MAINE STATE LEGISLATURE

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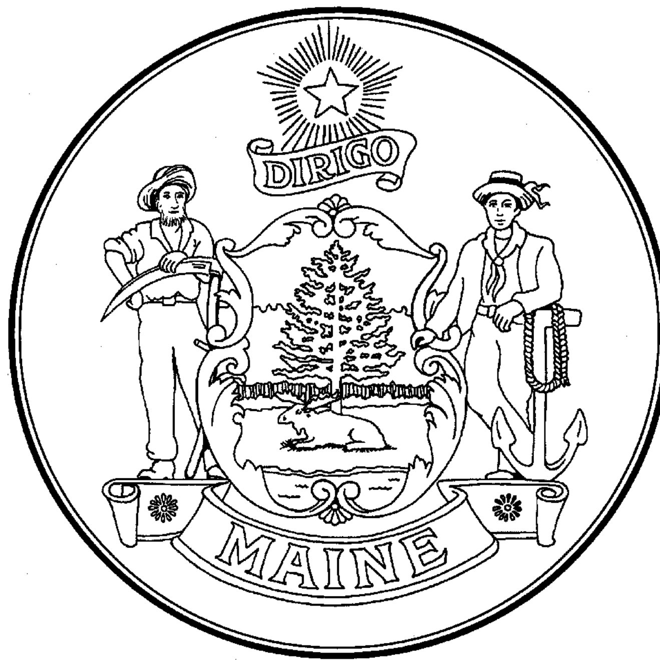

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November 30, 1914

To A. M. G. Soule, Esq., Chief of Bureau of Inspection, Agriculture
Re: Branding of Seed

Receipt is acknowledged of your letter of November 19th and accompanying copies of correspondence relative to the interpretation of Section 3 of Chapter 119 of the Public Laws of 1911, which reads:

> "Every lot or package of agricultural seed which is sold, distributed, transported, offered or exposed for sale, distribution, or transportation for seed, in the state by any person shall have affixed in a conspicuous place on the outside thereof, a plainly written or printed statement clearly and truly giving the name thereof, and its minimum percentage of purity and freedom from foreign matter."

This section, as you will notice, covers distribution as well as sale, and is certainly broad enough to cover the case of an agent of a group of people who order their seed through him from a concern outside the State and receive the seed later from him.

Whether the seed has ceased to be interstate commerce when delivered by him would be important to determine, were there a Federal statute requiring branding of seeds being transported between states. In the absence of legislation by Congress, there can be no question of conflict between Federal and State action which would render the State law nugatory in so far as it actually conflicted with Federal legislation - the rule laid down in the recent case of Savage vs. Jones, 225 U.S. 501. Since there is no regulation by Congress, it is not necessary to determine just when the shipment ceased to be interstate, so as to become a part of the mass of state property subject to its police power.

There being no question as to the validity of this regulation in the act, it seems clear that in the case submitted there should be a branding of the seed to comply with the requirement of Section 3.

Roscoe T. Holt
Assistant Attorney General