

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

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

licensed so to do, means employees regularly working for the owner of the land in question at other occupations than the sale of real estate, their sales being incidental to their employment and not their whole employment. The exception is not intended to and does not permit full time engagement in the business of selling real estate such as is contemplated by subdivision of lots and engagement in the real estate business.

A seller of another's lots as an occupation, if not a real estate salesman employed by a real estate broker, is himself acting as a broker and should be so licensed.

NEAL A. DONAHUE  
Assistant Attorney General

September 2, 1952

To R. C. Mudge, Finance Commissioner  
Re: Contingent Fund – Pier at Bar Harbor

Your inquiry concerns payment from the Contingent Fund for items in connection with construction of a terminal or pier at Bar Harbor to be the Maine terminal of an International Ferry.

This work was authorized to be done by the Directors of the Maine Port Authority, which by section 2 of Chapter 219, P&SL 1951, is a "public agency of the State of Maine".

The said Directors have satisfied the Governor of the need for these funds wherewith to carry out the direction of the Legislature and they have not the money available. The work to be done presently appears in the nature of an emergency. It is therefore the opinion of this office that use of the Contingent Fund is legal for the purpose.

The question of indebtedness issued or liabilities incurred by said Port Authority becoming an obligation of the State of Maine is not here involved.

NEAL A. DONAHUE  
Assistant Attorney General

September 3, 1952

To Robert L. Dow, Commissioner, Sea and Shore Fisheries  
Re: Cutting up of Lobster Meat for Processing Purposes

Your inquiry, bearing date September 2, 1952, asks: "Is it legal for a person, firm or corporation to cut up the tail meat of lobsters in the preparation of a quick frozen lobster product?"

Aside from the right of hotels and restaurants to cut up such lobster meat immediately prior to and for the purpose of serving it to customers on the premises, the right to cut it up is by R. S. Chapter 34, section 120, restricted to the further and final exception that "any person may cut up such lobster meat (the tail section) immediately prior to and for the purpose of *canning*".