

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1943--1944

without relinquishing the former office, hold a seat in either house. The office you hold is an office of profit. See Opinion of the Justices, 95 Maine 585. I have given you the citations as you told me when you were here that you had asked Mr. Dunbar's opinion and he had suggested that you might inquire here. As these are my personal views, you may show this letter to Mr. Dunbar and see if he agrees with me.

Yours truly,

ABRAHAM BREITBARD  
Deputy Attorney-General

January 7, 1944

Honorable Sumner Sewall, Governor of Maine

Public Laws of 1943, Chapter 300, providing for the protection of State employees who have entered the military or naval service of the United States while in such employment, is not limited to persons having no definite term of office, but should be so construed as to apply to State officials holding statutory positions. The protection, however, cannot run beyond the date at which their terms of office expire.

The Insurance Commissioner is protected during his present term.

FRANK I. COWAN  
Attorney-General

January 11, 1944

Miss Nellie B. Chamberlain  
Town Clerk  
East Lebanon, Maine

Dear Madam:—

A marriage license is void if not used within one year after date of its issuance. This applies also to a case where the certificate of the physician relative to blood test is submitted.

Very truly yours,

ABRAHAM BREITBARD  
Deputy Attorney-General

January 12, 1944

Hon. Robert M. Lawlis  
Judge of Probate  
Houlton, Maine

Dear Bob,

Mr. Hayes, the State Auditor, has turned over to me your letter of January 7th in regard to the Estate of John Starling and Lyman Willard, the administrator. We have been trying to figure out a proper method of procedure from this point. The statutes are fairly clear, but various sections, as you very well know, are somewhat conflicting in their practical application. However, the burden does seem to rest on the Judge of Probate to cause action to be taken.

It seems to me that the Judge can, sua sponte, issue citations to delinquent administrators and executors. The statutory provisions in

regard to the bonds seem to indicate that it was intended that he should. R. S. Chapter 76, Sections 11, 22, and 25, seem to place that duty on the Judge.

However, if the Judge feels that he does not want to take the position of both prosecutor and judge, I think he can with perfect propriety call on the State's attorney for the county to file a petition in his Court citing the delinquent executor or administrator in the same way that he would turn over to him evidence of criminal conduct.

If my office can be of any assistance in this or any matter concerning such accounts, kindly command me.

Sincerely yours,

FRANK I. COWAN

Attorney-General

January 12, 1944

Roscoe L. Mitchell, M.D., Director

Bureau of Health

I am returning herewith the letter from Mr. Harvey in regard to adoption records, a copy of this letter being retained in this office. I explained to Mr. Stinson two years ago, very carefully, that we cannot give a person a new birth through adoption proceedings. If the adoptive parents for any reason see fit to deceive their adopted child in regard to his parentage, that does not furnish a reason for a State department being a party to the falsehood. The fact that we sympathize with the adoptive parents in their desire to have the child feel that he is their own does not in any way alter the case. We keep records of birth and records of adoption. We have no right, either legal or moral, to issue certificates of adoption or records of adoption other than in accordance with the fact. If John Smith and Mary his wife have a child which is later adopted by John Jones and Sarah his wife, the fact remains that the child was born the child of John and Mary Smith and has the right of inheritance both directly and collaterally from them and through them; but has gained a new set of parents through the process of adoption. The adopting parents add to the rights of the child, but cannot subtract from those rights. It is this point of view that is oftentimes overlooked, I believe, by persons whose sentiments are given full sway over their minds.

In recent years many well-meaning persons have tried to erase the stigma of illegitimacy by suggesting that adoption records shall be falsified. However much that might appeal in an individual case, it can be readily seen that any falsification of State records, whether done in spite of the statute or even by authority of the legislature, is such a vicious thing that it should not be countenanced under any circumstances. The fact that the truth sometimes proves embarrassing to an innocent person cannot justify a State in authorizing the promiscuous dissemination of falsehoods.

FRANK I. COWAN

Attorney-General