

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

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The Commission is authorized pursuant to Section 258 through 267, Chapter 32, Revised Statutes of 1954, to promulgate rules and regulations regarding the grade and quality of sardines packed in this state (Section 261). The requisite procedure for establishing, amending or modifying grades is set forth in Section 263 which requires notice and hearing.

It is my opinion that the Commissioner is without authority to declare a moratorium on any standard rule or regulation that has been promulgated pursuant to the statutes. I am also of the opinion that he is without authority to establish a grade making it retroactive, either upgrading or downgrading a packing standard.

GEORGE A. WATHEN
Assistant Attorney General

December 5, 1960

To: Austin H. Wilkins, Commissioner of Forestry

Re: Mining on a Public Lot

I have your request for our opinion concerning procedure for entering into a lease regarding mining rights in Township 5, Range 5, an unorganized territory, in Parmachenee. The Brown Company owns the entire township with the exception of the public lots which are not set off. This Company also owns the timber and grass rights on the unlocated public lot. They desire to lease mining rights to a mining company with appropriate royalty provisions. The state has an interest in the land amounting to about 3.2% based on acreage ratios. The cost of setting of the lot would be about \$1,000.00. If minerals were discovered on the land, you have stated that the proposed arrangement is for the state and the company to share all profits in the percentage that their interest appears.

In the normal situation of granting mining rights on state lands, Chapter 38-B would control and the Mining Bureau would have jurisdiction. The present fact situation seems to be covered by Section 12, Chapter 36, Revised Statutes of 1954.

Section 12 provides that the Commissioner may, under the direction of the Governor and Council, grant mining rights, after the approval of the mining bureau on lands belonging to the state on such terms as they direct.

Therefore, I suggest that a council order be prepared setting forth the terms and conditions of the agreement with the Brown Company and secure the approval of the Mining Bureau before presentation to the Governor and Council. The royalties as set forth in Chapter 39-B would be a good guide for granting these mining rights.

GEORGE A. WATHEN
Assistant Attorney General