

MAINE STATE LEGISLATURE

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January 26, 1937

Elmer V. Randall
Westbrook, Maine

Dear Mr. Randall:

This will acknowledge receipt by me on January 14, of the letter signed by you and other members of the committee appointed to confer with me and ask me to sign a quo warranto and to bring before the Supreme Court the question of the eligibility of Messrs. Ness and Perkins as members of the Milk Control Board.

I delayed replying to your letter in order to give this matter the consideration it deserves.

The law seems to be well settled in this State that there being no claimant, or claimants, to the offices held by Dr. Ness and Mr. Perkins the action of quo warranto will not lie on the relation of any other interested party, and the Attorney General would not be warranted in allowing the use of his office in such a proceeding.

In this connection I respectfully refer you to the case of Lemire vs. Crockett reported in Vol. 116 of the Maine Reports at Page 268.

As to bringing an action of quo warranto on behalf of the people by the Attorney General on his own motion, I must advise you that having examined all the facts incident to the appointment of the members of the

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Milk Control Board, with especial reference to the cases of Dr. Hess and Mr. Perkins and the law applicable thereto, I am of the opinion that both of these gentlemen are properly qualified for office on the Board and legally hold their respective offices.

In view of this opinion I deem it my duty not to bring proceedings to test their right to serve as members of the board, a proceeding which in my opinion would be of no merit and which would not result in removing them from office.

Respectfully yours,

Franz U. Burkett
Attorney General

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