

MAINE STATE LEGISLATURE

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April 13, 1959

To: Jack Rand, Geologist

Maine Mining Bureau

Re: Ownership of Land under Moxie Pond

I have your request for an opinion concerning the ownership of land beneath Moxie Pond. The basic question is factual and not legal - is Moxie Pond a "great pond" - if so, the State has title to the land. See Opinion of the Justices 118 Me. 523, Flood v. Earle 145 Me. 24.

Based on the factual information presently available, I am of the opinion that Moxie Pond is a great pond, and therefore the Maine Mining Bureau has authority over this land. I have studied a map dated 1849 in which no dam appears anywhere on the pond and there appears to be over 3000 acres in the pond at that time. The first appearance of a dam as noted by maps available is 1901 and there does not seem to be an appreciable change in the size of the pond.

It is stated in Smedberg et al. v. Moxie Dam Co. 148 Me. 302 at page 304: "We start with the proposition that the State has full right to control and regulate the waters of Lake Moxie and the fishing therein. Full ownership and sovereignty over great ponds lie in the State."

The case above cited assumed that Lake Moxie, which I presume is the so-called Moxie Pond, was a great pond. This merely adds weight to my assumption that this is a great pond. The real test however, is, was this a great pond in 1641-47? An additional problem: What was its size?

It might be well to get more historical data or maps to determine the facts. To reiterate, at the present time, based on the factual data available, I would consider this a great pond.

GAW:CBH

George A. Wathen
Assistant Attorney General