

MAINE STATE LEGISLATURE

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September 21, 1933

Hon. Archer L. Grover
Deputy Commissioner of Inland
Fisheries and Game
Augusta, Maine

Dear Sir:

With reference to the inquiry made to you by E. M. Chase on September 19, relative to erecting a dam on a brook on his wild land in the town of Brownville, I beg to inform you that I do not know of any provision of our statute which would prevent the erection by him of the dam he mentioned, provided, he owns the land on both sides of the stream. It has been decided by our Courts that,--

"The only limitation upon the absolute rights of riparian proprietors in non tidal rivers and streams is the public right of passage for fish, also for passage of boats and logs provided the streams, in their natural condition, are of sufficient size to float boats or logs. Subject to this qualified right of passage, non tidal rivers and streams are absolutely private."

Of course, should the building of this dam flow the water back on to any other person's land, there might be damages for floodage and, of course, one could not so construct his dam as to prevent the passage of fish.

Very truly yours,

Deputy Attorney General

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