

HOUSE No. 1333

The Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, March 21, 1923.

The joint committee on the Judiciary, to whom were referred the petition (accompanied by bill, House, No. 634) of Francis W. K. Smith for certain amendments of the laws relating to the Land Court and proceedings therein, and the petition (accompanied by bill, House, No. 825) of Alfred L. Cutting and another for an amendment of the law relative to fees payable in the Land Court, report the accompanying bill.

For the committee,

FRANCIS W. K. SMITH.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Twenty-Three.

AN ACT

Relative to the Land Court.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section ten of chapter one hundred and
2 eighty-five of the General Laws is hereby amended by
3 striking out the last sentence, — so as to read as fol-
4 lows: — *Section 10.* The register of deeds in each dis-
5 trict where land has been registered shall have the same
6 authority as the recorder to make memoranda affecting
7 the title of such land, and to enter and issue new cer-
8 tificates of title, and to affix the seal of the court to
9 such certificates and duplicate certificates of title; but
10 in executing the provisions of this chapter, registers of
11 deeds shall be subject to the general direction of the
12 recorder, in order to secure uniformity; and, in the per-
13 formance of their duties under this chapter, the official
14 designation of registers of deeds shall be assistant re-
15 corders for their respective registry districts.

1 SECTION 2. Section eleven of chapter one hundred
2 and eighty-five of the General Laws is hereby amended
3 by inserting after the word “recorders”, in the eleventh
4 line the following: — , except fees collected for the actual
5 amount paid to examiners for examination of title which

6 shall be disbursed directly by the recorder to the persons
7 entitled, — so as to read as follows: — *Section 11.* The
8 recorder and all assistant recorders shall be sworn before
9 the judge of the land court, and a record thereof shall be
10 made. They shall give bond in a sum to be fixed by
11 the court, for the faithful performance of their official
12 duties, before entering upon the same. They may ad-
13 minister oaths to persons appearing before them in
14 matters pertaining to the registration of land, if an oath
15 is required. They shall keep accurate accounts of all
16 money received as fees or otherwise, which shall be
17 subject to examination by the director of accounts, in
18 the same manner as accounts of registers of deeds. The
19 recorder shall pay over quarterly to the state treasurer
20 all such money received by him either directly or through
21 the assistant recorders, except fees collected for the
22 actual amount paid to examiners for examination of title
23 which shall be disbursed directly by the recorder to the
24 persons entitled. In case of the absence of an assistant
25 recorder, the assistant register for the district, or if there
26 is no assistant register, the person acting as clerk in the
27 office of the register of deeds, shall perform the duties of
28 the assistant recorder, who shall be responsible for him.

1 SECTION 3. Chapter one hundred and eighty-five of
2 the General Laws is hereby further amended by striking
3 out section twelve and inserting in place thereof the fol-
4 lowing: —

5 *Section 12.* The judge of the land court may appoint
6 one or more examiners of title who shall be attorneys at
7 law and he may also appoint a chief title examiner who
8 shall perform all the duties of an examiner of title and
9 such other duties in connection with the work of the
10 court as the judge or associate judge may assign. He

11 shall also in case of the absence, sickness or disability of
12 the recorder perform, under the title of deputy recorder,
13 all of the official duties of the recorder.

1 SECTION 4. Section forty-five of said chapter one
2 hundred and eighty-five is hereby amended by striking
3 out, in the second line, the words "as stated in his peti-
4 tion, and," — so as to read as follows: — *Section 45.* If
5 the court, after hearing, finds that the petitioner has title
6 proper for registration, a decree of confirmation and reg-
7 istration shall be entered, which shall bind the land and
8 quiet the title thereto, subject only to the exceptions
9 stated in the following section. It shall be conclusive
10 upon and against all persons, including the common-
11 wealth, whether mentioned by name in the petition,
12 notice or citation, or included in the general description
13 "to all whom it may concern". Such decree shall not be
14 opened by reason of the absence, infancy or other dis-
15 ability of any person affected thereby, nor by any pro-
16 ceeding at law or in equity for reversing judgments or
17 decrees; subject, however, to the right of any person
18 deprived of land, or of any estate or interest therein, by
19 a decree of registration obtained by fraud to file a peti-
20 tion for review within one year after the entry of the
21 decree, provided no innocent purchaser for value has
22 acquired an interest. If there is any such purchaser,
23 the decree of registration shall not be opened but shall
24 remain in full force and effect forever, subject only to
25 the right of appeal as provided by law from time to time.
26 But any person aggrieved by such decree in any case
27 may pursue his remedy in tort against the petitioner or
28 against any other person for fraud in procuring the
29 decree.

