STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

Your question relates to loan and building associations and particularly the last sentences of Section 160, Chapter 59, which read as follows:

> "In order to enable prospective purchasers of prepaid shares to accumulate savings with which to purchase such shares, associations may accept payments, subject to withdrawals from time to time, to be held in share savings accounts to which there shall be credited, at every regular distribution period, such interest or dividends as the directors may determine. The holders of such share savings account shall be considered as shareholders of the association."

You ask:

> "Is it within the province or within the scope of duty of the Bank Commissioner to make a regulation saying in effect that, after sufficient money ($200) is accumulated in a so-called share savings account, that amount must be converted to a prepaid share?"

We are of the opinion that the sentence quoted above from Section 160 shows the clear intent of the Legislature that the only purpose of a share savings account is to accumulate sufficient funds to purchase a two hundred dollar share and that once such sum has been accumulated, then the account should be converted to a prepaid share.

We are, however, of the opinion that the Bank Commissioner does not have the authority to make a rule and regulation requiring that when a share savings account has reached two hundred dollars, it must be converted to a prepaid share. We find no law authorizing the Commissioner to make such rule and regulation and, absent such authorizing law, such rule and regulation would have no effect.

We would also point out that we can find no penalty provision for failure to convert once the share savings account has reached two hundred dollars.

We would suggest that if, in your opinion, conversion is desirable, the Legislature should be presented with the problem of enacting laws that would enable enforcement of such a provision.

FRANK F. HARDING
Attorney General

December 18, 1957

To Maj.-Gen. George M. Carter, The Adjutant General

Re: Liability—Public Use of Armories

. . . You inquire as to the responsibility of the National Guard in seeing that liability policies are carried when your buildings are used for public uses such as dances. . . .

While it is doubtful that the State or the National Guard itself would be responsible for accidents which happened in the course of public dances or other public events for which your buildings are used, certainly such accidents place the State in the position of having, possibly, to answer such claims through action taken by the Legislature. Then, too, there is the possibility that some member of the Guard may be personally sued for injuries that may occur to the property under the custody of that person.

For these reasons we are definitely of the opinion that whenever National Guard units are used for other than strict National Guard purposes liability insurance should be obtained by the person using the unit.

JAMES GLYNN FROST
Deputy Attorney General

January 6, 1958

To Roland H. Cobb, Commissioner

Re: Rights of Access

This is in response to your memo of December 31, 1957, in which you ask if it is proper for your department to purchase access areas leading to Merrymeeting Bay, which Bay is not a game management area.

In our opinion it would not be proper for you to purchase access areas to Merrymeeting Bay or other areas governed by the general law with respect to open dates for fishing and hunting, rather than by the commissioner as a game management area.

Section 19 of Chapter 37 does give authority to the Commissioner to acquire by gift, bequest or otherwise real and personal property for the location, construction, maintenance and convenient operation of a game management area, fish hatchery or fish hatcheries and feeding stations for fish.

We are of the opinion that the purchase of access areas to reach locations that are not game management areas is not within the provisions of Section 19. It would be proper to purchase access areas leading to game management areas as an integral part of a larger project. However, that is not the situation presented to us, because it is our understanding that there are several areas in the State, not game management areas, to which the department would like to purchase access areas.

Subsequent to the time your memo was received in this office, our attention was called to Section 144 of Chapter 37 of the Revised Statutes, the same being an assent act to the provisions of the Act of Congress entitled "An Act to Provide that the United States shall Aid the States in Wildlife Restoration Projects and for Other Purposes."

With respect to such section it has been pointed out that in the Federal Aid Manual with regard to restoration it is said that the acquisition of property for access to game populations may be an integral part of an extensive game restoration program. We think we agree, as pointed out above. However, mere assent to a Federal Act wherein the authorization is given to the department to do such acts as may be necessary to the conduct and establishment of cooperative wildlife restoration projects does not permit the State to take acts not authorized by statute.

JAMES GLYNN FROST
Deputy Attorney General