2A:10-1 et seq

February 7, 1961

L E G I S L A T I V E H I S T O R Y
of
Contempt of Court Statutes

I.

R. S. 2A:10-1.

This section was to be eliminated in the Revision of Title 2A. It does not appear in the Tentative Draft of March 30, 1951.

In the Report of the Annual Judicial Conference, June, 1951, pages 60 to 63, under the heading Chapter 15, there is a discussion by Judge Conford, Judge Weintraub and Judge Clapp on this section. (Photostat enclosed.)

~~(We assume you have the Tentative Draft and the Annual Judicial Conference Report.~~)

1937 Title. R. S. 2:15-1.

This section did not contain the provision of 2A:10-1 preserving the inherent jurisdiction of the superior court to punish for contempt.

In the 1934 Draft of the 1937 Revision, part of the section had a slightly different wording.

2:15-1.

.....

b. Misbehavior of an officer of the court in the performance of his official powers, duties and/or transactions; and

c. Disobedience of or resistance to any lawful writ, process, order, rule, decree, judgment or command of the court by a court officer or by any party, juror, witness or other person.

R. S. 2:15-1 was based on

Laws 1917, Chapter 37, sec. 1. Senate 272. Mr. McKay.

The bill with statement is enclosed, in photostat. It was not amended during passage. The statement refers to an 1831 Federal Statute as source.

21st Congress. 2nd Session. Chapter 99, 1831. 4 Stat 487.

A typewritten copy of this statute is enclosed.

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II.

R. S. 2A:10-2.

In the Tentative Draft of March 30, 1951, this section read as follows:

> 2A:15-3. CONTEMPT IN COURTS OTHER THAN SUPERIOR COURTS. The County court, juvenile and domestic relations courts, county district courts, criminal judicial districts courts and municipal courts in this state shall have the same power to punish for contempt as the superior court.
>
> SOURCE. R. S. 2:15-2; 2:15-15; 2:15-16; 2:15-17. As to municipal courts see C. 2:8A-28 which is to be taken in conjunction with, e.g. R. S. 2:20-49.

R. S. 1937, 2:15-2. is the ~~same~~ provision ~~as~~ preceding R.S. 2A:10-2

This section is based on the Rev. 1877, page 1103, sec. 24. The text of this former law is quoted in the note to 2:15-2. There is no further information on the history of the Revision of 1877. An earlier law appears in

Rev. of 1846, p. 840, sec. 24.

> 24. And be it enacted, That the court of common pleas in and for the respective counties of this state, shall have the like power in cases of contempt and disobedience as aforesaid, to award attachments, and proceed thereupon against the sheriff or coroner of such county where the said court is held, as the supreme court now hath or hereafter shall have.

This is as far as we can trace this section.

III.

R. S. 2A:10-3.

This section does not appear in the Tentative Draft of 1951. It was amended before by

Laws 1948, Chapter 333, sec. 1, Senate 38

The bill is enclosed. It has no statement, was not amended during passage.

R. S. 1937, 2:15-3.

The text of this section is given in the note to 2A:10-3. It is taken

literally from

Laws 1884, Chapter 147, sec. 1. Assembly 154.

The bill had no statement and was not amended during passage.

IV.

R. S. 2A:10-4. BREACH OF CONDITION OF SUPERSEDERS BOND.

In New Jersey Advisory Committee on Revision of Statutes, Tentative Draft, Revision of Titles 2 and 3 (1951) the text of this section is as follows, with the changes made by the law as passed indicated:

> 2A:15-4. Breach of condition of supersedeas bond.
> Upon the breach of the condition of any supersedeas bond given to the ~~clerk of the~~ county court or any inferior court in a contempt proceeding, the county prosecutor /or prosecutor of the pleas/ of the county in which the bond is given shall prosecute the same to effect, in the name of the clerk, and shall pay the proceeds of the recovery thereon to the county treasurer, ~~to be~~ distributed by him according to law.

R. S. 2:15-6. (Revision of 1937)

Major changes in wording were made by the 1937 Revision. No changes were made between the first draft and the law as passed. There were no reporter's notes. You have the text of this in R. S. 2:15-6.

Amended by L. 1948, Ch. 333, sec. 2. No statement; not amended. Photostat of bill with changes indicated enclosed.

