

STATE OF MAINE

District
Division of

"....., ss. To the sheriff of our several
counties or any of their deputies, or any of the constab-
les or police officers of any municipality in said State
or any State Police officer.

[L. S.] Whereas A. B., of, in said county, com-
petent to be a witness in civil actions, on the
day of, in the year nineteen hundred,
in behalf of said State, on oath complained to the sub-
scriber, an officer of the District Court, that he believes,
that on the day of, 19...., at said
....., intoxicating liquors were and still are deposited
and kept by, of, in said county, in
....." (here follows a precise description of the place
to be searched.) "and that said then and there
intended and now intends that the same shall be sold,
in violation of law as fully appears by the complaint here-
unto annexed, and prayed that due process be issued to
search the premises hereinbefore mentioned, where said
liquors are believed to be deposited, and, if there found,
that said liquors and vessels be seized and safely kept
until final action and decision be had thereon, and that
said be apprehended and held to answer to
said complaint, and to do and receive such sentence as
may be awarded against him: —

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

Witness, at aforesaid, this
..... day of, in the year of our Lord nineteen
hundred

District Court Judge
..... Clerk
Complaint Justice of the Peace

Sec. 33. 17 MRSA §2004, all of that part relating
to "Form of Libel," as amended by PL 1965, c. 431, §15,
is further amended to read:

Form of Libel

STATE OF MAINE

District
Division of
"County of .., ss. — To A.B., District Court Judge
Clerk
Complaint Justice of the Peace

The libel of C.D., of, shows that he had,
by lawful seizure, seized certain intoxicating liquors and
the vessels in which the same were contained, described
as follows: (here follows a description of the
liquors.) "because the same were kept and deposited at

....." (describing the place) "in the said county of, and were intended for sale, in violation of law. Wherefore he prays for a decree of forfeiture of said liquors and vessels, according to the provisions of law in such case made and provided.

Dated at, in said county, this day of, in the year of our Lord nineteen hundred

(Signed)"

Sec. 34. 17 MRSA §2004, all of that part relating to "Form of Monition and Notice" is amended to read:

Form of Monition and Notice

STATE OF MAINE

District
Division of

"County of, ss.

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

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

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

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

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

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

Form of Complaint in Case of Seizure of Automobile

STATE OF MAINE

District
Division of

Judge

"....., ss. — To the Clerk

Complaint Justice of the Peace
of the District Court:

A. B., of, in the said county, competent to be a witness in civil actions, on the day of

A. D., 19...., in behalf of said State, on oath complains, that he believes that on the day of in said year, at said, in said county, a certain automobile, hereinafter described, was knowingly used for the illegal transportation of intoxicating liquors and intoxicating liquors were kept and deposited by persons unknown of in said automobile, situated on street, in said, in said county, near number on said street in said, and occupied by said persons unknown, said persons unknown not being then and there authorized by law to transport liquors within said State, and that the said liquors were then and there knowingly being transported within said State, in violation of law, against the peace of said State, and contrary to the form of the statute in such case made and provided; and that the said liquors were then and there intended by said persons unknown for sale in violation of law, against the peace of said State and contrary to the form of the statute in such case made and provided.

And the said on oath further complains that he, the said at said on the day of, A. D., 19...., being then and there an officer, to wit, a deputy sheriff, within and for said county, duly qualified and authorized by law to seize automobiles used for the illegal transportation of intoxicating liquors and intoxicating liquors kept and deposited for unlawful sale and the vessels containing them, by virtue of a warrant therefor issued in conformity with the provisions of the law, did find upon the above described premises, one, bearing engine number, and the 19 license number plates numbered, which said automobile then and there contained, which said automobile was not ~~than~~ then and there a common carrier, and which said automobile was not then and there engaged in the business of a common carrier; and which said automobile was then and there in the possession, care and control of the said and which said automobile was then and there knowingly used by the said for the illegal transportation of intoxicating liquors from place to place in said with intent that the said intoxicating liquors should be sold in violation of law; and which intoxicating liquors as aforesaid, and the vessels containing the same, were then and there kept, deposited and intended for unlawful sale as aforesaid, and said automobile was then and there being used for the illegal transportation of said liquors as aforesaid, within said State by the said persons unknown, and did then and there by virtue of this authority as a deputy sheriff as aforesaid, seize the above described automobile, intoxicating liquors and the vessels containing the same, to be kept in some safe place for a reasonable time, and hath since kept and does still keep said automobile, liquors and vessels to procure a warrant to seize the same.

He therefore prays, that due process be issued to seize said automobile, liquors and vessels, and them safely keep until final action and decision be had thereon, and

that said persons unknown be forthwith apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against them.

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

District Court Judge

Before me,, Said Clerk
Complaint Justice of the Peace."

