

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

It therefore appears that the law clearly embraces the situation outlined above with respect to your constituent and that she does not have power or right to request a lump sum payment, but will receive a monthly allowance.

ALEXANDER A. LaFLEUR

Attorney General

August 12, 1952

To Roland H. Cobb, Commissioner of Inland Fisheries and Game

Re: Permits to Hunt and Fish on Property of Dow Air Force Base

Copies of your letter of August 6th to Captain Robert L. DeMunck and his to you have been carefully considered.

His letter suggests opening certain areas owned by the Base to hunting and fishing by permits to be granted at or by the Base.

Hunting and fishing in the State are regulated by the legislature except for certain delegation of regulation to you and your department.

The legislature has provided closed time and, by inference at least, open season and the specified locations where fish and game may or may not be taken.

It is provided that members of the owner's family may hunt on their owned farm premises without license.

It does not appear that a permit to hunt or fish can be issued by any but your department and then but for the time and place authorized by the legislature.

It may be suggested that, if there is any restriction of hunting or fishing in the areas mentioned which might well be eliminated or relaxed, a change in the direction desired be suggested to the incoming legislature for consideration.

If, however, the present problem is the admission of legally licensed hunters and trappers to this area by the party who has the right to restrict or prevent them from hunting and fishing in that particular spot and it is desired merely to restrict the numbers who may exercise the privilege for reasons which appear to you to be valid, then we think that your cooperation could be given as requested by the official at the Dow Base.

NEAL A. DONAHUE

Assistant Attorney General

August 22, 1952

To Roland H. Cobb, Commissioner of Inland Fisheries and Game

Re: Fishing Rights on Streams

. . . You ask if a man owning property on both sides of a stream running from Pleasant Pond may post the stream, "No Fishing," and prevent people from wading the stream while fishing.

The undisputed general rule is that the public has the *prima facie* right to

fish in all navigable streams, just as it has in other public waters, despite the fact that the beds of the streams are owned by riparian owners.

If the stream is not navigable, then section 53 of Chapter 33 of the Revised Statutes permits the riparian proprietor to enclose the waters of such stream.

JAMES G. FROST
Deputy Attorney General

August 28, 1952

To General Spaulding Bisbee, Director of Civil Defense and Public Safety
Re: Authority in Practice Alerts

The letter you supplied. . . written by Norman A. Wood, Director, Civil Defense, at Auburn, concerns what authority the Civil Defense officials would have in any practice alert.

As indicated in his letter, there appears not to be any authority for taking any action which would be disturbing the peace or compelling civilians to take shelter in the absence of an emergency proclamation by the Governor.

The extent of the practice alert can be measured by the cooperation of the public, as there is no authority to do otherwise.

NEAL A. DONAHUE
Assistant Attorney General

August 28, 1952

To Marion E. Martin, Commissioner, Labor and Industry
Re: "Workshop"

. . . You inquire if the word "workshop" includes restaurants, retail establishments, laundries, and dry-cleaning establishments.

While the term "workshop" is to some extent elastic, it has been held that the term as used in the Factory Act meant a shop where any manufacture or handiwork was carried on, whether for the purpose of repair or of manufacture. It is usually associated with power-driven machinery constituting hazardous employment.

From the definitions I have found of this term, it does not appear that any of the institutions named in your memo would properly be termed a "workshop".

NEAL A. DONAHUE
Assistant Attorney General

August 29, 1952

To Doris St. Pierre, Secretary, Real Estate Commission
Re: Regular Employees of Brokers

. . . "Regular employees," as designated in section 2 of Chapter 75, R. S., who are permitted by exception to make sales of real estate without being