

MAINE STATE LEGISLATURE

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yes ✓

February 1, 1967

Austin H. Wilkins, Commissioner

Forestry

James S. Erwin, Attorney General

Attorney General

This is in reply to your question in a memorandum dated January 30, 1967.

You asked if the Forest Commissioner has, in effect, the right to lay out the public lots in the unorganized territory so that they will be included in the 400 to 800 foot boundary of the Allagash Wilderness Waterway.

The operative law is Title 30, Chapter 233, § 4151:

"In every township there shall be reserved, as the Legislature may direct, 1,000 acres of land, and at the same rate in all tracts less than a township, for the exclusive benefit of such township or tract, to average in quality, situation and value as to timber and minerals with the other lands therein. In townships or tracts sold and not incorporated, the public reserved lots may be selected and located by the Forest Commissioner and the proprietors, by a written agreement, describing the reserved lands by metes and bounds, signed by said parties and recorded in the commissioner's office. The plan or outline of the lands so selected shall be entered on the plan of the township or tract in the commissioner's office, which shall be a sufficient location thereof."

While the Forest Commissioner is empowered to lay out certain reserved public lots by this section, he is clearly bound by the requirements, ". . . to average in quality, situation and value as to timber and minerals with the other lands therein. . . ." (Emphasis supplied)

Anyone familiar with water courses, such as the Allagash, knows that the shore line for long distances may be nothing but flowage grass, swamp or other land of such character as to be economically valueless. Without reasonable knowledge of mineral formations including ores, sand and gravel in each township, the Forest Commissioner could be derelict in his duty if he simply laid off the public lots in strips 400 to 800 feet wide along water courses.

Austin H. Wilkins

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February 1, 1967

In my opinion, the Forest Commissioner not only ought not, but must not, ignore the quality, situation and value of the land when laying out public lots. This is particularly important when one remembers that the timber and grass rights were long ago sold to the land owners.

James S. Erwin
Attorney General

JSE:H