

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1947 - 1948**

You also inquire whether these grants shall be paid monthly or semi-monthly. The policy as expressed at the last session of the legislature, was that grants shall be paid semi-monthly. I believe that we should follow this policy although there is no express provision for semi-monthly payments in Chapter 386, P. L. 1947. I also believe there should be uniformity as to time of payments in both departments, consequently semi-monthly payments should be adopted.

ABRAHAM BREITBARD  
Deputy Attorney General

July 25, 1947

To Earle R. Hayes, Secretary, Employees' Retirement System

I have your memo of July 18th, asking me if I agree with your interpretation of the provisions of Section 8 of Chapter 60, as amended, which is as follows:

“When any pensioner is restored to service, (reemployed by the State) his Retirement benefits need not necessarily be suspended unless the amount of compensation which he is paid upon such reemployment, plus his Retirement benefits which he is receiving at the time, amount to or exceed the average amount of final compensation which said pensioner was receiving at the time he retired.”

After reading the amended Section 8 of Chapter 60, which is now Chapter 384, P. L. 1947, I agree with your interpretation as stated in your memo of July 18th.

RALPH W. FARRIS  
Attorney General

July 28, 1947

To Col. Laurence C. Upton, Chief, Maine State Police  
Re: AN ACT Preventing Drinking in Public Places, Chapter 363, P. L. 1947

I received your memo of July 21st, stating that the Maine State Sheriffs' Association and the State Police are preparing material for distribution to your various law enforcement agencies, regarding the above captioned law, which becomes effective August 13, 1947. You further state that there appears to be some confusion as to what constitutes a “public place” as set forth in Section 2 of the act, and you ask, “Under the terms of this law, would a hotel diningroom, or lobby, a restaurant, an outdoor eating place such as a lobster pound and public bathing beaches be considered public places?”

Since the date of this memo I have had a conference with you in my office relating to this matter and we found that the new draft of this bill, Legislative Document 1391, contained the words in subsection II, “any building, conveyance,” but that these were stricken out after the committee on temperance reported this bill, and the following words substituted therefor, “any common carrier.” It seems to us that the action of the legislature in deliberately striking out “any building,” removes a hotel diningroom, lobby,

or restaurant from the definition. If you will note, subdivision I of the act reads: "Any person taking a drink of liquor, or offering a drink of liquor to another, or any person in charge of a public place as hereinafter defined, etc." You will note from this language in the first paragraph of the act that this law is only intended to cover such places as are defined as "public places" in subsection II, which reads as follows: "any common carrier, dance, entertainment, amusement, or sport, or grounds adjacent thereto and used in conjunction therewith, or any highway, street or lane to which the public is invited or has access." This would seem to me to include an outdoor eating place such as a lobster pound or public bathing beach, as the public are invited and have access to such places.

RALPH W. FARRIS  
Attorney General

July 31, 1947

To David H. Keppel, Deputy Commissioner, Health and Welfare  
Re: Fair Hearing—Delay of Action by Department

I have your memo of July 25th referring to memorandum which I gave Dr. L. D. Bristol, dated May 21, 1947, relating to a fair hearing as the result of delay of action by your department in granting old age assistance. You call my attention to the Conference which was held in my office on May 22nd, attended by members of the administrative staff of the Department of Health and Welfare, including Dr. Bristol and yourself, and Miss Eleanor A. Schopke, regional representative of the Social Security Administration.

You state that it was your understanding as a result of that conference that another opinion would be submitted by me in view of the wishes and attitudes of the Social Security Administration and the prescribed procedures outlined by them in their handbook of Public Assistance Administration.

This handbook material consists of Part 4, Section 6430, etc., item I being entitled "Interpretation of Right to Fair Hearing."

In my memo of May 21st to Dr. Bristol I stated in the last paragraph that I felt that there was no appeal for delay under our Maine statute. That was a matter which should be taken up with Mr. Haines and the Public Assistance group in your department, but no definite ruling was made. At the end of the conference with the members of the administrative staff and Miss Schopke I stated that I would issue a ruling that the department could make a regulation that would coincide with the Social Security Administration's interpretation of the right to fair hearing, provided that the applicant could appeal to the Commissioner if he was aggrieved by unreasonable delay in acting upon the application for assistance, without doing violence to the right of appeal statute set forth in Section 262, Chapter 22, R. S. 1944, which provides that any person . . . who is aggrieved by a decision of the department . . . shall have a right of appeal to the commissioner who shall provide the appellant with reasonable notice and an opportunity for a fair hearing; and as I stated on May 22nd at the conference in my office, there is nothing in this section in regard to the right of appeal by reason of the department's not acting within a reasonable time upon an application for assistance.