

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA

June 5, 1934

Hon. George J. Stobie  
Commissioner of Inland Fisheries  
and Game  
Augusta, Maine

Dear Mr. Stobie:

A day or two ago there was left in this office a letter addressed to you from the Superintendent of the Passachenee Club. The general rule of law is that,--

"The owners of land bordering on a private lake or pond have the same rights in it as riparian proprietors on a water course, including the right to make a reasonable use of the water for domestic, agricultural and mechanical purposes, but no one may appropriate or divert the entire body of water, or make such an excessive use of it as to deprive others of their right to a reasonable participation in its benefits."

It has been further said by the courts that,--

"Land underlying the water of an inland non-navigable pond is the subject of private ownership."

Our court said, in 118 Me., 507,--

"The riparian proprietor has the right to take fish from the water over his land to the exclusion of the public."

From the foregoing, it appears to me that if the pond described by Mr. Judkins is not on a public lot, and the Club owns all the land around the pond, the Club would have a right to use it as he suggests. There is nothing in his letter to indicate where the pond is, or in what township it is situated so that it is impossible to tell definitely whether the public lot has been set aside in the particular township where the pond is. It seems to me that the object is a worthy one, and it is possible that the Club would have a right to control the waters mentioned, for the cultivation of fish.

Very truly yours,

SANFORD L. FOGG

Deputy Attorney General

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