STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

as the school committees or school directors of said administrative units agree upon and prescribe, and the school committee or school directors of the administrative unit in which such children reside shall pay the sum agreed upon out of the appropriations of money raised in said administrative unit for school purposes. It shall be the duty of any superintending school committee, community school committee or board of school directors to accept tuition pupils from any nearby administrative unit that has a total April 1st resident pupil count of 10 or less pupils when so requested by the state board of education. Except as above provided, a child may attend a public elementary school in an administrative unit other than the administrative unit where he lives with his parent as defined in section 44, after having obtained the consent of the superintending school committee or school directors of such administrative unit, and the parent or guardian shall pay as tuition a sum equal to the average expense of each scholar in such school."

It is clear that under Section 93 when a town maintains an elementary school, the only basis for allowing a pupil to attend school in another town and payment of tuition by the sending town is upon a finding of the school committee that the pupil lives remote from the public school in his own town, except that with approval of the school committee a parent may send his child to another town but the parent must pay the tuition and not the sending town.

RICHARD A. FOLEY

Assistant Attorney General

May 24, 1961

To: Raeburn W. Macdonald, Chief Engineer of Water Improvement Commission

Re: Legislative Document #316

We have your request of May 22, 1961 for an opinion as to certain aspects of Legislative Document #316 (An Act Relating to Pollution Abatement). It is our understanding that you wish advice as to whether or not this proposed legislation, if enacted, would enable the Water Improvement Commission to make additional grants for municipal pollution abatement programs already under way, when and if this legislation becomes effective.

The general rule of statutory construction is that all laws are prospective and not retrospective unless it is the plain intent of the legislature that the law be retrospective. *Bowman v. Geyer,* 127 Me. 354; *Nichols v. Nichols,* 118 Me. 24; *Central Maine Power Co. v. Public Utilities Commission,* 150 Me. 269.

This legislation would affect projects or portions of projects begun or carried on after the effective date of the law. In light of this, the answers to your specific questions are as follows:

(1) No additional funds could be granted under this legislation to a municipality which had already been granted State funds for a project finally concluded in all respects before the effective date of L.D. #316.

(2) No additional contribution could be made to a municipality engaged in a project which was physically complete but on which State and Federal contributions were still due.

(3) In the situation in which an application for funds was made and granted and the construction was under way and State payments partially made, additional payments could be made to the municipality on the work still remaining to be done, on the date on which this legislation goes into effect. These additional funds could be granted upon supplementary application by the municipality, but would be limited to a percentage of the total cost of the project, which percentage would be based upon the amount of work still remaining to be done on the effective date of this legislation.

(4) The answer to number (3) would not be altered by the fact that no State payments had been made to the municipality. Additional payments must be limited to the work remaining to be done upon the effective date of this legislation.

(5) Grants made upon any application between now and the date upon which this legislation becomes effective must be limited in accordance with the statute now in effect and cannot be based upon the payment schedule contained in L.D. #316. This does not mean, however, that supplemental application could not be made in accordance with (3) above.

(6) See answer to (3) above.

THOMAS W. TAVENNER

Assistant Attorney General

May 26, 1961

To: Walter B. Steele, Jr.
Executive Secretary
Maine Milk Commission
Augusta, Maine

Dear Mr. Steele:

We have your memo of May 5 in which you question the practice whereby certain grocery chains doing business in Maine require the milk dealers servicing them to date-code their milk and provide a fresh supply in entirety at least as often as every three days.

You state that "Obviously, this creates an additional cost to dealers since they are compelled to replace any three day old milk even though it is still perfectly fit for human consumption. This is especially true of milk carried over a week end by the store. Additionally, dealers so affected must comply or risk the loss of their market to a competitor who would provide this service."

With respect to this practice you ask whether this type of dealer-store relationship falls into a "guaranteed sale" category and, as such, becomes an added service which could be considered contrary to the provisions of the Maine Milk Commission Law.

We can find no section of the Maine Milk Commission law (Chapter 33, R. S. 1954 as amended) which is violated by this practice, nor can we find any reference in the law to "guaranteed sales."

The thought has been expressed that perhaps the practice in question may be prohibited by that portion of section 4 of chapter 33 which provides that "it shall be unlawful for any person to engage in any practice destructive of the scheduled minimum prices for milk established under the provisions of this Chap-