

MAINE STATE LEGISLATURE

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To Roland H. Cobb, Commissioner of Inland Fisheries and Game
Re: Railroad Crossing Agreement

We have your letter of March 2, 1955, and miscellaneous correspondence relative to the request of the Bangor & Aroostook Railroad that one of your wardens execute an agreement or release in exchange for permission to cross the company's right of way. You ask for an opinion as to whether or not an official of your department should sign a crossing agreement.

It is necessary that you either have the release executed or face the possibility of an action of trespass brought by the company against unauthorized persons crossing their property. Their agreement is not an unreasonable one, merely providing for a release against the company for any injuries or other claims or demands arising from crossing the railroad, except in cases where such injuries were caused by the negligence of the railroad or its employees.

If the warden does not care to execute the instrument and at the same time is not willing to subject himself to possible actions for trespass, then it becomes necessary to petition the Public Utilities Commission for hearing to determine whether or not a public way should cross the track. Under this last avenue in all probability it would be necessary that sufficient persons require the use of such a way.

In the long run you would probably profit by having the warden execute the agreement.

Glynn Frost
Deputy Attorney General

jgf/c