1 SECTION 5. Chapter two hundred and sixty-two of
2 the General Laws is hereby amended by striking out
3 section thirty-nine and inserting in place thereof the
4 following: —

5 *Section 39.* The fees payable under chapter one
6 hundred and eighty-five shall be as follows: —

7 For the entry of every original petition or writ and
8 transmitting it to the recorder, when filled with an
9 assistant recorder, three dollars.

10 For every plan filed in an original proceeding, seventy-
11 five cents, and for every new plan filed after original
12 registration or for making a new plan on request of a
13 registered owner, five dollars. The filing fee in a registry
14 of deeds upon receipt from the recorder of the land court
15 of a plan or copy of any plan shall be one dollar.

16 For indexing an instrument recorded while a petition
17 for registration is pending, twenty-five cents.

18 For examining title, on a petition to register land, or
19 on a petition to register easements or rights in land, the
20 actual amount charged or allowed therefor to the
21 examiner by the court.

22 For each notice by mail, twenty-five cents, and the
23 actual cost of printing.

24 For all services by sheriff or deputy sheriff under pro-
25 visions of chapter one hundred and eighty-five the same
26 fees as are provided by law for like services.

27 For each notice by publication, twenty-five cents and
28 the actual cost of publication.

29 For entry of an order dismissing a petition for reigs-
30 tration of a title, or for foreclosure of a tax title, or a
31 decree of foreclosure of a tax title or of redemption, and
32 sending a memorandum to the assistant recorder, one
33 dollar.

34 For entry of a decree of registration and sending a

35 memorandum to the assistant recorder in a case where
36 the amount payable for original registration under
37 section ninety-nine of chapter one hundred and eighty-
38 five is less than one thousand dollars, three twentieths of
39 one per cent of the assessed value of the property regis-
40 tered, on the basis of the last assessment for municipal
41 taxation, in addition to any sum so payable under said
42 section ninety-nine, but in no one proceeding shall the
43 amount payable under this paragraph together with the
44 amount so payable under said section ninety-nine be less
45 than ten nor more than one thousand dollars.

46 For a copy of a decree of registration, foreclosure or
47 redemption, one dollar.

48 For the entry of an original certificate of title and
49 issuing one duplicate, three dollars.

50 For making and entering a new certificate of title, in-
51 cluding issue of one duplicate, one dollar.

52 For each additional duplicate certificate after the first,
53 one dollar.

54 For the registration of every instrument, whether
55 single or in duplicate or triplicate, including entering,
56 indexing and filing it and attesting the registration
57 thereof, and also making and attesting a copy of memo-
58 randum on one instrument or on a duplicate certificate
59 when required, two dollars.

60 For making and attesting copy of memorandum on
61 each additional instrument or duplicate certificate if re-
62 quired, fifty cents.

63 For filing and registering an adverse claim, three
64 dollars.

65 For entering statement of change of residence or post-
66 office address, including endorsing and attesting it on a
67 duplicate certificate, fifty cents.

68 For entering any note in the entry book or in the
69 registration book, fifty cents.

70 For the registration of a suggestion of death or notice
71 of issue of a warrant in insolvency or of adjudication of
72 bankruptcy, fifty cents.

73 For the registration of a partial release, discharge or
74 release of a mortgage or other instrument creating an
75 encumbrance, seventy-five cents.

76 For the registration of a memorandum or certificate of
77 entry for possession or deposition in proof thereof,
78 seventy-five cents.

79 For the registration of any levy, or of any discharge
80 or dissolution of any attachment or levy, or of any
81 certificate of or receipt for payment of taxes, or of a
82 notice of a federal tax lien or of any mechanic's lien
83 or lien for labor or materials, or a notice of any pending
84 action or of a judgment or decree, fifty cents.

85 For endorsing on any mortgage, lease or other instru-
86 ment a memorandum of partition, one dollar.

87 For every petition after the original registration, one
88 dollar.

89 For a certified copy of any decree or registered instru-
90 ment, the same fees as are provided for registers of
91 deeds.

