

MAINE STATE LEGISLATURE

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December 10, 1936

Max L. Wilder
Bridge Engineer
State Highway Department
Augusta, Maine

Re: Islesboro Transportation Company

Dear Mr. Wilder:

Your inquiry of October 12, raises a somewhat difficult question to answer. I have given it considerable study and have had several conversations with the Attorney General concerning it, and am still somewhat in doubt as to liability on the part of the State because of this construction.

Section 4 of Chapter 25, P. & S. 1935, provides that the transportation corporation "is authorized to purchase and operate a boat or boats and to build, erect, and maintain suitable terminal facilities at said Smith's Landing and Little Harbor, or at Grindell's Point Light and Lincolnville Beach". This Act was approved March 15, 1935, and took effect July 5, 1935.

Chapter 99 of the Resolves of 1935, provided that "the State Highway Commission is hereby directed, (1) to designate one of these routes as a state highway and to construct the same with proper terminal on the Penobscot Bay side; and, (2) to construct a road from a point on the West Shore Road ***** with proper terminal, etc.; and be it further RESOLVED: That there be and hereby is appropriated the sum of \$30,000 from the General Highway Fund for the construction of said road and terminal, etc." This was an Emergency Resolve approved April 1, 1935, which became effective on said date.

It, therefore, appears that it became the duty of the State to construct the terminals which I assume was done under the direction of the State Highway Commission.

If, and when, the terminals were properly constructed they were suitable for the purpose contemplated by the Resolve, it appears to me that the liability of the State ceased, and the liability of the Transportation Company began.

The matter of liability in any given case might invite an inquiry as to whether the terminals were properly constructed.

Very truly yours,

Sanford L. Fogg
Deputy Attorney General

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