

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

1943--1944

October 6, 1943

Inland Fisheries and Game

Attention—Mr. Malloy

In answer to your inquiry of October 5th, as to whether or not an officer has the right to present the State's case and examine witnesses before a lower Court, my answer is that under our law, only a person duly admitted to the practice of law has that right. However, the Judge or Trial Justice may permit an officer to suggest questions to him which he in turn will ask of the respondent or other witnesses, and in some instances it would not be considered improper for the Judge to permit the officer to ask questions or cross examine witnesses.

There is a rule which is quite carefully adhered to in our courts, that is where even a lawyer is a necessary witness the courts rule that he should withdraw as counsel and appear only as a witness. But even this rule may be relaxed where the nature of the lawyer's testimony relates only to an incident or evidence on a minor issue.

JOHN G. MARSHALL

Deputy Attorney-General

October 11, 1943

Alfred W. Perkins, Commissioner

Insurance

This department has previously expressed an opinion to the State Auditor relative to the bonding covering required, or to be required from the Insurance Commissioner and it is assumed that the contents of that opinion have been communicated to you.

A review of the statutes reveals that you are obliged to execute a bond to qualify for the office of Insurance Commissioner. Another statute makes the officeholder of Insurance Commissioner an *ex officio* member of the Industrial Accident Commission. The latter statute does not specifically require a bond, nor does it exempt the holder therefrom, nor does it read that the bond executed by the Insurance Commissioner covers the *ex officio* position. Consequently, the decisions of our Courts were read as reported in the leading legal digest systems and it was learned that the bond executed by the holder of one office does not cover other offices held *ex officio* by that officer in the absence of statutory expression accordingly.

Under Chapter 320, P. L. 1943, the Legislature has expressed its will to have all officials and employees adequately bonded and to that end, considerable authority is vested in the Auditor and the Commissioner of Finance as follows: "They shall further from time to time designate bonds which should be increased or decreased, and shall designate what, if any, additional bond should be required either from an official or employee who changes his employment within State departments or from a newly appointed or elected official or employee."

A further provision of this chapter reads as follows: "The state auditor and the commissioner of finance shall select the type of bond, in form prescribed by the insurance commissioner, which shall be