

File No. 13877 Continued.

sioners in 1907. It appears that she is still insane and has been incapacitated from doing the work of a teacher since 1906.

By Section 102-1 after providing for notice, examination, etc., it is provided that the Board of School Commissioners may retire a teacher "who has been such for a period of twenty years at the time" the notice is given, provided that said teacher is found "to be incapacitated from performing the regular duty".

Section 102-3 of the Act provides that the terms "teacher" and "members of the teaching force of Baltimore City" as used in the Act, shall mean "any teacher or instructor regularly employed as such by the Board of School Commissioners of said City".

The word "employed" may mean either busy or occupied at work.

("Words and Phrases" page 2377).

In construing the phrase "regularly employed" as used in an Act, exempting vessels regularly employed in the coasting trade from compulsory pilotage, the Court in 127 Mass. 99 said:

"The word "employed" although answered by any present occupation, is more commonly used as signifying continuous occupation, and although a single act of trading answers the phrase "employed in trade", yet this phrase also ordinarily imports continuous business, and when to these words is prefixed the word "regular" the argument is a very strong one; that the use of them is intended to import something more than a single transaction, and to require something in the nature of permanency in the employment."

It is apparent that Miss Perry was not a teacher within the meaning of the Act, at the time of its passage. Nor has she become such a teacher since its passage.

It is my opinion, therefore, that Miss Perry is not eligible to become a beneficiary of the Teachers' Retirement Fund.

Very truly yours,

(Signed) Robert F. Leach, Jr.  
Assistant City Solicitor.

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