

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

February 5, 1975

Fred E. Holt, Commissioner

Forestry

Donald G. Alexander, Assistant

Attorney General

**Jurisdiction over certain parcels of State Forest Land**

The correspondence you have supplied with your December 18 memo to the Attorney General appears to raise three differences of interpretation which are appropriate for resolution by a legal opinion.

1. Does 12 M.R.S.A. § 5014 include authority to delegate to the Bureau of Public Lands responsibility for lands acquired pursuant to 12 M.R.S.A. § 512? Yes.

Section 512 is not among those provisions of law specifically listed in section 5014 as subject to delegation. Further, § 512, though amended by the same Act which adopted § 5014 (P.L. 1973, c. 460) specifically mentions the director of the Bureau of Forestry as the person responsible for acquiring land pursuant to § 512. This is significant because most provisions of Chapter 460 which tended to broaden administrative authority refer to the Commissioner of Conservation.

However, "to ascertain the intent of the Legislature all parts of the statute in question must be taken into consideration." Reggep v. Lunder Shoe Products Corp., Me., 241 A.2d 802, 805 (1968); Frost v. Lucey, Me., 231 A.2d 441, 446 (1967); Cloutier v. Anctil, 155 Me. 300, 304, 154 A.2d 75 (1959). Looking at Title 12 as a whole a clear intent to grant the Commissioner of Conservation broad authority to delegate functions is evident. Section 504 specifically includes "land acquired under section 512" and states that such land shall be controlled by the Commissioner of Conservation. Further, § 504 is itemized under the delegation authority of § 5014. The legislative intent to grant wide delegation of authority is reaffirmed in P.L. 1973, c. 628 § 19, which amended certain laws related to public lands, including § 512, and stated: "Nothing in this Act shall be interpreted to prevent or affect the exercise of the power vested in the Commissioner of the Department of Conservation to delegate powers, duties, rights and responsibilities with respect to public lots or other public lands, pursuant to Title 12, section 5014. . . ."

Because of the several legislative statements of intent for broad authority to delegate, the interpretation that § 5014 includes authority to delegate to the Bureau of Public Lands responsibility for lands acquired pursuant to § 512 appears best suited to accomplish the objectives of the statute [c.f. Davis v. State, Me., 306 A.2d 127 (1973); In re George W. Jewett & Son, Inc., Me., 261 A.2d 421 (1970)]. Under this interpretation, the Director of the Bureau of Forestry retains authority to acquire land pursuant to § 512, but once acquired, authority to administer the land may be delegated by the Commissioner of Conservation pursuant to § 5014.

2. Does the purpose for which land was accepted by Council Order or the fact that the acceptance by Council Order is directed to the Forest Commissioner affect the capacity of the Commissioner of Conservation to delegate responsibility pursuant to § 5014?

Answer: No.

Discussion:

The Commissioner of Conservation is head of the Department containing the Bureau of Forestry and is provided with authority over all public lands pursuant to § 504, therefore the Commissioner of Conservation is the proper legal successor to the Forest Commissioner in fulfilling the responsibility assigned by the Council Orders, and he can delegate such responsibility pursuant to § 5014.

3. Can the Commissioner of Conservation delegate to the Bureau of Public Lands control of lands acquired by the Maine Forest Authority pursuant to 12 M.R.S.A. § 1701, et seq.? No.

Discussion:

Lands acquired by the Maine Forest Authority are not subject to § 504 which specifically excludes "lands the management and control of which is . . . otherwise provided for by law." Management and control of Maine Forest Authority lands is provided for by 12 M.R.S.A. § 1701 et seq.

Even assuming, arguendo, that Forest Authority lands are lands "owned by the State" pursuant to § 504, there is no express capacity to delegate responsibility for Forest Authority lands in § 5014.

To assume such authority by implication would be to assume that the Conservation Commissioner could, by administrative fiat, abolish the Forest Authority created by Chapter 217 of Title 12 by taking away its lands and its responsibilities. A strong statement of legislative intent would be required to support such a construction, Blaney v. Rittal, Me., 312, A.2d 522, 527 (1973). No such statement exists, and evidence of a contrary intent appears from the fact that the Forest Authority was retained as a separate entity by Chapter 460 and its lands were not listed with other state lands for delegation of control pursuant to § 5014.

DGA/mf

---

Donald G. Alexander  
Assistant Attorney General