

MAINE STATE LEGISLATURE

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November 3, 1943

To George J. Stobie, Commissioner Inland Fisheries and Game
From Frank I. Cowan Attorney General

Case of State v. Fred Frederic

I have your memo of October 25th signed by Mr. Malloy, chief warden, enclosing (1) copy of letter from you to Fred Frederic, dated October 21, (2) original letter from Benjamin Butler, dated October 22, and (3) a report of the Frederic case.

Please note that there has been a misconception in regard to the statute. Section 43 of the Inland Fish and Game Laws, in paragraph 2 of said section, provides that "The commissioner may revoke any license or licenses held by such person for a period of not less than three month nor more than one year from the date when notified of said conviction."

Paragraph 5 provides that "If at the time of conviction of any person charged with a violation. . . such person shall not be the holder of a license. . . the commissioner. . . shall not issue any such license to said person until one year has elapsed."

In the Frederic case, apparently Mr. Pearson, the warden, advised Mr. Frederic that he would not lose his license. Mr. Pearson went further than he had authority to go in making such a promise, because the decision rests entirely with the Commissioner, since "at the time of conviction" Mr. Frederic did have a resident hunting license. Therefore, the mandatory provisions of paragraph 5, Section 43, apparently do not apply to this case, and it falls within the provisions of paragraph 2.

It would be highly improper for me to suggest that the Commissioner should or should not back up his warden in this particular matter. That is purely an administrative matter and not one where I have a right to express an official opinion.

Frank I. Cowan
Attorney General

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