

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

I can appreciate the confusion caused by these two sections. . . The Law Court has held that it assumes that the employee leaves rightfully, when he is entitled to his pay in leaving. In that case he is entitled at once on leaving to the full wages due him, but not to wages that he had forfeited if there is a contract under the provisions of Section 39 of Chapter 25, R. S.

You may advise Mr. Marvin that it is not sufficient to place the statute on the board. It should be done by a contract between the employer and the employees under Section 39, relating to giving one week's notice of intention to quit. The terms are binding upon both parties, once the contract is consummated.

In the case in 114 Maine, *Veitkunas vs. Morrison*, the Court held that the employee was not entitled to recover from the employer in an action to recover pay for one week's labor, having left without one week's notice of intention to leave, under the provisions of the statute.

In regard to the question of reasonable cause of discharge by the employer or of leaving without notice by the employee, I will say that the Maine Labor Law does not cover that question, as it would be impossible for the legislature to cover every state of facts that might arise between an employer and an employee. The question of what constitutes a reasonable cause is left with the employer and the employee in each case of discharge or quitting without notice. If the employer and employee have entered into a contract under the provisions of Section 39 of Chapter 25, R. S. 1944, they should live up to the contract, and that section would, in my opinion, be strictly construed by the Court, because what might be considered reasonable cause by the employer might not be considered reasonable cause by the employee, and vice versa. If an employer discharges an employee who is working under a contract under Section 39, he should pay the week's wage without any quibbling about what is a reasonable cause. This provision was passed on by the Law Court in 91 Maine, page 59, *Cote vs. Bates Mfg. Co.* In this case the defendant claimed that the plaintiff quit work without working a week's notice, and retained one week's wages. The plaintiff claimed that he was discharged without notice and that he was entitled to recover a week's wages due him and another sum equivalent to a week's wages as a forfeiture by defendant. The Court held that the facts of the case did not support the claim of forfeiture by either party and that the plaintiff was entitled to recover the amount due him when he quit work for labor then performed. In this case the mill reduced the rate that the employee was receiving for his work, and the employee refused to work any further at the cut and quit his job. Under these circumstances, the Court held that the plaintiff was justified in leaving and incurred no forfeiture thereby. . . .

RALPH W. FARRIS
Attorney General

May 12, 1948

To Charles P. Bradford, State Park Commission
Re: Power line right of way—Sebago Lake State Park

I have your memo of May 11th, in which you state that the Park Commission has had a request from the Central Maine Power Company to extend power lines beyond the last outlet needed by the State for the new water and

sewerage system. You state that it is your interpretation of Section 23 of Chapter 32, paragraph 1, that the Commission cannot enter into an agreement with the Central Maine Power Company for such a right of way for a period of more than one year; and you state that the State's interests indicate the need of 7725 feet of right of way and private interests beyond will require 5075 feet of right of way; and you ask me to give you my decision and suggestions on this matter.

Your interpretation of paragraph 1 of Section 23 of Chapter 32, R. S. 1944, is correct. That section provides that the Park Commission with the consent of the Governor and Council may sell and convey lands or interests therein, or lease the same, provided no lease shall be for a term longer than one year, etc.

My suggestion to your Commission is that you try to make an agreement with the Central Maine Power Company to grant a right of way for the period of one year, with the proviso that it is to be extended by authority of the next legislature, and the Park Commission will request such authorization from the legislature.

I have talked with a representative of the Central Maine Power Company, and the company feels that it should not run power lines over a right of way which would be leased for only one year, as they have to make five-year or longer contracts with the consumers whom they serve, and it would be very embarrassing and expensive to them to take a lease from the Park Commission for the term of one year and have to vacate after that period without assurance that their lease would not be disturbed after the end of the year.

Another suggestion is that you grant a lease to the Central Maine Power Company for such a right of way for a period of one year, to be extended at the end of each year by the Park Commission with the consent of the Governor and Council for a period of five years or whatever the Commission and the Central Maine Power Company can agree upon.

This is about the only suggestion that I have on this matter, inasmuch as your privilege to lease is limited by law to one year.

RALPH W. FARRIS
Attorney General

May 12, 1948

To Earle R. Hayes, Secretary, Employees' Retirement System

I have your memo of May 10th, based on a discussion which the Board of Trustees of the Retirement System had with me at its last regular meeting, May 7, 1948. The Board requests an opinion as to the payment into the System of back contributions by teachers. You call my attention to the case which was discussed at the Board meeting on May 7th.

You state in your memo that this member did not choose to make contributions to the Maine Teachers' Retirement Association during certain years (so-called "free years") between 1924 and 1930 or during certain years which were prior to his having attained age 25. The then Teachers' Retirement Law provided that teachers need not make contributions during such years, if they did not wish to do so. It was also understood, however, under the old law, that they would receive no credit for such years, unless they did