

MAINE STATE LEGISLATURE

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May 17, 1916

To Hon. Irving E. Vernon, Bank Commissioner
Re: Trustees, Fees, Salaries, etc.

Replying to yours of April 26, relative to construction of Section 40, Chapter 48 of the Revised Statutes, as applied to certain matters submitted in the various letters attached to your communication which you have received from different savings banks in Maine.

Section 40 provides:

"No gift, fee commission or brokerage shall be received by any officer of a savings bank on account of any transaction to which the bank is a party, etc."

Section 16 of the same chapter provides:

"Trustees may receive such compensation for their services in making examinations and returns required by their by-laws and the state laws as may be fixed by the corporation at any legal meeting thereof,"

and further provides that

"the treasurer, assistant treasurer and clerk shall receive a compensation to be fixed by the trustees."

It appears to be plain that under the provisions of Section 16, it would be improper for any of the officers of a savings bank to receive compensation for their services except as defined by that section. Hence it would seem plain that it was improper for the president of a savings bank as such to receive a salary in accordance with the arrangement existing in connection with three at least of the banks with which you have been in correspondence. The letters of the Bangor Savings Bank, Calais Savings Bank, Penobscot Savings Bank and Peoples Savings Bank of Lewiston raise an entirely different question. It appears that it has been the custom of the first three mentioned banks to employ one of its trustees as an attorney and of the latter bank to permit one of its trustees to place insurance upon its property. I cannot see wherein there is any violation of law in these matters. It seems to me that the plain intent of Section 40 is that no trustee should receive anything in the way of a bonus by reason of any transaction between the bank and a third party but that section does not forbid the bank contracting with a trustee in a legitimate way. I think a savings bank should have the same right to purchase legal advice of one of its trustees or buy insurance from one of its trustees that it would have to purchase real estate or stationery, coal or any other property or commodity

from one of its trustees and it would be accepting an extremely narrow construction of Section 40 that was evidently not contemplated by the legislature to construe it in such a way as to make illegal any business transaction between the bank and a trustee.

I should, therefore, advise that it was entirely legal and proper for a savings bank to insure its property through a trustee or employ a trustee as an attorney.

There is a further provision in Section 40 to which you have called my attention, namely:

"Nothing herein contained applies to any expense of examination of titles and making conveyances upon loans made by the savings bank. Parties making a loan from a savings bank shall pay all expense incurred by reason thereof."

Under that clause I do not see any impropriety in a trustee charging for his services and expense in connection with viewing property before lending money upon it. I suppose as a part of examining any title it is frequently necessary to visit the property and identify it sufficiently so as to be able to trace the title intelligently and as this section provides that the expense connected with such a transaction should be paid by the party making the loan, I do not see how the bank could possibly be injured provided the payment was made to a trustee.

In the case of the three banks which reported to you that their president was paid a salary, I should say that you would be obliged under the statutes to advise that such payment could not properly be made under the existing statute even though it might appear to be for the benefit of all concerned to continue the practice thus established. The law may work to the disadvantage of certain banks in this respect, but, if so, it is up to the legislature to remedy the difficulty. As the law stands now, it certainly is improper for savings banks to pay salaries other than those provided for in Section 16 above quoted.

William R. Pattangall
Attorney General