

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1947 - 1948**

November 1, 1948

To H. B. Peirson, State Entomologist, Forest Service  
Re: Tree Surgery

I received your letter of October 22nd, stating that you have been requested to obtain a ruling on the Tree Surgery Law, R. S. 1944, Chapter 32, Sections 51 and 52.

You state that the point in question is whether a telephone company has the right to prune trees for line clearance along highways and its own rights of way, having the work done without the supervision of a licensed man.

It is my opinion that the provisions of Sections 51 and 52 do not apply to telephone companies pruning trees for line clearance along highways and their own rights of way. The law is intended only for the improvement and protection of shade, ornamental and forest trees. Section 51 specifically provides that no person, firm or corporation shall advertise, solicit or contract to improve the condition of shade, forest or ornamental trees by pruning, trimming or filling cavities, or to protect such trees from damage by insects or disease, either by spraying or any other method, without securing a certificate under the provisions of Section 52.

It seems to me that it was not the intent of the legislature that the law should apply to trimming trees for necessary purposes such as the running of lines by companies doing a public utility business. Of course, on their own rights of way there is no question; but on the rights of way along highways it is my belief that if they get permission from the owners to trim these trees, they would not be violating this license law.

RALPH W. FARRIS  
Attorney General

November 4, 1948

To Edward L. McMonagle, Department of Education  
Re: Unused School Buildings in Unorganized Territory

I have your memo of November 3rd, calling my attention to Section 153 of Chapter 37, R. S., and stating that the Commissioner of Education is in possession of several school buildings in deorganized places in which schools are not being currently operated because of sparse population or lack of teachers. You state that the Commissioner feels that these buildings, with changing conditions, may at some future date be needed for schoolhouses, and you submit the following questions:

"1. May the Commissioner of Education rent any building to a state department, a local association or an individual on such terms as seem advisable to him with the provision that the property be made available for school purposes on demand by him."

My answer to Question 1 is in the affirmative, as Section 153 provides that upon the deorganization of a town or plantation school property becomes the property of the State and under the charge of the Commissioner, the same as other school property in unorganized territory.

"2. What legal steps are necessary for such rentals?"

*Answer.* Proper steps would be to secure Council Order authorizing the Commissioner to enter into a lease, which lease would be subject to approval by the Attorney General's Department as to form.

RALPH W. FARRIS  
Attorney General

November 4, 1948

To Ernest H. Johnson, State Assessor

I have your memo of November 2nd, stating that the Commissioner of Education is in possession of several school buildings in deorganized places which, because of the fact that there is no apparent present or future need for them, he proposes to turn over to the State Tax Assessor under the provisions of Section 13 of Chapter 90, R. S., as amended by Chapter 182 of the Public Laws of 1945. You submit the following questions:

"1. Is the State Tax Assessor obliged to make immediate disposal of these buildings?"

*Answer.* There is no provision of law which obligates you to make immediate disposal of these school buildings. You may use your own discretion in disposing of same.

"2. May the State Tax Assessor rent, grant or otherwise transfer use or ownership, for a limited time or permanently, to any department of state, local association or individual through private sale or agreement?"

*Answer.* I have just answered a similar memo for the Commissioner of Education, in which I have ruled that he has authority under Section 153 of Chapter 37, R. S., to rent certain schoolhouses which may again be used for school purposes, with authority from the Governor and Council; and in answer to your question 2 I will state that you should secure authority by Council Order to rent any of the school buildings which are released to you by the Commissioner of Education to any department of the State, local association, or individual through private sale or agreement, provided said agreement or lease is approved as to form by this office.

RALPH W. FARRIS  
Attorney General

November 5, 1948

To Col. Francis J. McCabe, Chief, Maine State Police  
Re: Spotlights

I have your memo of November 3rd calling my attention to Section 116 of Chapter 19, R. S., as amended by Chapter 320 of the Public Laws of 1947.

You will note by the amendment of 1947 that fog or auxiliary lights shall emit a white or amber beam of light.

You state that some automobiles are delivered to the owner equipped with two spot lights, one on each side of the car. You have been asked if, after the bulb and wire are removed from one of these spot lights, it would be considered a spot light.