STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

I am therefore of the opinion that a mill or other manufacturing plant would be included within the terms of this statute, and the owners would be obliged to comply therewith.

ABRAHAM BREITBARD
Deputy Attorney General

September 30, 1947

To Homer M. Orr, Purchasing Agent
Re: Supplies for State Institutions

Receipt is acknowledged of your memo of September 25, 1947, regarding purchase of milk for State institutions, or advertising for bids.

Authority for this purpose is vested only in the Bureau of Purchases, and consequently under the provisions of Chapter 14, Section 35 et sequitur, the State Purchasing Agent is the only one who may purchase or contract for supplies, after requesting bids therefor.

ABRAHAM BREITBARD
Deputy Attorney General

October 6, 1947

To David H. Stevens, Commissioner of Health and Welfare
Re: Review of Opinions regarding OAA, ADC and AB, July 1 and 8, 1947, by Assistant Attorney General Bird

I have your memo of October 6th stating that "in view of the number of hardship cases that have occurred, and also because of the questions which have been raised as to the soundness of the legal interpretation whereby income must be deducted from the maximum grant, I am writing to ask you to review these opinions as they relate to this subject in connection with Old Age Assistance, Aid to Dependent Children, and Aid to the Blind."

In reply to your memo I will say that I have studied the three opinions rendered by Mr. Bird as of July 1st and 8th, 1947, and I am hereby revising said opinions of Mr. Bird to conform more to the spirit and intent of the law.

On July 1st Mr. Bird rendered an opinion on Aid to Dependent Children, consisting of five pages which contain construction of many words in the statute; but I have to deal in this opinion only with the last paragraph of said opinion on page 5, which reads as follows:

"It is my opinion that the administrative agency in fixing the amount of the grant to a recipient in Aid to Dependent Children cases should first determine the resources of the recipient and the expenditures necessary to provide a reasonable subsistence as defined herein. The grant should be the difference by which the total expenditures or the statutory maximum, whichever is the lesser amount, exceeds the resources. . . ."

In revising this opinion I have studied carefully the amendment contained in Section 2 of Chapter 370, P. L. 1947, and I note that the legislature has not changed the language relating to due regard to the resources and necessary expenditures of the family and the conditions existing in each case,

"when added to all other income and support available to the child, to provide such child with a reasonable subsistence compatible with decency and health," but it did write in the following language by way of amendment, "but not exceeding $50 per month for such dependent child. . ."

It is my opinion that the legislature set a maximum amount of the grant for such dependent child; but the income and resources should not be deducted from the maximum amount in determining what is a reasonable subsistence compatible with decency and health for such dependent child, under the rules and regulations of the department.

On July 8th Mr. Bird, then Assistant Attorney General, rendered your department two opinions, one relating to Old Age Assistance and the other relating to Aid to the Blind.

The Old Age Assistance opinion construed the provisions of Section 260 of Chapter 22, R. S., as amended, and he stated in the last paragraph of said opinion, on page 3:

"It is my opinion that the administrative agency, in fixing the amount of the grant to recipients in Old Age Assistance cases, should first determine the resources of the recipient and the expenditures necessary to provide a reasonable subsistence, as defined herein, (compatible with decency and health, but not exceeding $40 per month.) The grant should be the difference by which the total expenditures or the statutory maximum, whichever is the lesser amount, exceeds the resources."

I have reviewed the statute in this case as amended in the 1945 and 1947 legislatures, and I am constrained to reverse this opinion by advising you that it appears to me that the legislature did not intend, after adding the income and other resources of the recipient, that this amount should be deducted from the $40 which is the maximum grant to be made under the statute, and that your department should determine the amount of assistance which any person should receive on a budgetary basis with due regard to the conditions existing in each case and in accordance with the rules and regulations made by the department; and this assistance should be sufficient when added to all other income and support of the recipient, to provide such person with a reasonable subsistence compatible with decency and health, and income should not be deducted from the maximum grant.

The other opinion of July 8, 1947, relates to Aid to the Blind, Section 285 of Chapter 22, R. S., as amended by Sections 3 and 4 of Chapter 251, P. L. 1945.

In this opinion Mr. Bird stated in the last paragraph of the third page thereof, "It is my opinion that the administrative agency in fixing the amount of the grant to a recipient in Aid to Blind cases should first determine the resources of the recipient and the expenditures necessary to provide a reasonable subsistence as provided herein. The grant should be the difference by which the total expenditures or the statutory maximum, whichever is lesser in amount, exceeds the resources."

Section 285 of Chapter 22, as amended, reads as follows:

"The amount of aid which any such person shall receive shall be determined on a budgetary basis with due regard to the conditions existing

in each case and in accordance with the rules and regulations made by the department. This aid shall be sufficient, when added to all other income and support of the recipient, to provide such person with a reasonable subsistence compatible with decency and health, but not exceeding $40 per month."

In this case I rule the same as I did in the Old Age Assistance case, that the income should not be deducted from the maximum grant in arriving at the amount of relief that each person should receive under this statute.

RALPH W. FARRIS
Attorney General

October 7, 1947

To Hon. Horace Hildreth, Governor of Maine
Re: Letter, Col. Loring F. Stetson, Jr., to Governor Hildreth regarding personnel stationed at Dow Field—hunting licenses

To clarify the situation for the colonel, I think the section of the law applicable would be helpful. Section 58, subsection V, of the Inland Fish and Game Laws, is as follows:

"V. Any citizen of the United States shall be eligible for any resident (fishing or hunting) license required under the provisions of this chapter, providing such person is domiciled in Maine with the intention to reside here, and who has resided in this state during the 3 months next prior to the date an application is filed for any license under the provisions of this chapter."

As used in this statute, domicile with the intention to reside here would be the same as that required in order to be eligible to vote here, except that in the latter case six months must elapse after the domicile is established, while here it is three months. "Domicile" has been defined to mean that place where a person has his fixed habitation with the intention to make it his permanent home. To constitute a permanent residence, the intention must be to remain for an indefinite period.

Applying these principles generally you have a situation where these men are stationed at this airfield in Bangor, which would not be a residence of their choice, but rather selected by the military authorities as the place where they are to be stationed. They come from different parts of the country, where presumably they have their domiciles and intend to return to their domiciles of origin just as soon as their terms of service in the Air Corps expire; or if they are regulars, then wherever they may be transferred. It is thus doubtful whether any of the personnel has formed an intention to remain permanently in Maine. Assuming that there may be some . . . who are married and residing with their families in the city of Bangor or off the government reservation, it is true that the latter may abandon their former domicile and establish a domicile here, by intending to make this their permanent domicile and with the intent to return here, irrespective of where they may be transferred. As to this phase, each case would have to be examined and decided on its own facts.