

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

Walter F. Ulmer, Commissioner

Legality of Premature Establishment and Operation of Bureau of Mental Retardation.

FACTS:

The 103rd Legislature of the State of Maine, at the Special Legislative Session held January 9 – 26, 1968, enacted legislation for the purpose of establishing the Bureau of Mental Retardation. *P. L., 1967, c. 535*. The reference measure adds a new chapter to Title 34 of the Maine Revised Statutes, i. e., Chapter 184. (It is noted that the effective date of the Act is July 1, 1969.)

“ § 2061. Bureau of Mental Retardation. The Department of Mental Health and Corrections shall be responsible for the direction of mental retardation programs in the institutions of the department and shall be responsible for the planning, promotion, coordination and development of a complete and integrated state-wide program for the mentally retarded and shall serve as liaison, coordinator and consultant to the several state departments in accomplishing the provision of such comprehensive service. There is created within the department a Bureau of Mental Retardation to carry out these responsibilities.”

Your memorandum recites that the Governor has designated the Department of Mental Health and Corrections as the Mental Retardation Planning and Plan Implementation Agency for the State of Maine.

QUESTIONS:

1. Does *P. L., 1967, c. 535* limit the Department of Mental Health and Corrections in establishing, within its administrative structure, a section on mental retardation which would later become the Bureau of Mental Retardation as defined in Chapter 535?

2. Would the premature establishment of some type of organizational mechanism to handle mental retardation problems be contrary to the intent of *P. L., 1967, c. 535*, i.e., that organization be established on and after July 1, 1969?

ANSWERS:

1. No.
2. No.

REASON:

P. L., 1967, c. 535 does not limit the Department of Mental Health and Corrections re establishment of a section on mental retardation for the reason that the provisions of chapter 535 are not presently operative and are not, for that reason, applicable. Too, any premature establishment of “some kind” of department organization for the purpose of processing mental retardation problems would not be contrary to the intent of chapter 535. The legality of the premature establishment of “organizational mechanisms” in the Department of Mental Health and Corrections must be rested upon existing Maine law.

In our view, the language in 34 M.R.S.A. § 2001 defining the purpose for the creation of the Bureau of Mental Health is sufficiently broad as to encompass the present

establishment of administrative procedures to be utilized to handle mental retardation problems; provided, of course, that both funds and personnel are available.

JOHN W. BENOIT
Assistant Attorney General

March 7, 1968
University of Maine – Orono

Jay Bryant, Producer-Director

Town Meeting and Right of Privacy

FACTS:

It is proposed that the Maine Educational Television Network Televis a town meeting live.

QUESTION:

Whether a town meeting is a "public" event, in the sense that persons who participate in it are, by that fact, abrogating their rights to privacy for the period of the meeting.

OPINION:

Yes, to a limited extent.

REASON:

A town meeting exists for the purpose of accomplishing both legislative and executive functions. The powers of the town are exercised by vote of a town meeting *Pollard v. City of Norwalk*, 142 A. 807, 108 Conn. 145; *In re Opinion of the Justices*, 154 A. 647, 51 RI 322. The qualified inhabitants of a town must meet, deliberate, act, and vote in their natural and personal capacities if the corporate powers of the town are to be exercised.

The public does have an interest in knowing of most events which occur at a town meeting and certainly of those events which can be said to be truly public in nature. However, there can be no guarantee that the telecasting of those events would not result in litigation being brought against the Network.

Generally, a person's right of privacy is waived (as to publicity of public events) by his participation in the particular public event.

GARTH K. CHANDLER
Assistant Attorney General

March 8, 1968
Labor and Industry

Marion E. Martin, Commissioner

Authority of Commissioner of Labor and Industry to Enter into Reciprocal Agreements with other States.