

MAINE STATE LEGISLATURE

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August 21, 1926

To State Highway Commission
Re: Obstruction of View at Intersections

In your letter of August 19th you ask,

"Do you know of any statute under which jurisdiction is granted to anybody to cause the removal of buildings which blanket or obstruct the view at two intersecting highways?"

Section 5 of Chapter 23 provides:

"The obstructing or encumbering by fences, building or otherwise of highways, private ways, streets, alleys, commons, common landing places or burying grounds are nuisances within the limitations and exceptions hereinafter mentioned."

Section 11 of the same chapter provides:

"Fences and buildings fronting on public ways, commons or lands appropriated to public use, shall not be deemed nuisances when erected for the times and in the manner provided in Section 106 of Chapter 24, unless the owner of the same shall be estopped as therein provided from justifying his occupation within the limits of said ways."

Section 106 of Chapter 24 provides:

"When buildings or fences have existed for more than twenty years fronting upon any way, street, lane or land appropriated to public use, the bounds of which cannot be made certain by records or monuments, such building or fence shall be deemed the true bounds thereof. When the bounds can be made certain, no time less than forty years will justify their continuance thereon and on indictment and conviction they may be removed."

Unless the building referred to in your letter is within a public way and remaining there under the conditions above stated, I know of no way to secure their removal except by purchase or an arrangement with the owner.

Sanford L. Fogg
Deputy Attorney General