Sec. 36. 17-A MRSA §506-A, sub-§1, as amended by PL 1981, c. 456, Pt. A, §59, is further amended to read:

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

Sec. 37. 18-A MRSA §2-109, ¶(2), as enacted by PL 1979, c. 540, §1, is amended to read:

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

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

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

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

Sec. 38. 19 MRSA §121, as repealed and replaced by PL 1981, c. 456, Pt. A, §61, is amended to read:

§121. Authorization; license

Every justice, judge, justice of the peace or notary public residing in this State may solemnize marriages in this State. Every ordained minister of the gospel, clergyman engaged in the service of the religious body to which he belongs or person licensed to preach by an association of ministers, religious seminary or ecclesiastical body, whether a resident or nonresident of this State and whether or not a citizen of the United States, and of either sex, may solemnize marriages. A copy of the record of any marriage solemnized under the provisions of this section, duly made and kept, and attested or sworn

to by the clerk of the town in which the marriage intention was recorded or in which the marriage was solemnized, shall be received in all courts as evidence of the fact of marriage. Notwithstanding Title 17-A, section 4-A, any person who violates this section, shall be punished by a fine of not more than \$100 for each offense, for the use of the town in which the offense occurred, and the State Registrar of Vital Statistics shall enforce this section as far as it comes within his power and shall notify the district attorney of the county in which the penalty should be enforced of the facts that have come to his knowledge, and, upon receipt of the notice, the district attorney shall prosecute the defaulting person or persons.

Sec. 39. 19 MRSA §122, as amended by PL 1981, c. 456, Pt. A, §62, is further amended to read:

§122. Lack of jurisdiction or authority

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

Sec. 40. 20-A MRSA §1251, sub-§6, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

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

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

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

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

Sec. 41. 21-A MRSA §754-A, sub-§2, ¶A, as enacted by PL 1985, c. 357, §§12 and 19, is amended to read:

A. The voter must mark his ballot in the presence of the following witness or witnesses: One notary public, clerk of a municipality, ~~dedimus justice~~, clerk

of courts or 2 other individuals. The voter, before marking his ballot, must show it to the witness or witnesses who must examine it to be certain it is unmarked.

Sec. 42. 21-A MRSA §754-A, sub-§3, ¶B, as enacted by PL 1985, c. 357, §§12 and 19, is amended to read:

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

Sec. 43. 26 MRSA §5, 3rd ¶, as repealed and replaced by PL 1975, c. 460, is amended to read:

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

Sec. 44. 30 MRSA §852 is amended to read:

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

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

Sec. 45. 30 MRSA §2051, sub-§§3 and 4, as amended by PL 1981, c. 456, Pt. A, §102, are further amended to read:

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

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

Sec. 46. 30 MRSA §4154, as amended by PL 1981, c. 456, Pt. A, §104, is further amended to read:

§4154. Proceedings by committee; record

The members of the committee mentioned in section

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

Sec. 47. 30 MRSA §5604, as amended by PL 1967, c. 425, §19, is further amended to read:

§5604. Organization meeting

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

Sec. 48. 33 MRSA §203, 3rd ¶, as amended by PL 1981, c. 456, Pt. A, §115, is further amended to read:

Any notary public or ~~justice of the peace~~ who is a stockholder, director, officer or employee of a bank or other corporation may take the acknowledgment of any party to any written instrument executed to or by such corporation, provided such notary public or ~~justice of the peace~~ is not a party to such instrument either individually or as a representative of such bank or other corporation.

Sec. 49. 33 MRSA §253 is amended to read:

§253. Administration of oaths and depositions

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

Sec. 50. 33 MRSA §304, as amended by PL 1981, c. 456, Pt. A, §116, is further amended to read:

§304. Proof before justice of the peace after summons

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

Sec. 51. 33 MRSA §305, as amended by PL 1981, c. 456, Pt. A, §117, is further amended to read:

§305. Certification

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

Sec. 52. 33 MRSA §775, forms 12 to 15, as enacted by PL 1967, c. 377, are amended to read:

12 Acknowledgment of Individual Acting
in His Own Right

State of
County of, ss (Date)

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

Before me,

.....
~~Justice of the Peace (or Notary Public)~~
Notary Public

13 Acknowledgment of an Attorney

State of
County of, ss (Date)

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

Before me,

.....
~~Justice of the Peace (or Notary Public)~~
Notary Public

14 Acknowledgment of an Officer of a Corporation

State of
County of, ss (Date)

Then personally appeared the above named (name of

the officer who signed the deed, with his title), and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation.

Before me,

.....
~~Justice of the Peace (or Notary Public)~~
Notary Public

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

State of
County of, ss (Date)

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

Before me,

.....
~~Justice of the Peace (or Notary Public)~~
Notary Public

Sec. 53. 34-B MRSA §3863, sub-§3, as enacted by PL 1983, c. 459, §7, is amended to read:

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

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

B. No person may be held against his will in the hospital under this section, whether informally admitted under section 3831 or sought to be involuntarily admitted under this section, unless the application and certificate have been endorsed by a judge or justice, except that a person for whom an examiner has executed the certificate under subsection 2 may be detained in a hospital for a reasonable period of time, not to exceed 18 hours, pending endorsement by a judge or justice, if:

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

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

Sec. 54. 34-B MRSA §3870, sub-§4, ¶B, as enacted by PL 1983, c. 459, §7, is amended to read:

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

- (1) The state mental health institute, if the order is issued by the chief administrative officer of the state mental health institute; or
- (2) A hospital designated by the commissioner, if the order is issued by the commissioner.

