

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

April 15, 1949

To Marion E. Martin, Commissioner of Labor and Industry
Re: Section 17, Chapter 25

I have your memo requesting a ruling whether Section 17 of Chapter 25, R. S. 1944, would allow youths of fifteen years or under to pile peat moss on drying racks. You state that this is merely a process of placing moss blocks from the ground on to wooden drying racks.

You further state that the Federal Wage and Hour Division has ruled that the drying of sea moss is part of processing and is prohibited work for minors under 16, but call my attention to the fact that your department is, of course, not governed by the Federal Wage and Hour Division for interpretation of the Federal Law as it applies to sea moss drying.

You further state that the process of cutting peat and the conveying of same to the loading places is a mechanical one, but that in view of the weight of the peat moss blocks this does not seem to you to be desirable work for minors under fifteen.

Section 17 as amended by P. L. 1945 and P. L. 1947 provides that no child under fifteen years of age shall be suffered to work in, about, or in connection with any manufacturing or mechanical establishment, laundry, bakery, bowling alley, or pool room, provided that this section shall not apply to minors in public and approved private schools wherein mechanical equipment is installed and operated primarily for purposes of instruction. This section also provides that no minor under 16 shall be employed in any theatre or moving picture house as usher or attendant or in or about a projection booth.

I wrote you on April 30, 1948, on the subject of minors raking and harvesting sea moss, which letter was based on data which you furnished to my office, including a copy of the federal regulations in regard to the employment of minors.

It is my opinion that the provisions of Section 17 of Chapter 25, R. S., with amendments thereto, do not contain any prohibition relating to the employment of children of fifteen years of age or under to pile peat moss on drying racks.

RALPH W. FARRIS
Attorney General

April 15, 1949

To H. A. Ladd, Commissioner of Education

Referring to your memo of March 15th about which I talked with you some time ago, concerning the interpretation of Chapter 37, Section 201, as amended:

You state that a teacher with more than two years of training, but less than three years, is under contract for a salary at the legal minimum of \$1500. In February of the contract year she completes the requirements for three years of training. Under the provisions of Section 201 of Chapter 37 as amended by the Public Laws of 1947, you ask whether the contractual salary remains in force for the life of the agreement, or whether the employing agency is required to increase her salary to the legal minimum, \$1600, as of the date of qualification for the three-year classification.

In my opinion, if there is no provision in the contract for a change thereof, the contract will hold for its term, even though the teacher has, through additional work, fulfilled the requirements for three years of training and will be in the \$1600 legal minimum classification.

However, by mutual agreement between the teacher and the superintending school committee, under these circumstances, an amendment to the contract may be made, to be executed with the same formalities as the original contract, to be effective for the remainder of the term of the contract. There is no provision of statute which requires the superintending school committee, or entitles the teacher, to change the consideration in a contract that has been made for a definite period.

RALPH W. FARRIS
Attorney General

April 19, 1949

To John H. Welch, Administrative Assistant, for Institutional Service
Re: Transfer of Patient

I have your memo of April 18th with abstract of the history at the Augusta State Hospital and correspondence appertaining to this case between the U. S. Public Health Service and the Superintendent of the Augusta State Hospital, relating to the transfer of a patient from the U. S. Marine Hospital on Ellis Island, New York, to the Augusta State Hospital, where he was a former patient, having been finally discharged from said hospital on March 3, 1946.

You call my attention to Section 117 of Chapter 23 of the Revised Statutes of 1944, which provides that the Commissioner of Institutional Service may, upon the request of a competent authority of a State other than Maine, or of the District of Columbia, grant authorization for the transfer of an insane patient directly to a Maine State Hospital, etc.

It is needless to recite this section further, as the authority can come only from a State other than Maine or from the District of Columbia. There is no provision for the request to come from a federal agency, under this section.

Section 118 relates to accepting members of the armed forces of the United States who are residents of this State into either of the Maine State Hospitals.

It is my opinion that under this statute the Commissioner would not be permitted to authorize the transfer of this patient from the U. S. Marine Hospital to the Augusta State Hospital.

RALPH W. FARRIS
Attorney General

April 19, 1949

To Honorable Frederick G. Payne, Governor of Maine

I return herewith letter of April 12th addressed to you by Harold R. Bulger, Jr., with my comments.

The statute in question is not so broad as Mr. Bulger states. A person riding or driving a horse has not the right of way over other vehicles on the