

MAINE STATE LEGISLATURE

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March 27, 1974

Fred Holt, Director, Bur. of
Forestry
David Roseman, Assistant

Conservation
Attorney General

Shade Tree Planting; Dutch Elm Disease

This informal opinion is written in response to your memo of February 22, 1974, concerning aid to Indian Island for public shade trees and for control of Dutch elm disease.

Specifically, you ask in Question #1 whether pursuant to Public Laws, 1969, Chapter 586 (Title 12 § 1131) aid can be given to Indian Island to pay a part of the cost of tree stock and their planting for public shade trees. The answer is that such aid cannot be given. Title 12 § 1131 states in applicable part that ". . . the State Entomologist and his agents under the supervision of the Forest Commissioner may enter into agreement with municipal officials to pay, so far as funds are available, up to 50% of the costs of procuring young tree-planting stock and planting for public shade trees." (Emphasis added.) Thus, by statute, a limit is set; an agreement can only be entered into with municipal officials and municipalities. And when the terms municipal officers or municipality are used in the statutes, they refer only to cities, towns and plantations. (This rule of construction is set out in Title 1 § 72 sub-§§ 12 and 13.) Since Indian Island is not a city, town or plantation (it is a Penobscot tribal reservation), the Bureau of Forestry is not authorized to enter into such an agreement with Indian Island.

In Question #2 you ask whether pursuant to Private and Special Laws, 1961, Chapter 244, aid can be given to Indian Island for Dutch elm disease programs. The answer again is that such aid cannot be given. Chapter 244 states in applicable part that there is appropriated to Forestry certain funds ". . . to provide for technical assistance to municipal officials . . ." (emphasis added) for control of Dutch elm disease. Thus, such aid cannot be given to Indian Island for the same reason as was discussed in answer to Question #1, which need not be repeated here.

If you have any additional questions, please do not hesitate to contact this office.

AN INFORMAL OPINION

David Roseman
Assistant Attorney General

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