

# MAINE STATE LEGISLATURE

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STATE OF MAINE.

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REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1908.

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WATERVILLE  
SENTINEL PUBLISHING COMPANY  
1909

this had to be oral of necessity because time would not have permitted the writing of opinions in all cases wherein we were consulted. We have however given some written opinions on various matters a few of which, among the most important, we have included in substance on some of the subsequent pages.

This report only attempts to show a part of the work covered by this department. It would be impossible for any report to show it all.

Respectfully submitted,

HANNIBAL E. HAMLIN,

*Attorney General.*

#### MARRIAGE LAWS. PUBLIC LAWS, 1907.

*Hon. William T. Cobb, Governor, Augusta, Maine:*

DEAR SIR:—I have the honor to acknowledge from you various inquiries in connection with the recent act of the legislature of 1907, authorizing clergymen to solemnize marriages, in connection with the provisions of section 11 of chapter 61, R. S. 1903.

The copy of the act of 1907, furnished me, reads as follows:

“Section 1. Any clergyman residing in this state and engaged in the service of the religious body to which he belongs, may solemnize marriages such facts being first vouched for by certificate signed by the bishop, the presiding elder or the clerk of such religious body, duly filed in the office of the secretary of state. A fee of two dollars shall be paid to the secretary of state upon the filing of such certificate, who shall thereupon issue to such clergyman a certificate under the seal of the state, to the effect that he is authorized to solemnize marriages, and such certificate, or a certified copy thereof, shall be received as evidence in all courts of his authority so to do, and a copy of the record of any marriage solemnized by such clergyman, duly made and kept, 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.

Section 2. This act shall take effect when approved.”

The date of approval has not been furnished me, but the act was, of course, approved before the adjournment of the legislature and is in force.

Section 11 of chapter 61, R. S., 1903, reads as follows:

“Section 11. Every justice of the peace residing in the state, every ordained minister of the gospel, and every person licensed to preach by an association of ministers, religious seminary or ecclesiastical body, duly appointed and commissioned for that purpose by the governor, may solemnize marriages within the limits of his appointment. The governor, with the advice and consent of the council, may appoint women, otherwise eligible under the constitution, to solemnize marriage.”

Upon consideration of said act of 1907, and the said section 11, chapter 61, R. S., I am of the opinion that the act of 1907 should be considered by the state officials, until the court may rule in substance otherwise, supplementary to said section 11 and not as a repeal of any part thereof.

I should therefore advise that the fee required be exacted by the secretary of state for the certificate issued under compliance with the terms of the act of 1907, but, where applications are made and commissions issued under said section 11, that no attempt should be made to exact the fee provided for in the act of 1907.

While the purpose of the act of 1907 may have been to extend our laws on the subject matter so as to cover or provide for certain additional cases, it is unfortunate that the legislature should not have passed some slight additional act with reference to said section 11 so as to clearly and entirely remove any possible inconsistencies between said act of 1907 and said section 11. Until some judicial determination of our supreme court upon these laws would dictate advice to the contrary, it is my opinion that the state officials should consider these laws as before indicated.