

MAINE STATE LEGISLATURE

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August 17, 1955

To Harold J. Dyer, Director, State Park Commission
Re: Roads in Parks

Answering your memorandum in reference to "Town Roads in Parks":

You make reference to a deed of the park land "subject to the easement of the public in the road running through said premises". This indicates that land on both sides of an existing highway was included in the park. It does not appear to convey, or attempt to convey, any of the highway, wrought or unwrought.

A highway is not limited to the traveled portion, and the right of passage is not the only one for highway uses. The usual width of the highway, not meaning the traveled portion alone, was not granted to the park.

It does appear that violations of law may be handled by Park employees in this area, but we think rules do not apply, as the area is not of the park.

Our Court has said (104 Maine 34):

"The full use and benefit of a park is not realized by the enjoyment only of an open view and the right of passage upon it."

Likewise the Court has said:

"If anyone does that which will render the park area less suitable or useful as a park, or unlawfully interrupts the rightful enjoyment of it by others, he may be restrained."

Neal A. Donahue
Assistant Attorney General

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