

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

May 4, 1954

To Roland H. Cobb, Commissioner of Inland Fisheries and Game
Re: Access to Great Ponds

This is in response to your memo of recent date in which you ask:

"1. When land is posted, 'No Trespassing', or 'No Hunting', is it effective under civil law, or is it something which hunters can disregard?

"2. This question came from the meeting Friday with the Androscoggin Fish and Game Association, when they asked me if a fisherman can cross posted land to get to a great pond, where there is no public right of way? We have one of these situations in York County, and another one at Pleasant Pond, in Androscoggin County, where the entire land around the lake is under private ownership, and the general public is excluded."

In answer to Question No. 1, we are of the opinion that the State of Maine has not as yet deprived its citizens of the rights which accompany the possession of property. Other than the law surrounding great ponds, a citizen has the right not to have his property trespassed upon without his permission. Posting private property does seem in some cases under our statutes to make the trespass more grievous.

In answer to Question No. 2, under the old Colonial Ordinance as interpreted by our court, persons have the right to pass over land which is not cultivated to reach a great pond, for the purposes enumerated in the Ordinance.

JAMES GLYNN FROST
Deputy Attorney General

May 4, 1954

To John C. Burnham, Director of Special Service, Highway
Re: Permits for out-of-state Trailers

You have sent me three applications for overlength trailers and requested my opinion as to your powers in regard to restrictions, etc., in these permits.

Section 89 of chapter 19 of the Revised Statutes grants the Highway Commission power to grant "emergency permits" for the moving of objects of overlength, width, height, or weight. The modest fee from \$2.00 to \$10.00 is based on the overweight, etc.

The second paragraph in this section reads in part as follows:

". . . Said permits shall be issued to cover the emergency or purpose stated in the application and shall be limited as to the particular objects to be moved and the particular ways and bridges which may be used, . . ."

This section qualifies the word "emergency" by adding the words "or purpose". It is obvious that this further defines the meaning of the word "emergency". It has long been the interpretation of the Attorney General's Department that the words "emergency or purpose" mean a particular need on the part of the person requesting the permit. It should be noted that the permits are limited to the particular objects and the particular ways and bridges. This