

# MAINE STATE LEGISLATURE

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January 21, 1974

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Parks and Recreation  
Attorney General

Use of Revenues from 1973 Bond Issue Authorization

This is in response to your memo of January 2, 1974. In that memo, you inquired whether or not funds generated from the sale of bonds authorized by Chapter 138 of the Private and Special Laws of 1973 could be used to acquire "memorials" as defined in Title 12 M.R.S.A. § 601.

Chapter 203 of Title 12 is the law setting forth the powers and responsibilities of the Bureau of Parks and Recreation within the Department of Conservation. Title 12 M.R.S.A. § 601 defines memorial as follows:

"Any area of land, with or without buildings, improvements or other structures established for public use wholly or primarily because of its historical, archeological or scientific interest or value."

The same cited section goes on to define, in elaborate detail, the word "park." While the expressions "memorial" and "park" as used in chapter 203 of Title 12 overlap somewhat (e.g. a park may include within it an area of historical significance), the two definitions are essentially separate and the expression "state parks and memorials" is used throughout Chapter 203 in describing the powers and responsibilities of the Director of the Bureau of Parks and Recreation.

The Legislature must be presumed to have been acting with knowledge of the distinction between the words "memorial" and "park" as those terms are defined in the laws relating to the Bureau of Parks and Recreation. This seems particularly true in light of the fact that it is the Director of the Bureau of Parks and Recreation who has responsibility for the supervision of the expenditure of the funds generated pursuant to Chapter 138 of the Private and Special Laws of 1973.

The foregoing Private and Special Act provided for the issuance of bonds "to provide for acquisition of real property for the purpose of establishing additional state parks." (Emphasis added.) The question which went to referendum asked the voters of the State whether the State should provide "for the acquisition of real property for state parks by issuing bonds in the amount of \$3,000,000." (Emphasis added.) Notwithstanding that the Act mentioned in at least one place that the purpose

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's the "acquisition of real property," that general description does not negate the effect of having used the expression "state parks" in the title, preamble and body of the Act and in the referendum question.

Accordingly, we are of the opinion that funds generated by the issuance of bonds pursuant to Chapter 138 of the Private and Special Laws of 1973 must be used by the Bureau of Parks and Recreation for the acquisition of "parks" instead of "memorials," as those terms are used and defined in Chapter 203 of Title 12 of the Revised Statutes.

Please let us know if we can be of further assistance.

LMS:mfe

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Lee M. Schepps  
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