

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1941--1942

without the permission of the county commissioners. Section 3 of Chapter 308, Public Laws of 1939, Special Session, provides that:

“\*\*\*before a city or town shall take land for an airport or landing-field, or for the expansion of an airport or landing-field, by eminent domain as hereinbefore provided, it shall secure the consent of the municipal officers of the town or city in which such land is located.”

There does not appear to be any provision of our statutes which enables municipal officers of towns to institute eminent domain proceedings against land in unorganized territory.

Very truly yours,

SANFORD L. FOGG  
Deputy Attorney General

March 5, 1941

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

Dear Sir:

Unfortunately the statutes of Maine do not contain any provision for payment for damage done by deer or moose. The statute of 1935 may have been intended by its author to contain such a provision, but, if so, one sentence, or a part of a sentence, was omitted. The only procedure we have is for a claim to be presented to the legislature and to be put through the claims committee.

In the particular case of Glenda J. Hoy the insurance company can, if it wishes, have a resolve introduced at the next legislature for reimbursing it.

Very truly yours,

FRANK I. COWAN  
Attorney General

March 5, 1941

Hon. Bertram E. Packard  
Commissioner of Education  
Augusta, Maine

Dear Sir:

I have your communication of March 4th, inquiring about the liability of towns and cities for injuries received by students taking part in defense training programs for which funds are furnished by the Federal Government.

Municipalities are not liable for injuries occurring to persons when those persons are availing themselves of the governmental functions of a municipality. Carrying on a school is such a function.

As to the possible liability of individual teachers, it must be apparent that the answer must lie in each specific case, and that a teacher can be liable only for negligence directly attributable to him.

Very truly yours,

FRANK I. COWAN  
Attorney General

March 20, 1941

Elmer W. Campbell, D. P. H.  
Chief Clerk, Board of Barbers and Hairdressers  
State House  
Augusta, Maine

Dear Doctor Campbell:

I have your communication of March 20th, in regard to application of P. L. 1937, Chapter 190, Section 21, in cases where towns have increased in population so that they are now in excess of 1000.

You have no option except to require that persons operating barber shops in towns having a population of over 1000 according to the last census shall secure licenses.

The date January 1, 1938, is restrictive and you have no authority to set a later date at which an application for a license can be filed.

Very truly yours,

FRANK I. COWAN  
Attorney General

March 25, 1941

From:  
Frank I. Cowan, Attorney General  
To:  
Hon. James K. Chamberlain, Chairman  
Joint Committee on Taxation

I have been asked to give an opinion of the constitutionality of a statutory provision placing a different rate of taxation on realty from that assessed against personalty. The State Constitution, Article IX, Section 8, reads as follows:

“All taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally according to the just value thereof.”