

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

Lobster meat may be sold canned, frozen or fresh, but the tail section may not be cut up for freezing as is permitted for canning. By canning is meant, as used in said section, "processed and hermetically sealed in all metal or metal and glass containers."

With the exceptions here noted, the statute provides:

"It shall be unlawful to possess, sell, offer for sale, deliver, ship or transport any tail section of lobster meat that is not whole and intact as removed from the shell."

The word "canning" is thus defined in Funk and Wagnall's New Standard Dictionary: "The act, process, or business of preserving fruits, vegetables, or meats by partial cooking, or other process, and hermetically sealing in tin cans, glass jars," etc.

Webster's New International Dictionary (1929) defines "can" as follows: "To put in a can or cans: to preserve by putting in sealed cans; to tin."

In other editions of Webster's Dictionary the verb "can" is defined as signifying: "To preserve by putting in sealed cans. Canned goods, a general name for fruit, vegetables, meat, or fish, preserved in hermetically sealed cans."

NEAL A. DONAHUE  
Assistant Attorney General

September 9, 1952

To Earle R. Hayes, Secretary, State Retirement System  
Re: Participating District — rights of employee.

Reference to the law brings out that the system at present is composed of two kinds of membership, which may be adopted by a city for its employees or such groups of its employees as it may decide.

An employee is a member of such group as the city chooses to provide for as regards retirement rights and benefits. His rights accrue only by membership.

The city, as participating district, elects which of the two Acts it will operate under, the 1942 Act, or the 1947 Act as amended. The 1942 Act is without amendment at present; a future legislature may amend it except as to any vested rights.

A participating district is authorized to extend any benefits of the Act extended to State employees.

You inquire whether there is any way for an employee of a participating district, electing to come into the State Retirement Plan, who has had prior service to apply towards his eligibility for benefits, to compel the district to give him full credit for such prior service.

It may be sufficient to say that it is the city and not the employee that decides under which Act the benefits will be derived. The employee is but one member of the participating group. Moreover, during the period when there was an option to join or not to join, the employee was entitled only to such creditable prior service as the local district was willing to match. This covers a period when the Act was not in effect and the employee is

not entitled to dictate that the city shall contribute to match his contribution for that period. After four years of employment under the Act, either Act, that option is lost if it has not been availed of by the employee.

Of course there is no option to employees new in employment since the date of establishment of either Act, as membership is a condition of employment.

NEAL A. DONAHUE  
Assistant Attorney General

September 15, 1952

To W. Earle Bradbury, Deputy Commissioner of Inland Fisheries and Game  
Re: Seals

This is in response to your recent request for a ruling as to whether or not common seals come within the meaning of "wild animals" as described in section 13 of Chapter 33 of the Revised Statutes.

"Wild animal", as defined in Chapter 33, is a species of animal wild by nature, whether bred or reared in captivity, as distinguished from the common domestic animals.

A seal is an animal wild by nature and comes within the definition of section 13.

The general rule is that wild animals at large within its borders are owned by the State in its sovereign capacity and are not subject to private ownership except in so far as the State may choose to make them so.

JAMES G. FROST  
Deputy Attorney General

September 16, 1952

To Governor Frederick G. Payne  
Re: Terms of Office of Appointive members of the Maine School Building Authority.

The Maine School Building Authority Act, Chapter 405 of the Public Laws of 1951 Section 215, provides that the Authority shall consist of seven members. Three of these are members by virtue of their office, namely the Governor, the Commissioner of Education, and the Senate Chairman of the Committee on Education, and they hold office on the Authority from the date of their qualification until the expiration of their respective terms in their respective offices.

The remainder of the Authority is made up of members appointed by the Governor. One member of the State Board of Education to be appointed by the Governor, to serve during their incumbency in said office, and three members at large appointed by the Governor for terms of three (3), four (4), and five (5) years respectively to hold office as follows: one until the completion of the third full fiscal year following his appointment, one until the completion of the fourth such full fiscal year, and one until the com-