

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

“There shall be a continual closed season on deer on the Island of Mount Desert. . . ”

A reading of the whole section reveals that the “open season on deer” is a staggered time, according to certain zones or areas in the States.

Section 97-A only applies “during open season on deer” so it cannot apply to times and areas when or where it is not “open season on deer.”

GEORGE C. WEST

Deputy Attorney General

November 8, 1962

To: Maine Sardine Council

Re: Purchase of Maine Sardines by Council for Sale in Foreign Market

You made an oral request for an opinion as to whether or not it is legal for the Maine Sardine Council to use its funds to buy sardines from packers in Maine to sell at a loss in foreign markets to promote Maine sardines in such markets.

After a careful study of the law this office is of the opinion that such a plan is not legal under the present law. Such action would not be “merchandising and advertising” Maine sardines, being a purpose for which the sardine tax money may be used.

It will be necessary to amend chapter 16, section 267, in order to do what you have suggested.

GEORGE C. WEST

Deputy Attorney General

November 8, 1962

To: R. W. Macdonald, Chief Engineer, Water Improvement Commission

Re: License to Discharge Sewage into or near Sebago Lake

You have asked two questions regarding the licensing of sewage discharge into or in the vicinity of a body of water of an “A” classification.

Question 1. May the Water Improvement Commission lawfully license the discharge of fully treated sewage directly into Sebago Lake? This lake, the water supply of the city of Portland, has an “A” classification.

Answer: The law is that “there shall be no discharge of sewage or other wastes into water of this (‘A’) classification.” R. S., chapter 79, section 2. There is a great possibility of harm to those who depend upon waters of the “A” classification for their drinking supply in the event of failure (accidental or otherwise) to adequately treat the sewage. There is no differentiation in the law between treated and untreated sewage. Therefore, you may not license the discharge of sewage directly into Sebago Lake.

Question 2. May the Water Improvement Commission lawfully license the discharge of fully treated sewage into a wet weather water course having a “B-2”

classification at a point some 2000 feet above the juncture of the water course and Sebago Lake?

Answer: R. S., chapter 79, section 2, does not distinguish between direct and indirect discharge of sewage into a body of water holding an "A" classification. The discharge of sewage is prohibited whether it flows directly or indirectly into Sebago Lake. The question which you must determine is whether or not the point of discharge is sufficiently removed from the juncture of the water course and Sebago Lake so that as a matter of fact the sewage will not flow into the lake. If the point of discharge and the juncture of the two bodies of water are so close that sewage (whether treated or not) flows into Sebago Lake, you may not, as a matter of law, license the discharge.

Furthermore, in order to grant a license the commission must find that the "discharge will not increase the pollution of *any* stream, river, pond, lake or other body of water . . . so as to violate the prohibition of section 4 . . ." R. S., chapter 79, section 9, I. (Emphasis supplied). Treated sewage would not lower the classification of the water course below its "B-2" classification. With the water course flowing into a body of water holding an "A" classification, the Commission must further find that the discharge would not increase the pollution of Sebago Lake. If the Commission finds, as a fact, that the discharge would increase the pollution of the lake, then the application for license must be rejected.

PETER G. RICH  
Assistant Attorney General

November 14, 1962

Honorable Clyde A. Hichborn  
La Grange  
Maine (RFD to Medford)

Dear Mr. Hichborn:

You have asked the question, "Is a school superintendent of a school union considered a State employee and, therefore, ineligible to hold a seat in the Maine Senate?"

Our answer is "No."

The authority for the election and discharge of school union superintendents by the joint committee of the towns comprising the union is clearly set forth in Revised Statutes, Chapter 41, Section 79. The contract is between the joint committee and the superintendent. A superintendent is considered an "employee" under the Maine State Retirement System Law only for the purposes of that act.

Very truly yours,

FRANK E. HANCOCK  
Attorney General

November 15, 1962

To: Robert Doyle, State Geologist, Maine Mining Bureau  
Re: Renewal of Claims

You have asked the question of whether the Mining Bureau may refuse to accept the renewal of a claim if the claim is not being worked in such a manner as will reveal the geological characteristics of the land claimed.