

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)

PUBLIC DOCUMENTS

OF THE

STATE OF MAINE

BEING THE

REPORTS

OF THE VARIOUS

**PUBLIC OFFICERS
DEPARTMENTS AND
INSTITUTIONS**

FOR THE TWO YEARS

JULY 1, 1926 - JUNE 30, 1928

PUBLIC DOCUMENTS, 1926-28

(Explanatory Note)

Three reports in this volume cover periods in variance with the given biennium. They are as follows:

1. The report of the Attorney General covers the period from 1924 to 1928.
2. The report of the Bangor State Hospital covers the period from 1919 to 1928.
3. The report of the department of Inland Fisheries and Game covers the fiscal year ending June 30, 1928. No printed report was made for the fiscal year ending in 1927.

STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

JUNE 30, 1928

I call your attention to Chapter 199, Public Laws of 1927, which provides "whoever hunts, captures or traps any fur bearing animal or animals anywhere in the State shall annually procure a license therefor from the commissioner of inland fisheries and game, etc."

It is my opinion that a fox is a fur bearing animal, and I do not find any exception in the statute to the foregoing or which specially permits the hunting of foxes without license with dog and gun, except as appears in the latter part of the aforesaid Chapter 199.

Yours very truly,

SANFORD L. FOGG,
Deputy Attorney General.

February 7, 1928.

Hon. Willis E. Parsons, Commissioner of Inland Fisheries and Game, Augusta, Maine.

DEAR SIR: I am in receipt of your inquiry "Do the words 'ordinary mode' appearing in Section 24 of Chapter 219, Public Laws of 1917, as amended by Chapter 218, Public Laws of 1921, apply both to the manner of angling and the implements used?"

The statute as amended, reads as follows:

"Whoever fishes for, takes, catches, kills or destroys any fish, with fish spawn, or grapnel, spear, trawl, weir, gaff, seine, trap, (or set lines, except when fishing through the ice, and then with not more than five set lines to a family in the day time, or five set lines to a person during November and December when fishing for pickerel,) or takes any kind of fish, except suckers, eels, hornpouts, yellow perch, white fish and cusk, as hereinafter provided, with any device or in any other way than by the ordinary mode of angling with single-baited hook and line, artificial flies, artificial minnows, artificial insects, spoonhooks and spinners, so-called, shall pay a fine, etc."

It is the opinion of this department that application is intended both to manner and implements.

What is or is not the "ordinary mode" of angling, or what is or is not the ordinary device is a question of fact and will have to be decided in each individual instance.

It was evidently the intention of the legislature to prohibit the use of all forms of trawls, weirs, seines and traps, or other device which is not the common, customary and usual method of angling with hook and line.

Yours very truly,

RAYMOND FELLOWS,
Attorney General.

June 3, 1927.

C. W. Kendall, M. D., Health Commissioner, Augusta, Maine.

DEAR SIR: Answering your recent inquiry regarding sewers built by private individuals running in streets, I am pleased to inform you that the general law is as follows:

"The municipality has control of the space below the surface of the street, wherever and so far as public use requires, and may regulate or prevent its use for private drains or sewers, or it may permit an individual to construct under proper circumstances and restrictions a private drain or sewer in its streets, to the use of which when constructed he will have the exclusive right. A license for this purpose is usually revocable. A drain neither constructed nor controlled by the municipality is not a public sewer but one constructed by private persons may pass to the public by dedication and acceptance. Private sewers cannot be taken or destroyed by a municipality in its construction of public sewers without making compensation to the owner for their value, as in the case of other private property taken for public use."

With reference to entering a private sewer by other persons, I call your attention to Section 23 of Chapter 22 of the Revised Statutes of Maine which is as follows:

"When a person, at his own expense, lays a common drain or sewer, all who join or enter it, shall pay him their proportion of such expense; and the expense of opening and repairing shall be paid by all benefited, to be determined in each case by the municipal officers subject to appeal to the county commissioners."

Trusting that the foregoing will give you the information you desire, I am

Yours very truly,

SANFORD L. FOGG,
Deputy Attorney General.