

# 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

1943--1944

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.