

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

November 5, 1969
Forestry

Austin H. Wilkins, Commissioner

Public reserved lots

SYLLABUS:

The Forest Commissioner has no power under 30 M.R.S.A. § 4162 to authorize the use of a public reserved lot as a municipal dump.

FACTS:

The Selectmen of a municipality wish to make use of a public reserved lot as a municipal dump and have applied to the Forest Commissioner for permission to do so. It appears that such use has heretofore been made by the municipality.

QUESTION:

May the Forest Commissioner authorize the use of a public reserved lot as a municipal dump?

ANSWER:

No.

OPINION:

The powers of the Forest Commissioner with respect to public reserved lots appear at 30 M.R.S.A. § 4162. Under this statute, the Commissioner may under the direction of the Governor and Council sell timber and grass rights; lease campsites, mill privileges, dam sites, flowage rights and the right to set poles and to establish utility service; grant mining rights and the right to build and maintain public roads; and with the permission of certain officials sell timber and grass stumpage, and gravel for certain limited uses. No power is given to the Commissioner to grant a right to maintain a municipal dump on a public reserved lot.

The fact that the municipality has made use of the lot as a municipal dump is of no legal significance. Such use amounts to a trespass on state land; and causes no rights to accrue to the municipality as against the state.

ROBERT G. FULLER, JR.
Assistant Attorney General

November 11, 1969
Maine State Retirement System

E. L. Walter, Executive Secretary

SYLLABUS:

Only persons who are in fact receiving a retirement allowance that had been computed on the basis of a 5-year average highest compensation are entitled to a recomputation of benefits under the new subparagraph (5) of Section 6 of the Public