

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

April 22, 1947

To Lester E. Brown, Chief Warden, Inland Fisheries and Game

In answer to your inquiry concerning the taking of smelts as provided in Chapter 33, § 46:

You say that you "find nets being used which have rectangular bows, 20 inches by 16 inches, others having circular bows of $4\frac{1}{2}$ feet in diameter and again a large rectangular shape bow even as large as 4 by 6 feet. These nets are lowered to the bottom of the water while used and allowed to remain until smelts arrive and they are raised quickly to the surface by the use of a pole which is attached to the net by 3 or more gny lines."

The pertinent wording of Section 46 is:

"During the open season on such waters, smelts may be taken by the use of a dip-net in the usual and ordinary way. No person shall take, kill, catch or have in possession more than 4 quarts of smelts in any one day."

"The usual and ordinary way" of using a dip-net, it seems to me, refers to the "usual and ordinary way" of netting a fish that has been caught on a line. The net is submerged in the water and with a sweeping motion the fish is scooped into the net.

The net to be used, I also believe, is the usual size of net used to scoop the fish up, manually.

The contraptions you describe are not dip-nets, but are rather traps. Nor can they be used in the "usual and ordinary way," which is contemplated by the act.

Smelting in that way is contrary to the statute and in my opinion is illegal.

My interpretation also finds support in the limit of 4 quarts of smelts that may be caught or possessed in any one day.

ABRAHAM BREITBARD
Deputy Attorney General

April 24, 1947

To Charles P. Bradford, Superintendent, State Park Commission

I have your memo of April 22d, referring to Chapter 144, P. L. 1935, stating that you are submitting for my approval the following maintenance and service fees, approved by the State Park Commission on April 21, 1947:

- A. Tenting and Trailer Space: 50c per day for party of 3, 25c for each additional person.
- B. Shelters: 75c per day for party of 3, 25c for each additional person.
- C. Maintenance Fee: 15c per person over 10 years.
- D. Ski Tow: \$1.00 per day.
- E. Toboggan Chute: 25c per person or minimum of 50c.