

MAINE STATE LEGISLATURE

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January 5, 1915

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

Your letter of January 2 is at hand with copies of correspondence bringing up the question whether a shipment of commercial fertilizer f.o.b. Baltimore into the State of Maine and subsequent sale of the same come under sections 6 and 7 of Chapter 119, P. L. 1911, requiring branding and registration.

The terms of the statute in prohibiting the distribution as well as the sale are sufficiently broad to include the shipment mentioned. The only question is whether the act is invalid as a regulation of interstate commerce. In a late case the Supreme Court in Savage v. Jones, 225 U.S. 503, has ruled that a State may, under its police power, act as to interstate shipments unless Congress has superseded the exercise of the power by legislation of its own. We do not find that Congress has legislated as to this matter and in the absence of legislation there can, of course, be no conflict between Federal and State Governments which would render the State law nugatory.

Since, then, the act is valid and the case comes under its terms, the manufacturer should comply with the sections above.

Scott Wilson
Attorney General

NOTE: See opinion of 17th January, 1916.