

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**R E P O R T**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1949 - 1950**

February 7, 1950

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

I have yours of January 25th relating to the interpretation of a portion of the tree surgery law, R. S. 1944, Chapter 32, Sections 51 and 52 as amended by P. L. 1949, Chapter 149.

You state that Section 51 provides: "No person, firm or corporation shall advertise, solicit or contract to improve the condition of shade, forest or ornamental trees by pruning, trimming . . . without having secured a certificate."

You continue that there are three concerns in the State whose primary work is the setting of poles and the stringing of new lines, one company also doing some clearance work. Your question is whether these companies have a right to solicit work entailing pruning without having a license.

You further state that the tree surgery board, which has the right to prescribe all rules and regulations governing examinations, has twice ruled that the officer in charge of these companies, who is usually the man to solicit the work from the utility companies, need not have a license, providing he has licensed men in his crew who supervise the actual pruning and who solicit permission to prune from the owners of the trees. You feel that the public is thereby amply protected and that the public utility companies are cooperating with you by insisting that the work be supervised by licensed men; but you state that the Maine Arborists Association, which is made up of licensed tree men, disagrees with your ruling, at least some of them feeling that the man who solicits the work from the company should be licensed. They have therefore asked you to get my opinion on this point.

I agree with your department and the tree surgery board that the men who do the pruning are the ones who should be licensed. The men who solicit the work from the company need not be licensed, as they cannot harm the trees if they do no pruning.

RALPH W. FARRIS  
Attorney General

February 8, 1950

To Honorable Frederick G. Payne, Governor of Maine  
Re: Allotments for fiscal year, Chapter 14, Section 14, R. S. 1944

I have your memo of today in which you propound the following question:

"In the event that the Legislature should fail to provide sufficient appropriation for the fiscal year ending June 30, 1951 to meet the estimated requirements of the various departments of state, in your opinion would it be within the meaning of the law for the State Budget Officer and the Governor and Council to approve allotments at the beginning of the year which contemplate the expenditure of more funds than are provided for within the appropriations available to these departments?"

It is my opinion that it would not be within the meaning of the law above quoted for the State Budget Officer and the Governor and Council to approve

allotments at the beginning of the year which contemplate the expenditure of more funds than are provided for within the appropriations available for these departments.

Section 14 of Chapter 14 specifically provides that the Governor shall require the head of each department or agency of the state government to submit to the Department of Finance a work program for the ensuing fiscal year, such program shall include all appropriations made available to such department or agency for its operation and maintenance and for the acquisition of property, and it shall show the requested allotments of said appropriations *by quarters* for the *entire fiscal year*.

While under the provisions of Section 14 of said chapter the Governor and Council with the assistance of the Budget Officer may revise, alter, or change such allotments before approving the same, yet the aggregate of such allotments shall not exceed the total appropriations made available to such department or agency for the fiscal year in question. In other words, it is my opinion that the law requires that the work program for the ensuing fiscal year shall show the allotments by quarters for the entire fiscal year within the appropriations made available by the legislature.

RALPH W. FARRIS  
Attorney General

February 9, 1950

To Fred M. Berry, State Auditor

Re: Chapter 18, P. L. 1949, Maintenance of State and State-aid Highways

I have your memo of February 6, 1950, relating to the provisions of Chapter 18, P. L. 1949, which was an amendment to Sections 29, 45, 46 and 50 of Chapter 20, R. S., 1944, passed as an emergency measure, so that it took effect when approved by the Governor on February 24, 1949. I also acknowledge receipt of a copy of a letter written by the State Highway Commission to the municipal officers of Maine, dated February 24, 1949.

You state in the third paragraph of your memo that it was the practice of the State Highway Commission to bill maintenance charges to the municipalities on a calendar year basis and that all such charges were billed for the calendar year 1948. You further state that no billings were made by the Commission for maintenance costs for the period January 1, 1949 to February 24, 1949, the effective date of this emergency legislation. The amount of money involved for maintenance charges during this period is estimated at \$50,000, which the State would have received if the provisions of Chapter 20, Sections 46 and 50, R. S. 1944, as amended, continued in effect until February 24, 1949. Upon this statement of facts you ask the following question:

“Should the State Highway Commission bill the maintenance charges to the municipalities as were due the State under the provisions of the laws existing prior to the enactment of Chapter 18, Public Laws of 1949; or are all maintenance charges to be assumed by the State beginning with the calendar year January 1, 1949?”