

MAINE STATE LEGISLATURE

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PUBLIC DOCUMENTS

OF THE

STATE OF MAINE

BEING THE

REPORTS

OF THE VARIOUS

**PUBLIC OFFICERS
DEPARTMENTS AND
INSTITUTIONS**

FOR THE TWO YEARS

JULY 1, 1926 - JUNE 30, 1928

PUBLIC DOCUMENTS, 1926-28

(Explanatory Note)

Three reports in this volume cover periods in variance with the given biennium. They are as follows:

1. The report of the Attorney General covers the period from 1924 to 1928.
2. The report of the Bangor State Hospital covers the period from 1919 to 1928.
3. The report of the department of Inland Fisheries and Game covers the fiscal year ending June 30, 1928. No printed report was made for the fiscal year ending in 1927.

STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

JUNE 30, 1926

PRESS OF MERRILL & WEBBER CO.
AUBURN, MAINE

or any part of the Indian Township, on such terms as they deem just, and all sums received from such leases or sales shall be credited to the funds of said tribe."

We have no doubt that under this provision of statute, the Governor and Council would have the right to grant the State Highway Commission the right to take gravel from this Point, fixing the compensation therefor at whatever would seem right and credit the amount received to the funds of the tribe.

We would suggest that in case you desire to secure this gravel, you make application to the Governor and Council who evidently have authority in the premises.

Yours very truly,

SANFORD L. FOGG,

Deputy Attorney General.

April 27, 1925.

Earl L. Russell, Esq., 85 Exchange St., Portland, Maine.

DEAR SIR: The State Highway Commission has handed this department your letter of April 10th, and also the petition of Marcia Moses to the State Highway Commission. We understand from the Commission that the petition relates to the change of grade of a third class highway, and relates to the assessment of damages.

Section 5 of Chapter 25, Revised Statutes, classifies highway in three general classes. First, State highways, second, aid highways, and third, third class highways, which shall mean all other highways not included in the two classes above mentioned, that is, state and state aid highways.

Section 13 of Chapter 25, Revised Statutes, provides for the assessment of damages with reference to the location and alteration of state or state aid highways, and provides that a person injured by the construction may within six months apply in writing to the Commission setting forth the injury, and the Commission shall thereupon build such way and assess the damages, if any, that have been occasioned thereby etc.

We fail to find any requirement of statute whereby the State Highway Commission is called upon to assess damages relating to the widening or changing of grade of a third class highway.

It is our opinion that damages must be assessed either by the municipal officers or the county commissioners with reference to the construction of such roads.

Yours very truly,

SANFORD L. FOGG,

Deputy Attorney General.

May 19, 1926.

State Highway Commission, Augusta, Maine.

GENTLEMEN: In re Farmingdale "Detour Road".

I am pleased to acknowledge the receipt of your letter of the 17th, with enclosures, regarding the policy of the State Highway Commission concerning detour roads around state highway construction work, and the order of the Governor and Council relating to the case of "detours" during 1921.

In your letter you state: "It would seem to me that the commission have perfect authority under the provisions of Section 6, Chapter 25, Revised Statutes, to make and enforce rules and regulations similar to the enclosed." By this you refer to the requirement that the town shall assume and pay one-half the expense of construction and maintenance of necessary detours while state highway construction work is being carried on.

I assume that your understanding is based on the first paragraph of Section 6 of said Chapter 25, Revised Statutes, wherein it is provided that "the commission may from time to time make and shall enforce rules and regulations relating to construction and maintenance of all state and state aid highways".

The foregoing powers of the commission are made "subject to the provisions of this chapter".

It was further provided in the aforesaid section that "the commission may establish detour roads during construction or repair of state or state aid highways, and may authorize the expenditure of such sums as it deems necessary to make the same safe for travel." The authority thus granted was merely permissive related to state aid as well as to state highways.

By Chapter 258 of the Public Laws of 1917, which was amendatory of said Chapter 25, Revised Statutes, the matter of