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## Court Decision Upholds Ag Research Bill

Commonwealth Court said last week that the state attorney general has no power or authority to suspend a state law because he finds it unconstitutional.

The court upheld the constitutionality of a bill Atty. Gen. Israel Packel had ruled unconstitutional, creating a 17-member committee to disburse about \$400,000 annually for agricultural research projects.

The impetus for the legislature to create the 17-member panel was widespread criticism of the research projects chosen by Agriculture Secretary Jim McHale.

The state's most prominent farm organizations said McHale was using the \$400,000 in state harness racing revenues for general social problems of rural areas rather than for strict agricultural research.

"The only branch of government that has the power to declare a law unconstitutional is the judiciary," said Commonwealth Court in an opinion by President Judge James S. Bowman.

"If the attorney general had this power, he would seriously evade and encroach upon this

area judicial responsibility and possess an effective veto over legislation greater than that enjoyed by the governor, which is clearly evident under the facts of this case."

The legislature established the 17-member committee last year by overriding Gov. Shapp's veto — the first time in modern state history that a gubernatorial veto was over ridden.

On the eve of the committee's first meeting this year, Packel issued a formal opinion that eight of its members, representing farm groups, had a special interest in how the \$400,000 would be used and could not constitutionally serve on the panel.

The opinion stripped the eight farm representatives of their membership and gave the Shapp administration a 5-4 edge among the remaining members.

"The Commonwealth has argued alternatively that the statute is unconstitutional as an improper delegation of authority, as a usurpation of the governor's power of appointment, and as special legislation," the court said.

"Since we find none of these arguments compelling, we must

sustain the constitutionality of the act."

Bowman wrote that the attorney general has the right and duty to begin court action to get a judicial determination on a statute he believes to be unconstitutional.

Bowman cited only one possible exception to the rule that of constitutional questions must be decided by the courts — cases where the U. S. Supreme Court declares unconstitutional a law identical or similar to a Pennsylvania Statute.

The ruling gave the state 30 days to file an answer to the complaint filed by six of the farm representatives who were bumped from the agricultural research committee by Packel's ruling.

All six are members of the State Council of Farm Organizations, headed by Burton Hetherington, a Berwick farmer and a persistent critic of the Shapp administration's agricultural policies.

## Sept. Order 4

### Milk Prices

Base milk price \$8.47  
Excess price \$7.00

Butterfat differential \$.099++

Interstate Milk Cooperative members received a premium of \$1.76-cwt. over Order 4 Prices.

+Producers shipping to plants located within 55 miles of Philadelphia receive an additional .06 per hundredweight.

++Butterfat differential is .099 per point above or below 3.5 percent.

The Sept. uniform price for base milk increased 55 cents from the previous month. Excess milk showed an increase of 49 cents.

In comparison to Sept. levels one year ago, base milk was up \$1.36 and excess up \$1.83.

The weighted average price for the market was increased \$1.41, above Sept. 1972.

A total of 350 million pounds of producer milk was pooled in Sept. of which 66.07 percent was sold as Class I, showing an increase of 1.94 percent of deliveries made in August, and decreased .53 percent below Sept. a year ago. 7989 Order No. 4 producers provided 11.6 million pounds per day to dealers during Sept. averaging 1460 pounds per day per farm. Total value of producer milk was set at \$29,075,456.94 for the month.

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