

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

August 7, 1944

E. E. Roderick, Deputy Commissioner of Education

Subject: Power and authority of the trustees of a normal school to sell and dispose of a part of its real estate, and the authority to purchase land and buildings adjacent to the land of the normal school.

The powers confided in the board of trustees of normal schools are to be found in Section 189 of Chapter 19 of the Revised Statutes of 1930 and in Section 185 of said chapter as amended by Chapter 147 of the Public Laws of 1943. No authority is found in these provisions which authorizes the trustees to dispose of any part of the land and buildings of a normal school or to purchase lands and buildings to enlarge the facilities of the school.

As the trustees have only those powers which are expressly granted, they would have no right or authority to dispose of any part of the buildings at the Farmington Normal School, nor to acquire any land adjacent to the school lands, except by express authority from the legislature.

ABRAHAM BREITBARD

Deputy Attorney-General

August 17, 1944

Board of Registration
City of Portland
Portland, Maine

Gentlemen:—

Registration and re-registration of a woman voter who marries and assumes her married surname can be had only where the individual appears in person. That is the command of the statute.

Very truly yours,

ABRAHAM BREITBARD

Deputy Attorney-General

August 23, 1944

Daniel T. Malloy, Supervisor, Inland Fisheries and Game

You inquire whether pickerel legally taken in the County of Washington may be resold by the purchaser in that county.

I am of the opinion that this may be done without violating any of the statutes relating thereto.

Section 25 of the Inland Fish and Game Laws provides that no person shall take, catch or kill more than ten pickerel in any one day, nor shall a person have in his possession more than ten pickerel taken, caught or killed in any one day. By specific provision it is provided that "this section shall not apply in Washington County."

Section 26 prohibits the sale and purchase of landlocked salmon, trout, togue, black bass and white perch.

Section 27 prohibits anyone from engaging " . . . in the business or occupation of fishing on any of the inland waters of the state above tide waters, for salmon, togue, trout, black bass, pickerel, white perch, or white fish, for gain or hire . . . except that pickerel legally taken

in the county of Washington, may be sold by the person taking the same."

In none of these provisions is the sale of pickerel prohibited. The prohibition is against fishing for gain or hire by devoting the whole or any part of the time to that business (Section 27). A person who resells pickerel lawfully purchased by him in Washington County and legally taken in that county, is not engaging in the business or occupation of fishing for gain or hire.

ABRAHAM BREITBARD

Deputy Attorney-General

August 25, 1944

Francis K. Purinton, Executive Secretary, Executive Department

I have your memo of August 22nd in regard to the term of office of the Adjutant General.

This matter was considered very carefully in the winter or early spring of 1941, but I cannot find a copy of the opinion issued at that time.

The Constitution of Maine, Article XXVIII, provides, "The adjutant general. . . shall be appointed by the governor." No term is set. R. S. 1930, Chapter 18, Section 8, provides that "The staff of the commander-in-chief shall consist of the adjutant general, who shall be ex officio chief of staff, etc." R. S., Chapter 18, Section 22, provides for the appointment by the Governor of staff officers, and Sections 23 and 24 provide for the duties and qualifications of staff officers.

The Federal Military Law, a copy of which I do not have before me at the present moment, sets up "staff officers" on a permanent basis, and if I remember correctly, subject to the authority of the Secretary of War.

As I recall my 1941 opinion, I said at that time that the Adjutant General of the State is the personal representative of the Governor in the military arm of the State. As such, it is necessary that he be subject to the control of the Governor. Inasmuch as our statutes do not provide for any term, I said at that time that he holds office at the pleasure of the Governor. I said further that he is "ex officio" chief of staff, but that he is not a staff officer.

If I were writing the opinion again, I should arrive at exactly the same conclusions.

FRANK I. COWAN

Attorney-General

September 1, 1944

H. M. Orr, Purchasing Agent

Subject: Sale of Surplus, Obsolete or Unused Equipment

The statute gives the Department of Finance, through the Bureau of Purchases, the authority to sell those "supplies, materials and equipment which are surplus, obsolete or unused," of the various departments or agencies.