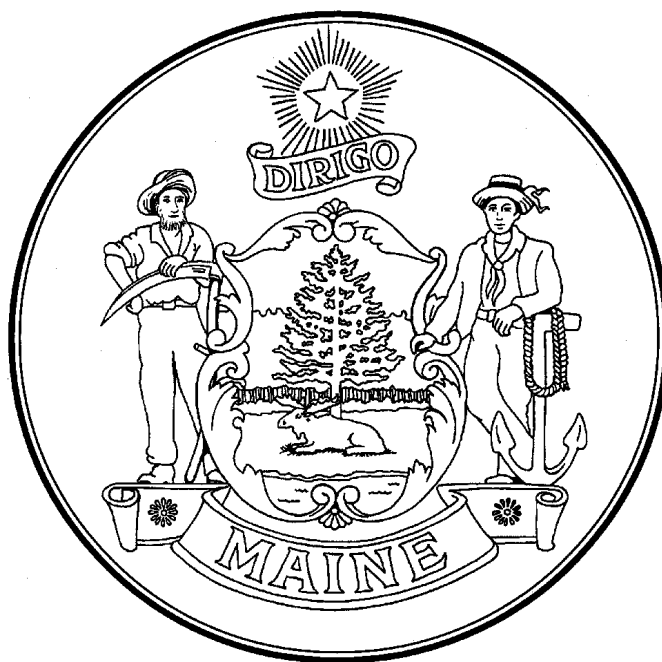


MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

In the case of dogs chasing and killing deer, Section 86 of Chapter 33 of the Revision of 1947 provides that any person having evidence of any such hunting, chasing or killing of deer by dogs must present that evidence to the Commissioner, who shall give notice in writing to the owner or keeper of said dog, stating the acts committed by the dog. The owner of the dog so notified shall not permit any dog mentioned in said notice to leave the immediate control of said owner or keeper under the penalty provided in Section 119. After the owner of the dog has received written notice that his dog has committed any act prohibited by Section 86, it shall be lawful for anyone to kill the dog when found committing any of the acts prohibited. Therefore it has been the practice of all game wardens to give notice to the owner or keeper of the dog before authorizing any person not an officer of the law to kill the dog found committing the act.

"5. Is a citizen justified in carrying out the instructions of such an officer under these circumstances?"

My answer to Question 5 is in the negative. If a citizen carries out the instruction of an officer which that officer has no statutory authority to give, he lays himself liable to a civil action for damages.

"6. What legal action, if any, should the officer carry out against the owners of dogs chasing deer?"

In answering this question I refer you again to Section 86 of Chapter 33, Revision of 1947, which provides for notice to the owner or keeper of the dog before the act of killing the dog.

I trust that these answers to your six questions give you the desired information relating to the handling of cases where dogs are chasing, hunting and killing deer.

RALPH W. FARRIS
Attorney General

March 31, 1949

To Charles P. Bradford, Director, Park Commission
Re: Power line right of way—Sebago Lake

I have your memo of March 18th, stating that the Park Commission has had a request from the Central Maine Power Company to grant a right of way for a power line to serve a cabin constructed and used by the Department of Inland Fisheries and Game in Sebago Lake Park. You further state that it is your interpretation of Chapter 32, Section 23, that the Commission cannot enter into an agreement with the Central Maine Power Company for a right of way for a period of more than one year.

I wish to confirm your interpretation of this statute.

You further state that the interest of the Department of Inland Fisheries and Game indicates the need of 1273 feet of right of way.

It seems to me that I advised you on this matter on May 12, 1948, and I offer the same suggestion as I did on that particular matter, that the privilege be limited to one year, to be extended at the end of each year, with the consent of the Governor and Council, by the Commission for a period of five years.

RALPH W. FARRIS
Attorney General