

MAINE STATE LEGISLATURE

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PUBLIC DOCUMENTS

OF THE

STATE OF MAINE

BEING THE

REPORTS

OF THE VARIOUS

**PUBLIC OFFICERS
DEPARTMENTS AND
INSTITUTIONS**

FOR THE TWO YEARS

JULY 1, 1926 - JUNE 30, 1928

PUBLIC DOCUMENTS, 1926-28

(Explanatory Note)

Three reports in this volume cover periods in variance with the given biennium. They are as follows:

1. The report of the Attorney General covers the period from 1924 to 1928.
2. The report of the Bangor State Hospital covers the period from 1919 to 1928.
3. The report of the department of Inland Fisheries and Game covers the fiscal year ending June 30, 1928. No printed report was made for the fiscal year ending in 1927.

STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

JUNE 30, 1926

PRESS OF MERRILL & WEBBER CO.
AUBURN, MAINE

of the Revised Statutes, evidently related to the transfer of insane or feeble minded persons from the various institutions therein mentioned, to the insane hospitals or the school for feeble minded, but does not repeal or modify Section 50 of Chapter 145, Revised Statutes, relating to the discharge of inmates of the said school. It is, therefore, our opinion that an inmate may be discharged in accordance with the provisions of Section 50, Chapter 145, Revised Statutes.

Very truly yours,

SANFORD L. FOGG,
Deputy Attorney General.

July 31, 1925.

*C. F. Kendall, Commissioner, State Department of Health,
Augusta, Maine.*

DEAR DR. KENDALL: Answering your letter of July 28th, in which you ask the opinion of this department whether or not the road side lunch places should be licensed under the provisions of the innholders and victualers law.

The law relating to innholders and victualers is a very old statute and as far as it relates to innholders it concerns those who hold themselves out as furnishing lodging, food and entertainment to all who apply. The victualer is a person who attempts to do all that the innholder can do except furnishing lodging and his business is to furnish such to all who apply.

It is our opinion that the roadside lunch place, tea room etc., many of which are in existence now, do not come within the provisions of the statute to which you refer. As indicative of the construction placed on this innholders and victualers act, we find in the statutes a later law providing that the municipal officers may license persons who desire to maintain a lunch wagon. This latter act being passed in 1909 and is now Section 30 of Chapter 31 of the Revised Statutes. It was evident then that the innholders and victualers law did not apply to the person desiring to conduct a lunch wagon.

In case it is thought wise to have the roadside store placed

within the power of the municipal officers to license, it is my opinion that a special act of the legislature is necessary.

Yours very truly,

SANFORD L. FOGG,

Deputy Attorney General.

February 25, 1926.

C. F. Kendall, M. D., Health Commissioner, Augusta, Maine.

DEAR SIR: I am pleased to acknowledge receipt of your letter of February 23rd, in regard to the signing of birth and death certificates.

Section 19 of Chapter 64 of the Revised Statutes, provides that the attending physician, accoucher, midwife or other person in charge, who shall attend the birth of any child, living or stillborn, within the limits of any town or city within this state, shall report to the clerk of such town or city within six days thereafter all the facts regarding such birth, as required by Section 18. From this it is evident that the osteopath, et als, mentioned in your letter can report the facts.

Section 21 of said chapter provides that a physician who has attended a person during his last illness shall within twenty-four hours after the death of said person, make a certificate, etc. It will be noticed that a physician must make a certificate.

As far as I have been able to ascertain our court has never decided as to whether or not one practicing chiropractic or osteopathy can properly be called a physician. It has been held in other states that the word "physician" in the statutes with reference to the practice of medicine does not include an osteopath, as osteopathy teaches neither therapeutics, materia medica, surgery, nor bacteriology, but rests entirely upon the manipulation of the body for the cure of the disease.

Consequently there is some doubt as to the right of the osteopath, et als, to sign death certificates.

Section 24 of said Chapter 64, provides that whenever any deceased person did not have the attendance of a physician in his or her last sickness, the town clerk may issue and sign a certificate of death upon presentation of such facts as may be obtained from relative or persons in attendance on said deceased