

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, 1928 - JUNE 30, 1930

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1929-1930

you refer is occupying a part of the highway lawfully, and that its location has been granted in accordance with instructions from the proper authorities.

The weight of authority seems to be that this being so, it constitutes a contract with the railroad which cannot be terminated by the municipal authorities or by the State Highway Commission, and I do not know of any way by which the railroad can be compelled to abandon a location thus granted to it.

In the case you mention I would suggest that it would be proper for you to provide a right of way outside the limits of the present highway for the new location of the railroad together with its necessary turnouts.

Very truly yours,

SANFORD L. FOGG
Deputy Attorney General

HIGHWAYS—CULVERTS

October 17, 1930

State Highway Commission,
Augusta, Maine
Dear Sirs:

You inquire regarding the expense of culverts under driveways to private property from state highways.

I confirm the ruling of my predecessors to the effect that in connection with construction work the State can properly bear the expense of replacing or constructing culverts under existing driveways or driveways which are planned at the time your construction work is going on. If the State did not bear this expense in connection with the construction work, the expense would be a reasonable item in a claim for damages which the adjoining landowner may file within six months after the road work is finished. Culverts so constructed should be reasonably adequate to give the landowner an approach to his premises, and to replace existing culverts. In case of a disagreement between the State Highway Commission and the landowner his recourse is to the courts in connection with a damage suit. In such case he would be entitled to an allowance for the reasonable expense to which he might be put in making his property as usable after a change of grade by the state highway construction as it had been before.

It does not seem to me that there is any obligation to construct culverts at the expense of the State after the construction has finished, and the six months period has elapsed. It is up to the landowner to secure adequate accommodation while the construction work is going on, or seek his redress in court within the statutory period thereafter.

Very truly yours,

CLEMENT F. ROBINSON
Attorney General