

Relationships Between Highway Departments and Public Utilities

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To approach the subject in a reasonably intelligent manner, I thought first of finding out what other states were doing—how they were approaching the problems, and whether they were coming up with any solutions.

I mailed a questionnaire to fourteen states, mostly surrounding Indiana and Ohio, and therefore with similar public utility organizations and similar types of trees and other woody forms of vegetation—for after all, a mutual problem of the highway department and the utility company is the interference or non-interference of poles and wires with the vegetation that grows under, above, and around these poles and wires, and the maintenance of this vegetation.

This questionnaire asked very brief questions. I did not want long, involved answers. I wanted the questioned man to tell me concisely whether things were under control between both parties, the highway department and the public utility; how it was done; whether the relationship was good; why it wasn't working, if the opposite; and what he planned to do about it, if this latter condition existed or if there was no working plan or agreement at all.

All fourteen states responded. I take that as a good omen. There seemed to be three set groups in these fourteen states, or three main types of working relations between the two parties:

1. None at all.
2. Cooperative, with no set rules.
3. Set rules, with cooperation and/or penalties for enforcement.

In the questionnaire a question was asked about how the right-of-way was handled by the state, and it was interesting to learn of the set-up in these several states, and to learn of the general public understanding as to who owns and controls the vegetation within

the right-of-way. I felt that these questions and the answers had a great bearing or influence in the handling of the utility problems.

Most of the states have the highway land on an easement basis; only a few have it in fee simple.

In most cases the ownership and control of the trees, shrubs, and vines is vested in the highway department during the life of the highway, although there were variations, such as timber (as such) belonging to the abutting property owner; maintenance of all trees and shrubs resting with the highway department but ownership in the property owner; and, believe it or not, in three or four cases the original or existing trees belonging to the property owner, but ownership and control of those planted by the department resting in the department. Some day there will be trouble when someone forgets who planted which! In practically all cases, ownership, jurisdiction, and obligations were definitely but not always clearly established by state statute.

These right-of-way arrangements are especially interesting, since they govern in a good many cases the operation of highway and public-utility agreements and workings.

Let us consider the three groups. First, the few states which have no plan of operation admitted a definite floundering, and a dissatisfaction on the part of all—the engineer (including the landscape architect), the public utility, and the citizen. Such states are hoping for help and example from others.

Of the second group, those states which worked solely on a co-operative basis were functioning, but not as they would wish. There was always something missing, and a certain degree of chip-on-shoulder attitude seemed to exist, just as if one party said to the other, "You cooperate first and I'll follow". It was then a race to see who could hold out from being first.

SOME ACTUAL EXAMPLES

In this talk today, I will mention no particular outside state, though I have a tabulated record of the reports. But I will talk directly about Ohio. We come under this cooperating group, and it is just about 50 percent efficient. The better and larger utility companies normally work with us. They have well-trained crews, or they contract their work with reputable firms. Contacts are made with our twelve Division Landscape Architects. But there are slip-ups, loopholes, and inconsistencies. I will cite you a few examples.

The Rural Electrification Administration went across Ohio like a scourge, and we had no recourse. This scourge is continuing to some extent even yet, and promises to break out full force momentarily.

On a section of the National Highway east of Columbus the Asplundh Tree Expert Company (and no advertising is intended!) did a fine job of lateral-branch trimming on a World War One Memorial planting. This is an example of the 50 percent of cooperative efficiency which I mentioned above. But just one year later one of the largest national utility companies (name on request!) came along and table-topped each and every tree. What a spectacle!

Three or four years ago another large utility company sent out its men, along with a group of private-firm pruners (the better to do a hurry-up job before we could catch up with them and start "cooperative" proceedings) and they cut the daylight out of some magnificent white oak trees 100 or more years old. In fact, that's about all that was left—daylight—where once had been fine old trees furnishing beauty and shade to all who passed by. That one kicked back, and the neighboring property owners took up the cudgel.

In 1935 Ohio issued a tree-pruning pamphlet for the guidance of our own forces and for those of the utility companies. It is similar to the fine one put out by Indiana. This was very helpful, and the instructions and policies as set forth have been well taken by many Ohio companies.

You see from the foregoing that Ohio has much to feel good about but much which should be corrected. We realize that highways are service ways, for use by automobiles, trucks, wagons, pedestrians, and utility poles and lines; but we believe that along with service we can also give much beauty, restfulness, and safety to our highways, and we are working toward a different practice.

PERMIT SYSTEM

Now we come to the third group, and this one contained the majority of the states. These are the states which have set rules, rules tied in with cooperation, but with means of enforcement. By "set rules", I refer to permits issued by highway departments. These permits are used to outline work to be done by the utility company—work covering alteration of the highway vegetative growth which interferes or may interfere with the establishment or operation of public utility services. The permits, briefly, outline the "when, where, and how", and are issued in some states for specific projects, and in others as blanket approvals but subject to certain future specific infor-

mation and data covering projects as they materialize. Almost without exception, the reports were good. There was not too much need for the use of strong-arm enforcement, and the highway roadides were in general a credit to all parties concerned. This is the record, and from my personal acquaintance with many of the men who reported to me, and from the care and intelligence which was indicated in answering the questions, I am inclined to believe that the case as presented is correct.

There was one thing that turned up in most reports—the simpler the permit, the more satisfaction experienced by the personnel of the highway and the public utilities. As one state landscape architect expressed it, the permit should be simple and clear and should set forth the obligations of both parties. He went on to say that sufficient and prompt inspections, adjustments by both parties to meet unusual existing or created conditions, and recourse to conferences of department heads rather than the invoking of the established penalties (excepting for habitual offenders) made for harmony and good work.

Another state reported that the proper permit system is a workable policy that considers the necessity of utility operations but at the same time protects the rights of the people through the highway commission as their agent. It should be kept in mind at all times that we all have the responsibility of protecting the public. We must depend on competent and honest officials and personnel of both the utility company and the public agency to protect and defend public rights year after year, with a consistent policy of doing what is best and right for the unselfish good of all.

From the above, then, it would seem that a permit system, administered with consideration, but with protective measures for all parties, is advisable and holds the answer to the problem.

With this system or any other I believe that through newspaper publicity, through general open meetings and other suitable methods, the general public and the abutting property owners should be acquainted with their rights and privileges and the law as it exists. This would work toward a better mutual feeling and would ease the problems of right-of-way which exist in about every state. Oftimes the engineer is harassed by fear of public opinion, political kick-backs, and all the criticisms that come to those in public service. It has always been my belief that if we would stand on our hind legs and state the facts and speak the truth without evasions, the problem in the long run and over the years would be ever-decreasing in its complexities.

In closing I believe a few words about billboards and their complications might be interesting. It is interesting to note that two or three states have billboard control by taxing them for revenue only. I hope they secure enough zoning thereby to increase highway appearance and safety, aside from the income. Most states had no control, other than that which permitted control at intersections, railroad crossings, etc.

A few states have approached the matter from the esthetic sense entirely, and those are the ones which seem most satisfied and have gone the farthest. And those are the states through or into which I know you like to drive, when you go on a vacation.