

# MAINE STATE LEGISLATURE

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August 18, 1933

To Paul D. Thurston, Member, State Highway Commission  
Re: Bridge Legislation

In compliance with my promise to you on Wednesday, I am enclosing herewith a copy of my rough summary of bridge legislation in the State of Maine. I do not mean to indicate that the points that I have noted are the only points which have been covered by the several acts referred to, but I have summarized it entirely from the standpoint of demonstrating the increasing tendency of the Legislature to vest absolute and entire control of the bridges on the major automobile highways in the State Highway Commission. My purpose in this was to show how thoroughly that historical course of legislative action fitted in with the following statement made by the court in a case dealing with the same Orono bridge which was the subject matter of our discussion, contained in volume 109 of the Maine Reports. The case is reported on page 292, but the quotation is found on page 297:

"On the other hand, it must have been evident to the Legislature, when the statute was enacted, and, in fact, it had been so held in this State, that the location of electric roads and the operation of electric cars constituted a new use of the highways, specially granted to private corporations, involving a method of locomotion akin to that of steam railroads and fraught with similar dangers to the public, and demanding for the protection of the public similar oversight on the part of the railroad commissioners. In view of these new privileges and uses, the Legislature contemplated, in fact knew, that the bridges along the highways, traversed by electric roads, would, to a greater or less extent become the carriers of electric cars, subjected to an unintended and dangerous weight, and would at once become a subject of controversy between the railroads and municipalities as to upon whom, under the law regulating the maintenance of bridges by municipalities, and the franchises granting the use of the bridges to the railroads, should devolve the duty of repairing, strengthening or rebuilding the bridges for the new use to which they were to be put."

It seems to me that this may have been a pretty definite forecast, even though unintentional, of the situation that arose not many years thereafter whereby the automobile, rather than even the street car or other travel, became the subject matter of the major service of all highway bridges and that the Legislature intended in the acts of 1931 and 1933 to recognize that new use and to eliminate the possibility of controversy in the future.

The contribution of railroad corporations to bridge construction and repair has been made under the provisions of the present Section 77 of Chapter 63 and the present Section 8 of Chapter 65. Section 77 of Chapter 63 contains the provisions to which I referred in my conversation with you and Mr. Peabody on Wednesday:

"The public utilities commission shall determine . . . the repairs, renewals or strengthening of parts or if necessary the manner of rebuilding such bridge required to make the same safe for the uses to which it is put. They shall determine who shall bear the expenses of such repairs. . . or they may apportion such expenses. . . in such manner as shall be deemed by the commission just and fair."

It seems to me that one thing appears beyond dispute in the course of bridge legislation; namely, that the Highway Commission shall be the authority to finally determine type and class of construction and all other matters having to do with either the construction or the repair of bridges.

Harold H. Murchie  
Assistant Attorney General

#### BRIDGE LEGISLATION

Laws of 1915, Chapter 319

" "	1917,	"	304
" "	1919,	"	140, 162, 243
" "	1921,	"	50, 143
" "	1923,	"	193
" "	1925,	"	192
" "	1927,	"	153
" "	1929,	"	72, 103
" "	1931,	"	93
" "	1933,	"	137

B. R. & E. vs. Orono, 109 Maine 292 at 297.

## SUMMARY OF BRIDGE LEGISLATION

Prior to 1915 the construction of bridges was a matter for the municipality or municipalities served or to be served by the particular bridge or by the county or counties in which the location fell. In 1915 the first Bridge Act was passed whereby the State became a contributor to bridges built for "public convenience and necessity" according to "plans and specifications" prepared by the State Highway Commission and so built under its "supervision".

By this act (Ch. 319) it was expressly provided that any "existing contract, judgment or decision of any tribunal whereby any bridge is wholly or partly kept in repair" by any corporation should not be invalidated (Section 7) and it was expressly provided that all legal proceedings necessary to carry the act into effect should be had under the "general statute" (Section 8).

In 1917 (Ch. 304) this act, which had been originally confined to cities and towns and had placed the initiation of the work entirely on the municipality, was broadened to include unorganized townships and the power of initiation conferred on the State Highway Commission also in so far as bridges on any state or state aid highway was concerned. This act made no change in the matter of maintenance.

In 1919 the bridge law makers were again active, and they made the percentages of contribution flexible to some extent depending on the municipal tax rate (Chapter 140), provided a borrowing capacity for towns and counties and tightened up somewhat the State's machinery for collecting the shares of the governmental subdivisions (Chapter 162), and at a special session of the same legislature in the fall of the same year further increased the power of the State Highway Commission and re-enacted the provisions of the original Section 6 of the 1915 Act, without, however, re-enacting the reservations as to contracts, judgments and decisions which were a part of the 1915 Act.

1921 being an off-year in bridge legislation, no change was made except as to detail financing provisions applicable to counties and to municipalities.

In 1923 another major change was made in the Bridge Act, so-called, but no mention was made therein with reference to maintenance, although it may be argued that the repeal of Section 11 of the 1915 Act and the renumbering of the following sections showed the legislative interpretation that Sections 7 and 8 had not been repealed by implication in the special session enactment or re-enactment of the original Section 6.

In 1925, as evidencing the attitude of the legislature with reference to the use of state-controlled bridge structures by private corporations, machinery was set up permitting such corporations to use those structures for the carrying of pole and wire lines, cable lines and pipe lines, but the act (Chapter 192) is silent as to any financial contribution by the private corporations unless construction be strained to say that the imposition of "such terms and conditions as they (the governor and council) deem necessary to protect the public interest in the

safe and convenient use" of any such bridge carries such a financial reservation.

In 1923 the original act of 1915 was further broadened to include bridges not alone on main highways and on state or state aid highways but also all bridges "maintained wholly" by a county and the cost apportionment (limited, of course, to construction or reconstruction) was again changed.

Again in 1929 (Chapter 72) the cost apportionment was changed, the words "main thoroughfare" were defined and the scope of the act was limited in any one "town" to two bridges per year.

In this same year the Commission's authority to reconstruct bridges "wholly under the control of the state" was declared by statute.

During all of the period from 1915 to and including 1930 a movement of increasing force was apparent to have the State take over all bridges on highways of given classes or individual bridges over varying minimum lengths wherever situated. This program culminated in 1931 when Chapter 93 provided that "the construction, reconstruction, improvement and maintenance of all bridges on state highways, and all approaches thereto" should be "borne wholly by the state" with a limitation for municipalities of "over ten thousand inhabitants" and that limitation was removed in 1933 when the same costs, for the same bridges, without any similar limitation was turned over again "wholly" to the State. (Chapter 137).