Compiled Statutes (1910) p. 1737, sec. 139.

Except for some changes in punctuation, this section was not changed in the Compiled Statutes (1910).

Original law: L. 1884, Chapter 147.

A-154 (1884) - Introduced by Mr. Armstrong, January 28, 1884. Not amended during passage; had no statement.

V.

R. S. 2A:10-5. Civil Contempt; punishment.

In the Tentative Draft, Revision of Titles 2 and 3, by the New Jerse

Advisory Committee on Revision of Statutes (1951) the text and Reporter's note are as follows:

> 2A:15-1. CIVIL CONTEMPT; Punishment.
> Any person who shall be in contempt of the superior court or county court by reason of his disobedience to a judgment, order or process of the court, shall, where the contempt is primarily civil in nature and before he is discharged therefrom, pay to the clerk of the court, for the use of the state for every such contempt, a sum not exceeding $50 as a fine, to be imposed by the court, together with the costs incurred.
>
> Note of Reporter. This statute is made applicable to the entire superior court and to the county court also, even though formerly it was applicable only to the court of chancery.

This section is also discussed in the Judicial Conference, 1951. (Photostat enclosed.)

R. S. 2:15-7. (Revision of 1937).

The wording was changed in the Revision of 1937. There was no Reporter's note. It was unchanged between the first draft and the final law. The text of the 1937 Revision appears as a footnote to the present R. S. 2A:10-5.

Compiled Statutes (1910) p. 442, sec. 82.

This wording remained unchanged in the Compiled Statutes of 1910.

Original Law: L. 1902, Ch. 158, sec. 82.

S-136 (1902) - Introduced by Mr. McCarter, March 12, 1902. "An Act respecting the court of chancery (Revision of 1902). This bill had no statement. It was not amended during passage. This section was sec. 81 of the bill as introduced, and the text of it was:

> 81. To enforce obedience to the process, rules and orders of the court of chancery, where any person shall be in contempt according to the law, practice or course of the said court, he shall, for every such contempt, and before he be released or discharged from the same, pay to the clerk in chancery, for the use of this state, a sum not exceeding fifty dollars, as a fine for the said contempt; and the said person being in court, upon process of contempt or otherwise, shall stand committed and remain in close custody until the said process, rule or order shall be obeyed and performed, and until the fine so imposed for such contempt, with the costs, be fully paid.

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STATE OF NEW JERSEY

INTRODUCED FEBRUARY 20, 1917.

By Mr. MACKAY.

Referred to Committee on Judiciary.

AN ACT concerning contempt of court and restricting and defining the jurisdiction of the courts of this State with respect thereto.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. No power of any court in this State to punish contempt shall be construed to extend to any case except the misbehavior of any person in its actual presence, the misbehavior of any officer of said court in his official transactions, and the disobedience or resistance by any such officer, or by any party, juror, witness or other person, to any lawful writ, process, order, rule, decree, or command of the said court.

2. If for any reason this act, or any section or provision thereof, shall be questioned in any court and shall be held to be unconstitutional or invalid as to any particular court of this State, neither this act nor any section or provision thereof shall be affected thereby with respect to any other court or courts of this State.

3. All acts or parts of acts inconsistent with this act to the extent of such inconsistencies be and the same are hereby repealed.

4. This act shall take effect immediately.

STATEMENT.

The judges of this State have power to summarily summon before them persons criticising their official acts and to fine or imprison such persons at will and without a

jury trial. The very judge criticised may exercise this power. Even the truth of the criticism is not a defense. Such a power is truth-stifling, despotic, and exceedingly dangerous to liberty.

It is the purpose of the annexed bill to prevent abuses of this power. It is modelled after the Act of Congress of March 2, 1831, ch. 99, 4 Stat. L. 487, 4 Fed. Stats. Ann., p. 534, sec. 725, which has been in force with respect to our Federal courts for eighty-five years.

This bill still leaves open to a slandered or libelled judge the remedies of the ordinary citizen, to institute civil or criminal proceedings in the usual way for libel, or a civil suit for slander. In such proceedings the defendant has the benefit of a jury trial before a disinterested judge, and the truth of the criticism may be proven in defense.