

# MAINE STATE LEGISLATURE

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July 29, 1963

Honorable Paul A. MacDonald

Secretary of State

George C. West, Deputy

Attorney General

Registration of fraternal organization's jewels and emblems.

FACTS:

A well-known and nationally recognized fraternal organization has requested your office to register its insignia and regalia. The organization believes such registration may be possible under R. S. 1954, chapter 54, sections 13 to 16 inclusive.

QUESTION:

Is there any provision in the law for the registration of the insignia and regalia of fraternal organizations?

ANSWER:

No.

OPINION:

There are only two statutes which might possibly allow such registration. One is chapter 182, Trade Marks and Trade Names. The second is chapter 54, sections 13 to 16 inclusive.

A reading of chapter 182 clearly indicates that this chapter applies solely to articles manufactured and sold by someone. It is a matter of protection of the maker of the article. Hence it is not applicable to the insignia or regalia of a fraternal organization.

Chapter 54, section 13, protects the name of a "benevolent, humane, fraternal or charitable organization incorporated under the laws of this state, or any other state, or of the United States, etc." The obvious meaning being that the organization first incorporated has the right to the use of a selected name.

Section 14 protects an organization as in section 13 in the use of any chosen badge, button, emblem, decoration, insignia or charm.

July 29, 1963

Section 15 sets forth the method by which such an organization may enforce the protection granted by sections 13 and 14. The organization may proceed by injunction against anyone using its name or wearing or exhibiting its badge, insignia or emblem.

Section 16 provides a criminal penalty for violation of sections 13 and 14.

Nowhere in the four sections, 13 to 16, is there any mention made of the registration of emblems, jewels, insignias or regalia. The name of the corporation is protected by incorporation. The emblems, insignias and regalia are protected only by adoption by the organization.

There being no direct provision for the registration of such insignia and regalia in the Office of the Secretary of State, they cannot be so registered or recorded.

George C. West  
Deputy Attorney General

GCM/slf