

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

January 22, 1942

State Racing Commission
 State House
 Augusta, Maine

Gentlemen:

I have your request for an interpretation of Section 14, Chapter 130 of the Public Laws of 1935. This Section reads as follows:

"Every person, association or corporation licensed under this act shall before said license is issued, give bond to the state in such reasonable sum not exceeding \$50,000 as may be fixed by the commission with a surety or sureties to be approved by the commission . . ."

This statute puts the duty squarely on the Commission to determine two things: 1. The amount of the bond; and 2, who shall be acceptable as sureties.

On you gentlemen is placed the duty of handling the affairs of your division to the best of your ability.

Very truly yours,

FRANK I. COWAN
 Attorney General

January 23, 1942

From:
 Frank I. Cowan, Attorney General
 To:
 William D. Hayes, State Auditor

In re Fees—Registers of Probate

I have your memorandum of December 16th asking about fees of Registers of Probate. The statutes are clear. R. S. Chapter 75, Section 25, provides for fee of fifty cents for copy of a will, plus five cents for each ten word line in excess of ten lines.

Section 39 provides a fee to the Register of Probate of one dollar for making and certifying to the Register of Deeds a copy of a devise of real estate.

Section 40 allows the Register of Probate for copies of papers as are taxable by law twelve cents a page. This does not permit the addition of the twelve cents a page to the fifty cents plus five cents a line provided for in Section 25 in the case of wills. Section 40 further provides for authenticating the official signature of a magistrate, twenty-five cents; and for certificate of appointment, twenty-five cents.

R. S. Chapter 76, Section 3, provides a fee of one dollar for the safe-keeping of a will.

R. S. Chapter 77, Section 33, provides a fee of fifty cents for every order, appointment, etc.; and for copies of records "the fees that are now allowed by law for the same."

R. S. Chapter 75, Section 42, provides that the Registers of Probate "shall account quarterly under oath to the county treasurers for all fees received by them or payable to them by virtue of the office, specifying the items, and shall pay the whole amount of the same to the treasurers of their respective counties quarterly" Under the provisions of Chapter 75, Section 42, a Register of Probate who gives credit, does so at his peril, since all fees, either received by him or which should have been received by him because of papers filed, must be paid to the County Treasurer.

There is nothing in the law to prevent a Register of Probate from earning an honest dollar outside of his duties, any more than there is anything to prevent any other man from earning an honest dollar outside of his duties, so if a Register of Probate prepares documents that are not provided for either by direct reference or by implication, he is entitled to keep any money he is paid for them, providing the work is not done on the County's time.

Inasmuch as the statutes are very general in regard to copies and the charges to be made for said copies, and the statute further declares that the "whole amount" of "all fees received by them or payable to them by virtue of the office" shall be payable to the County Treasurer, I am unable at this moment to cite an instance where a Register of Probate would be entitled to retain any fees paid for any copies made of documents in his official office. Moreover, there is no justification for any Register charging more for a document than the statute provides.

If you will take this letter in combination with the second paragraph of Mr. Burkett's letter of February 5th, 1940, I think you will have about as clear a statement of the law as you can be given.

Attorney General

January 28, 1942

From:

Frank I. Cowan, Attorney General

To:

Homer M. Orr, State Purchasing Agent

Under the Public Laws of 1931, Chapter 216, Section 18, Paragraph 4, the Department of Finance, through the Bureau of Purchases, has authority: "To lease all grounds, buildings, office or other space required by the state departments or agencies;"

We find no statutory authority for the Secretary of State to execute leases, although the Revised Statutes, Chapter 29, Section 30, puts on him the burden and duty of selecting "convenient places within the State to receive application for registrations and licenses, etc."