

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

certain problems which have arisen under the newly enacted arborist law. We will take up your questions in the order in which they are presented.

R.S. 1954, c. 36:

Section 66 — You have asked us whether or not an unlicensed person can do work on trees owned by a relative, friend or neighbor with or without compensation. It is our opinion that this new law limits an unlicensed person to work on trees on his own premises or on the property of his regular employer. Any other work, whether gratuitous or for compensation, done for any other person would be a violation of this law.

Section 67, paragraph 2 — You have asked whether or not the power of the board to prescribe all rules and regulations governing examinations is limited to rules as to the type of examination given and the question coverage. It is our opinion that this paragraph limits the board to prescribing rules and regulations governing examinations and liability insurance and that the board cannot under this section make regulations governing who shall be required to take examinations, who shall be licensed or any other substantive matters.

Section 67, paragraph 7 — You ask whether the phrase “during the course of their employment” would exempt public utility employees from the provisions of this law while they are working on the trees of a private individual after utility company hours. It is our opinion that this particular phrase is intended to limit this exception to public utility employees when and only when they are working for the public utility company by which they are employed. They would not be exempt when working after hours for a private individual.

Section 67, paragraph 2 — You have asked us whether the power of the board to promulgate regulations with regard to liability insurance would include public liability insurance, employer’s liability insurance and workmen’s compensation insurance. We feel that the board under this section has the power to regulate only public liability insurance. This is because workmen’s compensation insurance is regulated by statute and cannot be altered in any way by individual board regulations. We are not certain what is meant by the term “employer’s liability insurance” but we assume that it is similar to workmen’s compensation insurance and would, therefore, not be subject to regulation by the board.

THOMAS W. TAVENNER

Assistant Attorney General

December 1, 1961

To: Austin H. Wilkins, Commissioner of Forestry

Re: District Court Law (P.L. 1961, c. 386) — Taking of Violators by Fire Wardens to Court having Jurisdiction

We have your letter of October 11, 1961, requesting our opinion as to whether or not the new District Court Law gives your fire wardens authority to take violators to the nearest court in all instances, or if you operate as previously within the county in which the violation occurs. The new District Court Law will not change your procedure at all except that each district will constitute one jurisdictional area.

These districts can, and in many cases do, overlap county lines. Therefore,

in certain instances your wardens may be able to take a violator to a closer court than is now possible. We would like to emphasize, however, that the violator must still be taken to the district court for the district in which the violation occurs even though that court may not be the nearest court.

THOMAS W. TAVENNER

Assistant Attorney General

December 1, 1961

To: Governor John H. Reed

Re: Election Date of Primary Election and Voting on Educational Television Bond Issue

In answer to your questions:

“1. Can the Legislature legally establish the date of the Primary Election as the date for voting on the Educational Television Bond Issue?”

Answer: Yes. However, the wordage of the referendum section of the bill should conform to Section 14, Article IX of the Constitution, that is “. . . at a special election to be held on the 3rd Monday of June, 1962 . . .”

in place of

“. . . at the state-wide election to be held on the 3rd Monday of June . . .”

“2. If the answer to the first question is in the affirmative, should notification of the referendum question be contained in the warrant for the Primary Election, or should a separate warrant issue?”

Answer: A separate warrant should issue.

FRANK E. HANCOCK

Attorney General

December 6, 1961

To: Walter B. Steele, Jr., Executive Secretary, Maine Milk Commission

Re: Trading Stamps

We have your request of September 27, 1961, for an opinion with regard to the legality of the issuance of trading stamps on purchases including fluid milk. As we understand this problem, certain grocery stores doing business in Maine in areas designated by the Maine Milk Commission as natural marketing areas are offering coupons in the form of trading stamps with either the direct sale of fluid milk or cream or for a total purchase which purchase includes some milk or cream. We understand that you are requesting an opinion with regard only to sales for which the minimum legal price is the price set by the retailer. If the net price of the product after the discount has been deducted is still in excess of the legal minimum price, then the discount is, of course, perfectly legal. For this reason, we will limit our opinion to instances in which the net cost of the milk and cream to the purchaser is below the scheduled minimum retail price established by the Maine Milk Commission.