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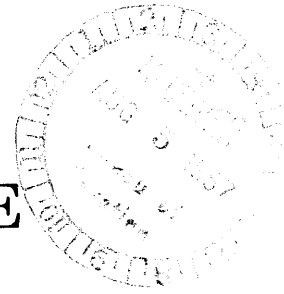
STATE OF MAINE



REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1955 - 1956

less such other person was using the vehicle without the express or implied consent of the owner.

JAMES GLYNN FROST
Deputy Attorney General

October 2, 1956

To Captain Lloyd H. Hoxie, Maine State Police

Re: Records of Juveniles

You ask whether or not the records of juveniles in your custody can be made available to bona fide law enforcement officers and agencies.

Answer. Yes. Making such records available to law enforcement officers is not making them available to the public.

In response to your further request we herewith give you the statutory citations that deal with the records of juveniles:

Chapter 146, Section 4, R. S. 1954: "Records of such cases shall not be open to inspection by the public except by permission of the court."

Chapter 27, Section 77, R. S. 1954 (Juveniles committed to the State School for Boys): "The records of any such case by order of the court may be withheld from indiscriminate public inspection. Such record shall be open to inspection of the parent or parents of such child or lawful guardian or attorney of the child involved."

An identical provision appears in Chapter 27, Section 89, R. S. 1954, in the case of juveniles committed to the State School for Girls.

JAMES GLYNN FROST
Deputy Attorney General

October 8, 1956

To Samuel S. Silsby, Jr., Assistant Director of Legislative Research Committee

Re: School Milk

Your memorandum of September 17, 1956, is as follows:

"The Legislative Research Committee requests an opinion of the Office of the Attorney General relative to the price-fixing jurisdiction of the Maine Milk Commission, specifically with reference to school milk, so called, financed wholly or in part by federal funds."

The school lunch program is authorized by Chapter 41, Sections 219-222, R. S. 1954. Section 221 reads in part as follows:

> "The superintending school committee of any town may establish, maintain, operate and expand a school-lunch program for the pupils in any school building under its jurisdiction, may make all contracts necessary to provide material, personnel and equipment necessary to carry out the provisions of the act, ..."

On April 26, 1956, in a memorandum to the Legislative Research Committee, we re-affirmed two previous opinions that the State was not subject to the milk

control law. Following the same rule of law, and not considering the question of the source of funds, it is our opinion that the superintending school committee, in entering into a contract to provide milk for a school-lunch program, is excluded from the provisions of this law.

FRANK F. HARDING
Attorney General

October 12, 1956

To Captain John deWinter, Director, Traffic Division, State Police

Re: Defrauding an Innkeeper

We have your request in regard to defrauding an innkeeper.

Section 44 of Chapter 100 provides:

> "Whoever obtains food, lodging or other accommodations at any hotel, inn, boardinghouse or eating house, with intent to defraud the owner or keeper thereof, shall be punished by a fine of not more than $100 or by imprisonment for not more than 3 months."

You can see that this is an intentional crime and that the intent must be proved. At common law a mere failure, refusal or inability to pay does not constitute the offense contemplated by the statute. There must be an intent to defraud existing at the time the board or other accommodation is obtained. To overcome the common-law rule, Section 45 of Chapter 100 provides that certain acts shall constitute *prima facie* proof of the fraudulent intent. Among these acts are refusal to pay on demand or absconding without paying or offering to pay for the accommodations received. This, of course, is *prima facie* only, and the burden is on the respondent to rebut it.

The question of arresting under certain circumstances is raised. For instance, assuming, as you state, that a person has defrauded an innkeeper by refusing his bill, that an officer is outside the establishment, and that the complainant follows the alleged respondent out and tells the officer the facts, can the officer under such circumstances make an arrest without a warrant?

The answer to that particular problem is, No. See *Palmer* v. *M. C. R. R.*, 92 Me. 399, which, of course, was a civil case, involving false imprisonment. In that case the original defendant was a passenger on the plaintiff railroad. He refused to state to the conductor whether he was the person named on the proffered railroad ticket. The conductor then refused to accept the ticket and demanded cash fare. The defendant refused, and upon getting off the train, the conductor caused a constable to arrest him on a charge of fraudulently attempting to evade payment of his fare. The defendant was subsequently found not guilty of the charge and sued the railroad, in the above cited action, for the act of its agent, the conductor. In this instance the court covers the field of arrest and states that a private individual may arrest for an affray or for a breach of the peace committed in his presence and while it is continuing. In this instance they decided that the alleged offense was not a breach of the peace. In attempting to justify, the defendant railroad used that section of the Revised Statutes which says that every officer shall arrest and detain persons found violating any law of the State until a legal warrant may be obtained. The court held that the statute did not aid