

Members of the Committee on Agriculture and Forestry,

My name is Roberta Manter, I live in Fayette, and I'm the founder of Maine ROADWays, (Residents & Owners on Abandoned & Discontinued Ways.) I am neither for nor against L.D. 510.

I don't know who should be maintaining the road from Weld to Byron, but it appears this is a road for which there is a legitimate public need, so the public in some form should maintain the road. Yes, it will cost something, but please consider the cost of NOT maintaining it. This is an issue that Maine ROADWays deals with on a daily basis, both on the road on which I have lived for the past 42 years, and on similar roads all across the state. While it makes sense that a *private* road should be maintained by the private individuals who depend on it for access, and who are the only ones using it, roads that are subject to *public* use need to be maintained by the public.

I cannot express it any better than the Maine Supreme Court did in the case of Jordan v Town of Canton. That case involved a law passed in 1968, called the "Limited User Highway" law, which allowed towns to cease maintenance of little-used roads while keeping them open to public traffic. The abutting landowners who depended on the road for access received no compensation. It only took two years for the matter to make its way all the way to the Maine Supreme Court, where the law was declared unconstitutional, and it was then repealed.

While the road in question here has not been declared a "limited user highway," the results are the same. As the Court said in the Jordan case, "But cases involving loss of access depend on the practical and factual consequences of governmental action rather than the legal status of the highway." The Court went on to give the following analysis of the consequences:

"The fact that a 'limited-user highway' continues to have a legal status as a 'public way' over which there continues to be a public easement of travel is *meaningless* if there is no longer any public responsibility for maintenance and repair. *Without maintenance or repair*, it is only a question of time before *a public road will become impassable or unsafe* for travel. The rigors of Maine weather, the action of frost and the erosion from rain and melting snow will speed the process of disintegration. The ability to use the road for vehicular travel and thus the abutter's easement *100 of access to and over the road to the public road system *will inevitably be destroyed*." (Emphasis added.)

I submit that if neither the County nor the Bureau of Parks and Lands is willing to maintain the road from Weld to Byron, the "practical and factual consequences" of continued public use in the absence of public maintenance will be that the road "will inevitably be destroyed." So who should pay the bill? That depends on who needs to be able to use the road. Evidently, the public needs the road. If it can be sorted out what segment of the public needs it, should the County and the Bureau of Parks and Lands share the cost in appropriate proportions? I don't know the answer, but some public entity needs to shoulder the responsibility of maintaining this public road, or it will cease to serve as a road.

Thank you,
Roberta Manter