

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 TWO YEARS ENDING

NOVEMBER 30, 1910.

AUGUSTA

KENNEBEC JOURNAL PRINT

1910

their destruction, and it may prevent the holding of school in the infected room until the room and its contents have been properly disinfected.

It seems inconceivable that any collision or clash of authority could arise between these two boards, but in case of such collision, I feel that the statement as above of their respective powers and duties should guide either body in an honest endeavor to do its whole duty.

You ask further, "what effect chapter 73, Public Laws of 1909, has upon the powers and duties of local boards of health under sections 43 and 44, chapter 18, R. S.," and my reply is that said chapter 73 neither diminishes nor enlarges the powers and duties of the local boards of health.

Respectfully yours,

CHARLES P. BARNES,
Assistant Attorney General.

OFFICE OF THE ATTORNEY GENERAL.

WATERVILLE, MAINE, June 7, 1909.

Subject: Protection of trees and shrubs from the introduction and ravages of dangerous insects and diseases. Certificate on nursery stock shipped into this state from any other state, country or province. Agent's license—R. S. Chap. 15 as amended by P. L. 1909, Chap. 34.

Mr. E. F. Hitchings, Augusta, Maine.

SIR:—You invited my opinion upon two points relative to the purchase and shipment of nursey stock under the provisions of P. L. 1909, Chap. 34.

The first inquiry relates to R. S., Chap. 15, Sec. 4, as amended by said P. L. 1909, Chap. 34. The amended section reads as follows:

"All nursery stock shipped into this state from any other state, country or province shall bear on each box or package a certificate that the contents of said box or package have been investigated by a duly authorized inspecting officer, and that said contents appear to be free from all dangerous insects and diseases."

I have been informed that it has been the practice in the past for owners of nurseries in other states, countries or provinces, to cause their nurseries to be inspected annually and to affix the certificate of such nursery inspection to the goods which they shipped into the State of Maine. While this may have been sufficient prior to the amendment which we are now discussing, it seems to be perfectly plain that the new law contemplates an entirely different thing. Indeed the amendment is so plain that it hardly admits of misunderstanding. It does not matter when or how many times the nursery from which the stock was taken has been inspected or by whom (I am now referring to nurseries outside of the State of Maine), but the present requirement is that each box or package shipped into this State shall bear a certificate that the contents of that particular box or package have been investigated by a duly authorized inspecting officer. I go further and say that in my opinion the intent of the law is that if several packages are contained in one box, then the box itself should bear a certificate and that each package therein contained shall bear such certificate. By this means if there are packages to be delivered to various customers coming in one box, the box itself will be amply protected in transit and each customer will be protected when his package is brought to him after it may have been taken from the box in which it came.

The second inquiry relates to R. S., Chap. 15, Sec. 6 as amended by striking out all of said section and inserting in place therefor the following:

“Agents or other parties excepting growers who wish to sell nursery stock shall make application for an agent’s license and shall file with the state entomologist the names and addresses of nurseries or parties from which they purchased their stock. On receipt of such application the state entomologist shall issue an agent’s license valid for one year in such form and with such provisions as the commissioner of agriculture may prescribe. Such license may be revoked at any time for failure to report names and addresses of nurseries from which stock is purchased or for such other causes as may in the opinion of the commissioner of agriculture be deemed sufficient. Any violation of this requirement shall be fined not less than ten nor more than fifty dollars for each offense.”

I confess that the intent of the legislature with reference to this amendment is not wholly free from doubt. The words "agents", "sell", "purchase", if used in a strict legal sense might lead us to one conclusion while if we attempt to ascertain the purposes for which the act was drawn and the evils which it intended to correct one might reach another conclusion. Adopting the latter method of interpretation, I am constrained to believe that the legislature intended that each person soliciting an order for nursery stock should have a license under the provisions of Sec. 6, and that a license issued simply to some person, firm or corporation employing solicitors would not meet the intent of the law or prevent the evils which the amendment was designed to correct.

Respectfully yours,

WARREN C. PHILBROOK,
Attorney General.

OFFICE OF THE ATTORNEY GENERAL.

WATERVILLE, MAINE, Oct. 20, 1909.

Subject: State School for boys—Powers of Trustees
relating to probation and release.

E. P. Wentworth, Supt, Portland, Maine.

SIR:—Your favor of Oct. 16th is at hand, with the following statement of facts and questions:—

"A certain boy in the State School for Boys is deemed reformed, and fit to be released from the School. His home in A is believed to be totally unfit for the boy. The Roman Catholic priest in A wishes the boy to be sent to a Roman Catholic school near Quebec, Canada, and the boy's mother consents to his going there for one year.

Question 1—Can the trustees of the State School for Boys lawfully release this boy on probation and send him to the above-mentioned Catholic school?

Question 2—Can the trustees of the State School for Boys lawfully grant this boy his final discharge from this School, and then send him to said Catholic School; or send him to the said Catholic school and then grant final discharge from the State School for Boys?