

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

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 Merry-meeting 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