

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

yes

November 20, 1951

To Roland H. Cobb, Commissioner of Inland Fisheries and Game  
Re: Court Cases before Judge Hugh Hastings

With your memorandum of October 10, 1951, relative to the above subject you submitted a copy of a memorandum which you had received from the Governor, together with a copy of a letter which you wrote to the Governor dated October 3, 1951.

In your memorandum you ask for an opinion from this office relative to the law mentioned in the third paragraph of your letter to the Governor, which paragraph reads as follows:

"I have telephoned Judge Hastings and he said that the present law is so vague that he felt it was all right for them to shoot a deer, since there had been crop damage in the field 1/4 of a mile distant from the place where the deer was shot. From our point of view, that is completely ridiculous, but that is what the Judge ruled. He also advised me that it does not give permission in the law for a person to hunt deer which have been doing damage, with a light, and no place in the law says definitely that lights cannot be used, and he admitted that he should have held them on that court, but 'did not think of it at the time'."

The powers of the government are divided between the Executive, Judicial and Legislative. In their proper spheres, each of these basic departments of government is designed to operate so that no one of them encroaches upon the spheres of the others. The legislature has enacted a statutory program for the regulation of hunting and conservation of inland fish and game. The legislature has also created the courts of the State to constitute the judicial tribunals before whom alleged violations of the laws enacted by the legislature shall be tried and guilt or innocence determined.

With respect to your memorandum and the attached correspondence, there appears to be no question raised as to the jurisdiction of Judge Hastings to hear the cases which were brought before him, so that it would appear that his court was the proper place to have the question determined. In cases of this kind the State has no appeal, so that determination of the judge who hears the case is final except in so far as he commits error of law from which respondents are entitled to appeal.

The Attorney General's office is a part of the Executive branch of government and has no authority whatsoever to act as an appeal agency from any court's decision, and it should go without saying that it has no authority to issue any opinion of any validity in criticism of any action taken by the judicial branch of the government or the legislative branch of the government. It would be decidedly improper for this office to express any opinion as to the decision reached by Judge Hastings in the cases referred to.

Alexander A. LaFleur  
Attorney General

jssf/c  
cc: The Governor