

MAINE STATE LEGISLATURE

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July 31, 1931

To Chief Counsel, State Highway Department, Missouri
Re: Highway, Damages, Methods of Suits by and against the Commission

Our Law Court has not expressly passed on the legal constitution of the State Highway Commission, but I have no doubt but that it would be held that the members of the Commission and the employees of the Commission are employees of the State and that the Commission is not a quasi public corporation. Suits brought at the instance of the Commission are brought in the name of the State, some such expression being used as this:

"The State of Maine, acting by and through
A., B. and C., the State Highway Commission".

Suits against the State are, of course, not permitted except where the legislature has specially authorized the action. The members of the Highway Commission and the employees thereof are, of course, liable for their personal torts.

By special statute, damages sustained by passengers on detective state highways can be recovered by suing the municipality where the highway is located, which municipality notifies the Highway Commission to come in and defend the action, and the damages recovered, if any, are paid from State funds. In practice, the Highway Commission receives claims and makes settlement for damages when and where satisfied that these damages are the result of torts for which a private corporation would be liable - for instance, in one recent case, damages to a private dwelling from carelessness in blasting for a new state highway. The action of the Highway Commission accepting or refusing such a claim can be controlled to a certain extent by the Executive Council, whose approval is necessary for all state expenditures. Otherwise, the only recourse of the claimant in such a case is to the legislature through its claims committee.

Clement F. Robinson
Attorney General