

MAINE STATE LEGISLATURE

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May 9, 1929

To State Highway Commission
Re: Highway Damage by Flowage

In answer to your recent inquiry regarding excessive holding of water in Swan Lake, I beg to inform you that the statutes of Maine in relation to flowing lands has never been so construed as to justify or excuse the erection of a dam in such a manner as to overflow or injure a public highway, which is in actual use, and thereby render it impassable. The contrary has been directly held.

In the case you mention, I would suggest that your department get in touch with the owner of the dam causing the flowage and if possible arrange that the water be lowered sufficiently to prevent the damage which is evidently being done to the highway, and in case the person causing the flowage will not consent to such arrangement, you will kindly advise this office in order that we may take such steps as may be necessary to prevent further damage.

Sanford L. Fogg
Deputy Attorney General