

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

May 8, 1952

To Harland A. Ladd, Commissioner of Education
Re: Powers of Superintending School Committee

You ask if either paragraph V of section 50 of Chapter 37 or section 80 of that chapter will permit a superintending school committee, as a matter of policy, legally and properly to exclude from school, at least for the remainder of a school year, those students who marry while less than 21 years of age and who are regularly enrolled in a program of free public education.

It is the opinion of this office that such action is not permitted under either of the above mentioned sections and would, in fact, be repugnant to public policy, in that the courts have always frowned upon any action which might be construed as restraining marriage after the party has reached a legal marriageable age, where no immorality or misconduct is present.

JAMES G. FROST
Deputy Attorney General

May 13, 1952

To Col. Francis J. McCabe, Chief, Maine State Police
Re: State Police Reserve Corps

It is the opinion of this office that members of the Reserve Corps enlisted as volunteers and not on any payroll of the State would not be protected by the Workmen's Compensation Act in such employment.

If a member is disabled or injured during active service and on a payroll, he would be entitled to benefits under the Workmen's Compensation Act in case of injury by accident.

NEAL A. DONAHUE
Assistant Attorney General

May 16, 1952

To Roland H. Cobb, Commissioner, Inland Fisheries and Game
Re: Fencing of Fur Farms

We have your memo of May 1, 1952, relative to the sixth paragraph of section 11 of Chapter 33 of the Revised Statutes.

This paragraph provides that the commissioner may issue permits to any person, firm or corporation to engage in the business of propagating game birds, game or wild animals under such regulations as he shall establish. It further provides that the commissioners may issue to any person, firm or corporation permits to fence in or enclose land for *the above named purpose*.

You ask this office, "Should such a Fur Farm be enclosed by the type of fence which would hold the animals in, and keep other animals out, or would a single wire be considered sufficient for the boundaries of such a Fur Farm?"

Used as a noun, "fence" is an enclosing barrier about a field or other place or about any object, especially an enclosing structure of wood, iron or other

material intended to prevent intrusion from without or straying from within. To fence in or enclose would mean to construct the above mentioned type of fence.

It would seem from a reading of the statute that the fence or enclosure is for the purpose of aiding in the propagating of game birds, game or wild animals, and that the only proper fence for such a purpose would be one designed to keep those game birds, game or wild animals which are being propagated within the enclosure, thereby preventing their escape and possible damage to adjoining properties and also to keep other animals out.

JAMES G. FROST
Deputy Attorney General

May 16, 1952

To Harold A. Pooler, M. D., Superintendent, Bangor State Hospital
Re: Conveyance of property belonging to husband of inmate

This office is in receipt of your letter of May 8, 1952, relative to a deed sent to an inmate of your institution to be signed by her so that her husband can convey certain portions of his property. You ask if this office would be willing to have her sign the deed and return it to his attorney.

Please be advised that by statute she has a right and interest by descent in estates owned by her husband, which right and interest by descent may be barred by her joining in the same or a subsequent deed conveying that property. It is the opinion of this office that you should permit her to sign such a deed only in a strict condition that the value of one-third of the property, which is in her by right and which she would be eligible to on his death, would be put in trust for her support and maintenance under such terms as are agreeable to you. Such a trust should be an irrevocable trust and not capable of being modified by her husband at a later date.

JAMES G. FROST
Deputy Attorney General

May 19, 1952

To Harland A. Ladd, Commissioner of Education
Re: Official Records, Superintending School Committees

We have your memo of May 1, 1952, in which you ask this department two questions:—

1. Are the official minutes of a superintending school committee in the nature of public records?
2. If the answer to this inquiry is in the affirmative, should such records or certified copies thereof, be available to a citizen or citizens who may have reasonable purposes for wishing to review the recorded actions of the said committee?

The answer to both these questions is in the affirmative.