

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

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.

In order to cooperate with the Social Security Administration, I rule that the Commissioner will be justified in allowing that item in the interpretation of the right to a fair hearing as set forth in the handbook of the Public Assistance Administration.

RALPH W. FARRIS
Attorney General

July 31, 1947

To David H. Stevens, Commissioner of Health and Welfare
Re: Law Relating to the Confidential Nature of Records

I have your memo of July 31st stating that representatives of the Social Security Administration have expressed concern in regard to possible violations of the State law and incidentally the Social Security Act, relating to the confidential nature of records. You state that there have apparently been some rumors that the information made available to the State Legislature in regard to recipients of old age assistance and aid to dependent children has been handled in such a manner, presumably by individual members of the legislature, that our State law in regard to the confidential nature of this material has been violated. You further state that such information as your department has available consists merely of rumors and no specific member of the legislature is involved.

You also state that when you discussed this matter with representatives of the Social Security Administration, you suggested that it might be advisable for this office to write to the members of the legislature, reminding them of the provisions of our State law, and you inquire whether or not I believe it desirable to write to all members of the legislature.

In my opinion I deem it inadvisable to write to any member of the legislature unless we have specific evidence that some member has violated the statute in this regard. In writing to all members we should be casting reflections on all of them; and while one or a few might be violators, it would not bind the State of Maine. I should like to have specific information and evidence that a particular member of the legislature has violated the statute in regard to confidential records before I act, so that I can take it up with that member individually and the other members will not know anything about it. Under our form of government, the law-making body is the superior power in the State and municipal law is a rule of action prescribed by a superior power in the State, commanding what is right and prohibiting what is wrong. If the legislature has declared that the use of such records, papers, files and communications of the Department of Health and Welfare is limited by law to the purpose for which they are furnished by any other agency or department of government, the fact that some member of another department of the State government violated this provision of the legislature would not in any way bind the whole department or even the State of Maine; but such violators should be ferreted out and called to account. Of course allegations cannot be based on rumors, because anyone accused of violating laws has a right to be heard in his defense. That is the reason I should like to know the name of the member of any department of government who has violated the law regarding confidential records in your department.

RALPH W. FARRIS
Attorney General