

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

I have examined this Resolve and find no authority in it or in any other statute for you to enter into an agreement with a private corporation, giving them any additional flowage rights to operate their plant. That is something that will have to be worked out between Mr. Carville and the others who are raising the money to complete the project. The Resolve provides only for an appropriation of \$6000 for this purpose, with the proviso that the State shall not be liable for more than one-half of the cost of said dam and screen. So it seems to me that you can only go up to \$6000 under your authority from this Resolve, and anything further must be worked out with the Megantic Fish and Game Association or others who have interests in this dam.

RALPH W. FARRIS
Attorney General

September 9, 1949

To the Milk Commission
Re: Sales to State Institutions

This will reduce to writing as briefly as possible the verbal counsel which I have given to the Milk Commission on two occasions with respect to the status of State Institutions in connection with the Milk Control law.

Section 1 of that law contains definitions as to the meaning of words used in that law. The word "person" is defined as any person, firm, corporation, association or other business unit. The word "consumer" is defined as any person other than a milk dealer who purchases for fluid consumption. It is a fundamental rule of construction that when a series of words is followed by a phrase such as the phrase used in the definition of person, "or other business unit," such phrase means other things of the same general class as those specifically named. It is obvious, then, that as defined by the Milk Control law, the State of Maine is not a person; and if it is not a person, it follows that it is not a consumer. Therefore, such State institutions as come within the operating functions of the executive departments of the government of the State of Maine are not persons within the meaning of the definition, and therefore are not consumers within the meaning of the statutory definition.

It follows, then, that the Milk Commission cannot set a minimum price at which dealers may sell milk to a consuming unit which is neither a consumer nor a person within the statutory definition.

At the request of the Commission I prepared the original draft of what, I am told, is now paragraph 12 of the Commission's regulations. Several copies of this draft were presented by me to the Board's meeting on July 21st, at which meeting the draft was discussed, together with its implications. Following that time, the secretary of the Commission came to the Attorney General's office with a re-draft of the same material, which we edited, and which I am now told, has been issued as paragraph 12. I do not at this writing have before me a copy of the material promulgated.

JOHN S. S. FESSENDEN
Deputy Attorney General