

## **Opinion No. 60-180**

September 29, 1960

**BY:** OPINION HILTON A. DICKSON, JR., Attorney General

**TO:** John A. Anderson City Attorney P. O. Box 1087 Lordsburg, New Mexico

### **QUESTION**

#### QUESTIONS

1. In the absence of an appropriate municipal ordinance, may a municipal judge punish for a contempt committed in his presence during court?
2. May the local governing body, by ordinance, provide that the municipal judge may punish for contempt committed in his presence and fix the penalty up to \$ 300 or 90 days fine or confinement as in the case of other ordinance violations?

#### CONCLUSIONS

1. Yes.
2. Yes, see analysis.

### **OPINION**

#### **{\*574} ANALYSIS**

It is our opinion that a municipal court may punish for contempt committed in his presence during court in keeping with § 37 -- 1-2, N.M.S.A., 1953. (PS). This section reads as follows:

"Jurisdiction. -- Such municipal court shall have jurisdiction over all offenses and complaints arising under the ordinances and laws of such cities and towns and shall have power to issue subpoenas and warrants and the power to punish for contempt."

In answering question No. 2, Section 14-21-26 reads as follows:

"To provide by ordinances in regard to the relation between all the officers and employees of the corporation in respect to each other, the corporation and the people."

Since the above quoted section empowers municipalities to provide by ordinance in regard to the relation between officers and the people, a municipality may pass an ordinance giving the municipal judge authority to fine for contempt provided jurisdiction is not exceeded, to-wit: \$ 300 fine or 90 days jail sentence.

By: Hilario Rubio

Assistant Attorney General