

MAINE STATE LEGISLATURE

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State Highway Commission

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Title 23 M.R.S.A. Sections 154 and 255

No. 3

Fact: The Policy and Procedure Memorandum No. 30-4, U. S. Department of Commerce, Bur. of Public Roads, entitled "Reimbursement for Utility Work", Paragraph two describes relocation as follows:

' "Relocation" shall mean the adjustment of utility facilities required by highway construction, such as removing and re-installing the facility on new location, moving or re-arranging existing facilities or changing the type of facility.'

Question: Is the intent of Title 23 M.R.S.A. Section 255 to define both costs and relocation as they are defined by the Federal-Aid Highway Act?

Answer: No.

Opinion: The intent of Section 255 is not for the sole purpose of defining costs and relocation. This section is enabling legislation which authorizes and permits the Highway Commission to pay the utility for costs of relocating its facilities when required. It is restricted to moving these facilities existing in an established public highway. The word "relocation" as it is used in Section 255, in substance, has the exact and equal effect of the interpretation or definition in the Policy and Procedure Memorandum under the federal laws and regulations relating to highways compiled by the U. S. Department of Commerce, Section 123 "costs of relocation", which include the entire amount paid by such utility properly attributable to such relocation after deducting therefrom any increase in the value of the new utility and any salvage value derived from the old facility. You will note in the first paragraph of 23 M.R.S.A. 255 that "costs of relocation" of such facility is as defined in said Federal Aid Highway Act; as of December 31, 1964.

GEORGE C. WEST, Deputy Attorney General

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