

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

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

highway. The use of reasonable caution, however, is the provision in the statute, which is no more than the general rule: namely, the exercise of due care under the circumstances of the particular situation with which one is confronted. The section of the statute is Chapter 19, Section 111, which is as follows:

“Sec. 111. When approaching frightened animal, vehicles to be stopped if signal is made; passing animal or vehicle from rear. Whoever, driving or operating a motor vehicle upon any way, when approaching from the opposite direction a person riding, driving, or leading a horse or other animal which appears to be frightened, is signalled by putting up of the hand or by other visible sign by such person, shall cause such motor vehicle to come to a stop as soon as possible and remain stationary as long as it may be necessary and reasonable to allow such horse or animal to pass. Whenever traveling in the same direction, the person operating a motor vehicle shall use reasonable caution in passing horses or other animals and vehicles.”

You will notice that when a motor vehicle is approaching from the opposite direction, the person riding, driving or leading a horse or other animal which appears to be frightened, may signal to the motorist, which signal imposes the duty upon the operator of the motor vehicle to stop as soon as possible and remain stationary, giving the horse or other animal reasonable time to pass. When traveling in the same direction, however, the person operating the automobile is required to use reasonable caution in passing the horse or other animal. The first part of this section is quite clear. It requires some signal by the person driving or leading the animals to give warning that the animals may become frightened or are unaccustomed to motor vehicles. The driver of the car must then bring his car to a stop and wait till the animals pass. On the other hand, when the vehicle is traveling in the same direction as the horse, the exercise of reasonable caution is required, and this is governed by the specific situation that arises. For example, a motorist following a horse, when another car is approaching from the opposite direction and the width of the traveled part of the highway is not sufficient for him to pass at a reasonably safe distance from the horse, should slow down and wait until the car coming from the opposite direction has passed, thus giving him a wide sweep around the horse for the purpose of passing. It all boils down to the exercise of due care, considering the circumstances and the many factors which enter into the situation, as do the rules for passing another vehicle or a pedestrian walking along the highway in the same direction.

ABRAHAM BREITBARD
Deputy Attorney General

April 27, 1949

To Raymond A. Derbyshire, D.M.D.

. . . The statute, Chapter 139, Section 2, of the Public Laws of 1947, clearly prescribes in detail what a dental hygienist may do. Furthermore, under Section 21 of Chapter 66 of the Revised Statutes of 1944, no person may practice as a dental hygienist unless she has passed an examination before the Dental Board and possesses a certificate of her ability to practice.