

MAINE STATE LEGISLATURE

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September 24, 1932

To E. L. Newdick, Chief, Division of Plant Industry
Re: Right of Inspection for Pests

The statute regarding infested orchards, R. S. Chapter 43, Sections 1 to 13, seems very explicit. You have the right and duty to inspect properties which you suspect are infested with San Jose's scale or any serious pest or infectious disease which may be a menace to adjoining owners, and to direct the owner, occupant or one in charge to spray, cut or destroy, and there is a penalty if he does not do so. Our Court has not ruled on this section. Courts generally have gone a long way toward enforcing similar regulations for the protection of persons and property against infection under the police power of the State.

Of course, in practice, molasses is better than vinegar. A discreet official can accomplish substantially a hundred per cent of the proper objects contemplated by such a statute without serious friction or controversy. Of course, this department is always ready to cooperate in helping you out in such circumstances. Sometimes you will find friction which this office can help you remove by our writing to the orchardist. If it comes to a showdown, however; I should expect that a court would sustain the section, but it could be very readily tested out by a criminal proceeding against the recalcitrant orchard owner. Mr. Tucker of the Poultry Division has a somewhat similar situation at the present time with reference to a poultry inspection statute, which is to be tested out by criminal proceedings in York County in October.

If I can be of any further assistance to you, let me know.

Clement F. Robinson
Attorney General