

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

employees or to those engaged in farming, domestic service or logging. She is laboring under a misapprehension when she says that employees are not protected if there are eight or fewer workers. It should be five or less. You will note, however, that her husband was one of only four employees and therefore his employer apparently was not an assenting employer under the Workmen's Compensation Act and did not carry insurance. However, her husband could secure redress under a common-law action for negligence, if there was negligence, if the employer did not carry workmen's compensation insurance.

I think this information will give you something as a basis for an answer to her letter, but the home-work law, which is Chapter 283 and to which she calls your attention is going to stir up, and has already stirred up, considerable criticism from many people doing home work. It appears to have a New Dealish flavor, and attempts to stretch out the fingers of bureaucracy into the homes of our citizens in Maine. I was never consulted by the sponsors of this bill and know nothing about its origin, except what appears on its face, that it was introduced by Senator Collins of Aroostook, February 1, 1949, was referred to the Committee on Labor, and approved by you on April 26, 1949.

If there is any other information that you desire in regard to this statute, I would be glad to secure it for you.

RALPH W. FARRIS
Attorney General

August 10, 1949

To H. A. Ladd, Commissioner of Education
Re: Use of School Conveyances

I have your memo of August 2, 1949, stating that a considerable number of Maine towns and cities have acquired conveyances which they use for the transportation of school children. With these publicly-owned conveyances available in the communities, pressure is frequently brought to bear for their use for other purposes. Your department has had repeated requests for information on the legitimate use of these buses, and to assist the superintendents who must make recommendations to their committees, you would like answers to the following questions:

"1. Is it legal to use a municipally-owned school bus for purposes other than the transportation of pupils to and from school, and activities directly related thereto?"

Answer. There is no statute prohibiting the use of municipally-owned buses, if permission is procured from the municipal officers for the use of same, for other purposes when they are not being used for the transportation of school children, to and from school and related activities.

"2. Is it legal to use publicly-owned school buses to transport pupils, including athletic teams and other organized activity groups and teachers, to contests or meets outside the town—outside the State?"

Answer. There is no statute which prohibits the use of publicly-owned school buses to transport pupils, athletic teams, and teachers to athletic meets, etc., outside the town or city, if permission is given by the owners of the buses. The only question which might be involved is that of liability for injury to the pupils or others riding on buses so used. That is a matter which the municipality would have to take up with the insurance company, to see if the buses had proper insurance coverage when not used for school purposes.

“3. Is the use of school buses for the transportation of children of school age for swimming instruction or for scout activities, during the school year or during summer months, legal?”

Answer. My answer to Question 2 applies as an answer to Question 3.

“4. Would endorsement of such activities by the committee make use of the buses for these purposes conform with the statutory limitations?”

Answer. I did not know there were any statutory limitations for the use of buses, as buses are school buses only when used for the transportation of children to and from school, and the term includes all motor vehicles while used for the transportation of school children. This will be found in Section 9 of Chapter 37, R. S.

“5. Can the town, at its annual or at a special meeting, by vote authorize the use of these publicly-owned vehicles for purposes other than transportation to and from school?”

Answer. If the town owns buses or other motor vehicles which are used for the transportation of children to and from school, the inhabitants at an annual or special town meeting can authorize the municipal officers to use the buses for purposes other than the transportation of pupils to and from school; but the use to which the buses are to be put should be clearly stated in an article in the warrant calling the meeting.

“6. Would the answer to any of the above questions be changed in any way because state funds (equalization) were involved in the payment for the unit?”

Answer. Yes. It is my opinion that if State funds are involved in payment for a bus, in addition to authority from the town, the municipal officers should secure the permission of the Commissioner of Education for the use of these buses for purposes other than transportation of pupils to and from school.

RALPH W. FARRIS
Attorney General

August 10, 1949

To Marion E. Martin, Commissioner of Labor and Industry

I have your memo of August 1st, enclosing correspondence from Philip Schilling of the Wage and Hour Division of the U. S. Department of Labor and asking my advice on the matter. His letter relates to a notice which