

MAINE STATE LEGISLATURE

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STATE OF MAINE.

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1910.

AUGUSTA

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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?

In answering the two questions submitted, you and all others interested, will of course readily understand that the question is in no way affected by the character or denomination of the school in question. It hardly seems necessary to say this but I deem it proper and wise to preface my answers with such a statement.

In answering the first question whether the trustees of the State School for Boys may lawfully release a boy on probation and send him to an institution located in Canada, my reply must be in the negative. The provision for probation as applied to boys in your institution is found in R. S., Chap. 143, Sec. 10, and only authorizes the trustees to commit a boy on probation "to any suitable inhabitant of the State." This provision clearly limits the powers of the trustees in that respect. If they exercise the power of probation the commitment of the boy must be to a suitable inhabitant of this State and clearly cannot be extended so as to allow the commitment of a boy to a school in Canada.

Your second question is in two parts and those two parts should be answered separately. The first part of the second question as to whether the trustees of the State School for Boys may lawfully grant a boy his final discharge from the School and then send him to a school in Canada must be answered in the negative. The provision of statute for discharge is found in R. S., Chap. 143, Sec. 7, and is in these words, "The trustees may discharge any boy as reformed." The statute does not give the trustees any power to exercise dominion or control over the boy after this discharge is granted by reason of his reformation. If they discharge him for that reason that closes their control over him unless within the age limit provided by the statute he is recommitted to the school on a new charge.. The second part of the second question should also be answered in the negative for there is no authority in the statute by which the trustees can send one of the inmates of your school to an institution in Canada and that seems to be the condition precedent in the second part of the second question.

I regret that I cannot advise you differently if the welfare of the boy could be greatly promoted by his being sent to the

school in Canada, but I can only advise you as to the powers given you by statute.

Respectfully yours,

WARREN C. PHILBROOK,
Attorney General.

OFFICE OF THE ATTORNEY GENERAL.

WATERVILLE, MAINE, March 31, 1909.

Subject: Fees of officers for commitment to State School for Boys.

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

SIR:—I have the honor to acknowledge receipt of your favor of March 19, 1909, asking opinion upon two questions as follows:

Question 1. Two boys, A and B, are conveyed by a deputy sheriff to the State School for Boys, from the officer's residence in the town of X and committed to the custody of the superintendent thereof by virtue of a single mittimus. The actual distance from the officer's residence in the town of X to the school by the usually traveled route is 150 miles. How much mileage is the deputy sheriff lawfully entitled to receive?

Question 2. If the two boys, A and B, were conveyed to the school at the same time by the same officer, but by virtue of two separate mittimuses, one for each boy, would the total amount of mileage lawfully chargeable by the officer be different from what it would be if the two boys were conveyed upon one mittimus?

Replying to the first question, it is my opinion that for the service of the single mittimus, although two persons were committed thereby, the officer would be entitled to six cents a mile each way, or travel for three hundred miles. The statutory provisions seem plain; "For travel actually performed * * * * six cents a mile each way, from the officer's residence to the place of the service of the precept, by the usually traveled route. * * * * Only one travel shall be allowed for any one precept, and no constructive travel." P. S. C. 117, Sec. 5.