

# MAINE STATE LEGISLATURE

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Ms

January 19, 1954

To the Attorney General.  
Re: Relations of Highway Commission to Turnpike Authority

The question referred to me: "Would you consider the wording in paragraph (c) of section 4 of chapter 96 of the Private and Special Laws of 1941 the equivalent of a "veto" power for the Highway Commission over major issues involving the turnpike projects?"

It would seem that the act is not completely specific. The act followed closely the language of the Pennsylvania Turnpike Law, except that in this paragraph (c) we added the limiting words "except that such supervision shall not extend to the control of the location or course of the turnpike."

The act created a governmental agency with a specific purpose, the building of a toll road from Kittery to Fort Kent, to be financed by bondholders. Two major interests had to be protected by the bill: (1) the general highway program, and (2) the security of the bondholders.

In the first section of the act, the words "such location as shall be approved by the State Highway Commission" would indicate that the general location of the turnpike should be originally approved so that it would not interfere with the regular highway plans (i.e., so that it could be part of the integrated whole!)

The phraseology of section 4 does raise a problem. Its language may be broad enough to justify the argument that the State should supervise the work in the same manner that it does its regular projects. This of course is not practical, and as Pennsylvania and New Jersey discovered, this work must be done by the consulting engineers, hired by the authority. The State does provide an engineer to oversee the project, and make certain that the work is done according to specifications. The State does approve the contracts and specifications to make certain that the project is properly planned. All of this is consistent with the protection of both the bondholders and the State highway system.

However, it was not contemplated that this turnpike should be another State highway to be built by the Commission. That duty was specifically given to the Authority in paragraphs (a) and (d) of section 4. Paragraph (c) must be read in conjunction with the others, and as an amplification rather than a contradiction. Considered in this light it means that the Commission should approve the contracts to see to it that they are basically sound. The Commission should have an engineer on the job to see to it that the contracts are properly performed. However, after the initial approval of the location, the Commission cannot force its alteration. The last clause in paragraph (c) forbids this.

I have difficulty in answering the question as to "major issues". If it refers to materials used, I would say that the Commission could veto the use of a known poor product. If two equally good ones were involved, I would say, "No!" The Authority is building the turnpike. The Commission is a watchdog to see that it is not done improperly, not to decide on how it should be done.

It is a fact that the Commission and the Authority are working well together. All plans and specifications, etc., are discussed with the Commission and approved by them.

L. Smith Dunnack  
Assistant Attorney General

Addenda:

It might be well to add that the question is too broad to answer. There might be occasions where the Commission would have authority to object to certain plans. It is not the duty of this office to attempt to imagine them, however. To date all of the plans have met with the approval of the Commission.

L. Smith Dunnack  
Assistant Attorney General

Approved  
1-21-54  
Alex. A. LaFleur