

MAINE STATE LEGISLATURE

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October 23, 1958

To Roland H. Cobb, Commissioner, Inland Fisheries and Game
Re: Dam at Chain-of-Ponds

We have your memo indicating your desire that a fishway be installed in the dam at the foot of Chain-of-Ponds, Franklin County.

In so far as the facts appear in the file accompanying your memo, it appears that at one time a dam existed at this location, owned by the Brown Company. Subsequently the said dam was washed out and not replaced by the Brown Company.

In 1949, Chapter 175 of the Resolves, the sum of \$6000 was appropriated from the funds of the Department of Inland Fisheries and Game, the same being one half of the cost of a dam and screen, for the purpose of installing said dam and screen. It appears that the other half of the cost was sustained by the Megantic Club, Inc., which club also assumed liability for maintaining the screen and keeping it clear.

Your present concern is with the question of who would be the proper party to charge with the cost of building a fishway.

Without stating the principles of law that apply to fixtures and structures added to real estate, we are of the opinion that a court would not compel the Brown Company to pay the bill for the construction of a fishway.

It would be our suggestion that the best avenue would be to present the matter to the legislature in the same manner as the original dam was provided for, by legislative act.

James Glynn Frost
Deputy Attorney General

jgf/c