

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

liable for the care at the hospital and not the teacher; but in cases of accidents that are not serious, like a child's falling outside on the snow or ice, the teacher should always get in touch with the parents before hospitalizing the child, and then there would be no question as to who was responsible for the hospital expenses.

It is not practical for teachers or school nurses to take pupils to hospitals without the consent of the parents. That should be done only in cases of emergency, where a life may be saved or further injury averted.

RALPH W. FARRIS
Attorney General

February 6, 1950

To Marion E. Martin, Commissioner of Labor and Industry
Re: Vacation Pay for Certain Employees

I trust you will excuse the delay in answering your memorandum on the above subject; but since its receipt this office has been intensely busy and Mr. Farris or myself has been called out of the office on official business on a number of occasions, so that the work has been more than one man can do.

Your memorandum raises questions to which the State has an administrative or executive agency, if not a real party in interest. Contract rights between individuals, whether the contract is by the individual personally or by virtue of his membership in an organization authorized to make a contract for him, will be determined by judicial procedures applicable to civil matters. What the particular obligations may be under the terms of any given contract is a matter for judicial construction or for arbitration by agreement between the parties.

There is no State law requiring a company under the terms of a union contract to pay an employee for his vacation, if he is laid off before he takes the vacation. It may well be that under the terms of the contract or by custom and usage the employee is entitled to the pay. The answer to the question is entirely within the terms of the contract, and not a matter of State law.

JOHN S. S. FESSENDEN
Deputy Attorney General

February 7, 1950

To H. A. Ladd, Commissioner
Re: Vacancies in Superintending School Committees

You wrote me on February 3d, stating that a situation has arisen concerning which you desire advice.

A member of a superintending school committee has been committed to the Augusta State Hospital; he has not resigned from the committee. You request me to give you an opinion as to whether the 90-day provision in Section 42, Chapter 37, R. S. 1944, applies under these circumstances.

It is my opinion that when a member of the superintending school committee is absent for more than ninety days, a vacancy shall be declared under the statute.

RALPH W. FARRIS
Attorney General