Sec. 55. 34-B MRSA §5477, sub-§4, ¶C, as enacted by PL 1983, c. 459, §7, is amended to read:

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

- (1) If the judge or justice finds the application and accompanying certificate to be regular and in accordance with the law, he shall endorse them.
- (2) No person may be held against his will in the facility under this subsection unless the application and certificate have been endorsed by a judge or justice, except that a person for whom an examiner has executed the certificate provided for under this subsection may be detained in a facility for as long as is necessary to obtain the endorsement by a judge or justice, if the person or persons transporting the person to the facility undertake to secure the endorsement forthwith upon execution of the certificate by the examiner.

Sec. 56. 36 MRSA §898, as amended by PL 1981, c. 456, Pt. A, §120, is further amended to read:

§898. Collector to account when taken on execution

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

Sec. 57. 36 MRSA §944, sub-§2, as amended by PL 1981, c. 557, §4, is further amended to read:

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

The foreclosure of the tax lien mortgage on real estate for a tax assessed against to dated (name) (name of municipality) and recorded in registry of deeds in Book, Page is hereby

waived.

Dated this date of 19..

..... A.B.
Treasurer of

State of Maine

..... ss. 19..

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

Before me,

.....
Justice of the Peace
Notary Public

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

Sec. 58. 37-B MRSA §1008, as enacted by PL 1983, c. 460, §3, is amended to read:

§1008. Witnesses' privileges

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

Sec. 59. 39 MRSA §93, sub-§2 is amended to read:

2. Subpoenas. Any commissioner may administer oaths and any commissioner, justice of the peace, notary public or clerk of any Superior Court may issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books, papers and photographs relating to any questions in dispute before the commission or to any matters involved in a hearing. Witness fees in all proceedings under this Act shall be the same as for witnesses before the Superior Court. When a witness, subpoenaed and obliged to attend before the commission or any member thereof, fails to do so without reasonable excuse, the Superior Court or any justice thereof may, on application of the Attorney General made at the written request of a member of the commission, compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

Sec. 60. PL 1981, c. 456, Pt. A, §128 is repealed.

Sec. 61. Transition. A complaint justice appointed under the Maine Revised Statutes, Title 4, section 161, prior to the effective date of this Act, may continue to act with all powers of a justice of the peace under this Act until August 1, 1988, at which time that appointment shall terminate.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect on July 1, 1988.

Effective July 1, 1988.

CHAPTER 737

H.P. 1855 — L.D. 2538

AN ACT to Recodify the Laws on Municipalities and Counties.

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

PART A

Sec. 1. 30 MRSA Pts. 1 to 3, as amended, are repealed.

Sec. 2. 30-A MRSA is enacted to read:

TITLE 30-A

MUNICIPALITIES AND COUNTIES

PART 1

COUNTIES

CHAPTER 1

COUNTY OFFICERS

SUBCHAPTER I

GENERAL PROVISIONS

§1. Definitions

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings.

1. County legislative delegation. "County legislative delegation" means all state legislators whose legislative districts, in whole or in part, lie within the boundaries of a county.

2. County officers. "County officers" means the commissioners, treasurer, sheriff, register of deeds and register of probate of a county.

3. Voter. "Voter" means a person registered to vote.

§2. Salaries

1. County officers' salaries. Notwithstanding other sections of this chapter, counties that are not required to obtain legislative approval of their budgets under section 253, are not required to obtain legislative approval of the salaries of county officers under this section. The county commissioners, treasurers, sheriffs, judges of probate, registers of probate and registers of deeds in those counties whose budgets require legislative approval under section 253, shall receive annual salaries from the county treasury in weekly, biweekly, monthly, semianual or annual payments, as follows:

A. Androscoggin County:

(1) Commissioners

(a) Chairman \$ 5,550

(b) Members 4,750

(2) Treasurer 16,050

(3) Sheriff 23,557

(4) Judge of Probate 10,774

(5) Register of probate 12,000

(6) Register of deeds 20,800

B. Aroostook County:

(1) Commissioners \$ 0

(2) Treasurer 6,930

(3) Sheriff 18,850

(4) Judge of Probate 9,818

(5) Register of probate 14,000

(6) Register of deeds

(a) Northern District 13,730

(b) Southern District 13,730

C. Franklin County:

(1) Commissioners

(a) Chairman \$ 4,401

(b) Members 4,174

(2) Treasurer 4,555

(3) Sheriff 22,873