

File No, 46845

Baltimore, December 23, 1926

Mr. Walter R. Hough, President
Board of Fire Commissioners
Gay & Lexington Streets
Baltimore, Maryland

Dear Sir:

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Section 75, Paragraph 1, of "General Provisions" of Ordinance #534, approved December 24, 1925, provides that any person convicted by court of competent jurisdiction of violating the terms of the ordinance shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not exceeding \$500.00 or imprisoned not exceeding 30 days, or both in the discretion of the court.

By your letter of December 20th, you make inquiry of me apropos of a conference with Magistrate Rettaliata, sitting at the Eastern Police District, that justices of the peace have no jurisdiction to hear, try and determine violations of the ordinance because the fine is above \$100.00, and because of the further possibility of a jail sentence.

Without expressing a definite opinion on the subject, I think there is some room for the doubt as to whether a Magistrate has jurisdiction in these cases. Section 632 of Article 4 of the Public Local Laws, as amended by Chapter 357 of the Acts of 1916, authorizes station houses justices "to hear, try and determine all prosecutions or criminal proceedings for an act done or omitted to be done in the City of Baltimore, the doing of which act, or the omission to do which act, is or may be punished * * * under any ordinance of the Mayor and City Council of Baltimore, by pecuniary fine only not exceeding \$100.00 * * *".

One construction of this statute might be that the magistrate would have power to hear, try and determine the case, but upon a conviction would be limited in imposing a fine not to exceed \$100.00, and upon failure to pay the fine commit the person according to the general statutes relating to such cases. Another construction, however, would be that because of the maximum fine his jurisdiction is ousted altogether and prosecution could only be by indictment. It occurs to me, therefore, that in order to remove any doubt on the subject the Council be