

MAINE STATE LEGISLATURE

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PUBLIC DOCUMENTS

OF THE

STATE OF MAINE

BEING THE

REPORTS

OF THE VARIOUS

**PUBLIC OFFICERS
DEPARTMENTS AND
INSTITUTIONS**

FOR THE TWO YEARS

JULY 1, 1926 - JUNE 30, 1928

PUBLIC DOCUMENTS, 1926-28

(Explanatory Note)

Three reports in this volume cover periods in variance with the given biennium. They are as follows:

1. The report of the Attorney General covers the period from 1924 to 1928.
2. The report of the Bangor State Hospital covers the period from 1919 to 1928.
3. The report of the department of Inland Fisheries and Game covers the fiscal year ending June 30, 1928. No printed report was made for the fiscal year ending in 1927.

STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

JUNE 30, 1928

relating to estates that are subject to the Federal Estate Tax, and passed by the last legislature in order to obtain the credit allowed (Public Laws 1927, Chapter 116) has brought to the State Treasurer the sum of \$121,327.53.

It is respectfully called to your attention that the reciprocal law (Public Laws 1927, Chapter 231) providing that no tax shall be assessed on a non-resident estate if the decedent was a resident of a state which demands no tax from a decedent of Maine, will make a great reduction in the amount to be received in the future from non-resident estates.

The Department takes pleasure in informing the Governor and Council that it will have no cases pending on the dockets of any court at the end of the present year with the exception of one criminal appeal which may or may not be perfected, and if carried forward will not be in order for argument until the March Law Term. Arrangements have been made for three justices as referees to hear the only remaining civil case during the last week in December.

I take this opportunity, at the close of my four years of service as Attorney General, to again thank my Deputy and Assistant for their efficient aid and counsel. I also extend grateful appreciation to each member of the Department's clerical force for faithful efficiency.

Respectfully submitted,

RAYMOND FELLOWS,
Attorney General.

The following are some of the more important opinions rendered by the Department during the years 1927-1928, which may be of public interest.

December 30, 1927.

Hon. Frank P. Washburn, Commissioner of Agriculture, Augusta, Maine.

DEAR MR. WASHBURN: Section 5 of Chapter 37 of the Revised Statutes, as amended by Chapter 61 of the Laws of 1927, provides that any person or combination of persons who shall sell or deliver milk or cream as a business from a wagon or other

conveyance, *dépot* or store, to any other person, or who shall sell or deliver milk to a hotel, restaurant, boarding house or any public place, shall be considered a milk dealer and shall register with the Commissioner of Agriculture. The provisions of the section, however, do not apply "to milk or cream delivered to a creamery or butter or cheese factory."

In the first place, therefore, registration must be made by anyone who as a *regular business* sells or delivers milk to any of the persons or places named or described in the first part of the section. The statute is plain and easily understood with the possible exception of the words "depot", "public place" and "creamery".

A "depot" as defined by the courts in numerous cases is "any place of deposit for storing goods, or a place where goods are held in storage ready for transportation and delivery, such as a warehouse."

A "public place" is a "place where the general public has a right to go or be. It is not an absolute but a relative term, and is used in contradistinction to the term "private place." A city square would clearly come within the definition; while a theatre or a store, an office, a hotel or a church might or might not be depending on the day or time of day and various other conditions. This must be determined from the facts of each particular case as the occasion arises.

A "creamery" is ordinarily supposed to be "an establishment where butter and cheese are made, or where milk and cream are prepared for market." The only difficulty here is in those instances where the "creamery" so-called, is apparently more of a depot or warehouse. The Commissioner will, in close questions, have to use his best judgment. He might not require registration on the part of the man delivering to the "creamery", as the rights of the public would be protected if he required the so-called "creamery" to register as "a depot or store."

Very truly yours,

RAYMOND FELLOWS,

Attorney General.