

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**

December 8, 1930

To Lucius D. Barrows, Chief Engineer, SHC
Re: Toll Roads - Private.

Answering your letter of December 4th, in which you make inquiry regarding toll roads, I am pleased to inform you that the general rule is that:

"The right to exact tolls for the use of a road is not a common right but the sovereign prerogative, and an individual or corporation may possess such a right only under and by virtue of a grant or franchise emanating from the State."

The legislature may confer the right with such limitations and restrictions as it sees fit to impose. The Court in this State held in Wadsworth v. Smith, 11 Me. 278, that a man cannot without legislative authority open a way across his own land and exact tolls for the use of a common passage thereon, though he may open a way for his own accommodation and refuse to permit others to use it without just compensation and may receive and retain such compensation, not as a toll, but as the consideration of an agreement between the parties."

From the foregoing it would seem to me that Mr. Walter should get the legislature to confer on him or such persons or corporation as may be interested the right to open the way in question and exact tolls for the use of the same.

Sanford L. Fogg
Deputy Attorney General