

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

November 26, 1952

To C. P. Osgood, Chief, Div. Inspection, Agriculture  
Re: Pack of Herring

This office has been asked to determine if it is legal to pack imported herring in 5-oz. cans with the label "herring", the same to be packed between December 1st and the 15th day of the following April.

The answer is, No. By definition in Chapter 27, section 200 of the Revised Statutes the term "sardine" shall be held to include any canned clupeoid fish, being the fish commonly called herring, particularly the clupea harengus. Section 34 of Chapter 34 provides a penalty for canning any herring less than 8" long within the above mentioned period. The fish packed are sardines notwithstanding the word "herring" is stamped upon the label.

JAMES G. FROST  
Deputy Attorney General

December 2, 1952

To Ober Vaughan, Director, Dept. Personnel  
Re: Rule 12.3 - Violation

You have asked this office for an opinion as to whether or not the Personnel Board has the authority, whenever a violation of Rule 12.3 occurs, to restore employees to the State service without loss of pay or seniority; also whether or not the Board has the authority, under the Personnel Law and Rules, to require departments to expend funds for this purpose whenever a violation occurs.

Paragraph 12.3, referred to above, defines the manner in which appointing authorities may lay off employees.

Section 4, paragraph V, of Chapter 59 of the Revised Statutes, as amended, provides that it is the power and duty of the Personnel Board "to enforce through the director the observance of the provisions of this chapter and the rules and regulations made thereunder."

Rule 13.1, paragraph D, states that the Board, upon receipt and consideration of the protest of an employee or appointing authority, after investigation and hearing, shall indicate to the Director such remedial action as it may deem warranted.

A reading of the statutes and of the Rules and Regulations promulgated under the statutes relating to the Department of Personnel, would indicate that it is the clear intent of the authors of the law and the rules that the various State departments and bureaus abide by these laws and rules. The above quoted section of the law shows the intent of the legislature that the provisions of the chapter be enforced by the Board through its Director and the necessary remedial action indicated to the Director, as the Board warrants.

The Board has every right under these laws and rules and regulations to demand of the appointing authority that employees who have been laid off