

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

There is a provision in the same section of law for acceptance of these items by gift, should they be offered by the Federal Government or by any person, firm, or corporation.

NEAL A. DONAHUE
Assistant Attorney General

March 12, 1951

To H. H. Chenevert, Milk Commission
Re: Hearings

. . . As you know, the Milk Commission Law contemplates that the Commission shall act on the basis of evidence obtained at public hearings and after investigations. While the law does not specifically so state, it is believed that, if the Commission is acting upon investigational material, such material, as a matter of public policy, should be made public at a public hearing, so that persons interested will have an opportunity to be heard thereon.

We were informed that in holding hearings it has been the custom, when questions were asked, for the chairman to state that the witness may answer if he chooses. In view of the fact that the Commission has the authority to subpoena witnesses and to examine persons under oath, it appears to this office that an opportunity should be given for cross-examination and that the witness should not be instructed that he may answer if he chooses. A witness, of course, should not be compelled to answer any questions the answer to which might tend to incriminate him; but since the law contemplates that the Commission shall act on evidence it is a basic element of a fair hearing that there be an opportunity to cross-examine. This does not mean that there must be cross-examination, but only that an opportunity be given to interested parties.

JOHN S. S. FESSENDEN
Deputy Attorney General

March 14, 1951

To William O. Bailey, Deputy Commissioner of Education
Re: Approval of Plans for Schoolhouses

. . . Your specific question is whether school district trustees have the authority to select a location and build a schoolhouse without the approval of the superintending school committee of the town.

The statute referred to recites: "A plan for the erection or reconstruction of any schoolhouse voted by a town shall first be approved by the superintending school committee; and in case no special building committee has been chosen by the town, said superintending school committee shall have charge of said erection or reconstruction; provided, however, that they may, if they see fit, delegate said power and duty to the superintendent of schools."

The first part of this sentence is pertinent to the question at hand. A plan for the erection or reconstruction of any schoolhouse voted by a town shall