

MAINE STATE LEGISLATURE

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PUBLIC DOCUMENTS

OF THE

STATE OF MAINE

BEING THE

REPORTS

OF THE VARIOUS

**PUBLIC OFFICERS
DEPARTMENTS AND
INSTITUTIONS**

FOR THE TWO YEARS

JULY 1, 1926 - JUNE 30, 1928

PUBLIC DOCUMENTS, 1926-28

(Explanatory Note)

Three reports in this volume cover periods in variance with the given biennium. They are as follows:

1. The report of the Attorney General covers the period from 1924 to 1928.
2. The report of the Bangor State Hospital covers the period from 1919 to 1928.
3. The report of the department of Inland Fisheries and Game covers the fiscal year ending June 30, 1928. No printed report was made for the fiscal year ending in 1927.

STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

JUNE 30, 1926

PRESS OF MERRILL & WEBBER CO.
AUBURN, MAINE

of the State Prison, although the Commission may permit certain able bodied prisoners to work in the construction of highways or other public works. The "employees" of the prison, are appointed and commissioned under the express terms of the act, by the Warden, with the approval of the Commission. The only positive existing statutory authority for employment of prisoners within this State with compensation is the authority granted to county commissioners under Chapter 83, Section 19 of the Revised Statutes, where a reasonable sum may be paid, not to the prisoner, but to the dependent family, after deduction for the prisoner's maintenance. If the legislature intended that an inmate of the State Prison should receive compensation for labor performed while serving sentence, it has failed to say so. The Revised Statutes, Chapter 142, Section 2, provides that "punishment in the State Prison by imprisonment, shall be by confinement to hard labor." The Prison Commissioners have been given no authority by the legislature to make any rules or regulations or to do any acts inconsistent with the existing law.

QUESTION 2.

Can the Governor and Council lawfully authorize the Prison Commission to make payments to State Prison convicts as compensation for labor performed?

ANSWER 2.

For the reasons given to the answer to the preceding question, the answer to this question must also be in the negative. The Governor and Council have no legislative powers, and have no power to authorize payments contrary to the constitution and the existing statutes.

Very respectfully,

RAYMOND FELLOWS,

Attorney General.

February 9, 1925.

Hon. Ralph O. Brewster, Governor of Maine, Augusta, Maine.

DEAR GOVERNOR BREWSTER:

In re transferring certain balances from the State School Fund and the State Equalization Fund into the State Contingent Fund.

Receipt of your request of the 7th, inst., for an opinion relating to the legality of certain balances being transferred from the State School Fund and State Equalization Fund into the State Contingent Fund, is hereby acknowledged.

Our answer is in the negative. Revised Statutes, Chapter 2, Section 85, as amended by Chapter 226, Public Laws of 1917, and as further amended by Chapter 96, Public Laws of 1921, provides that all balances of unexpended appropriations which exist on the first day of January of each year and which are not continued by law shall be transferred and credited to the State Contingent Fund.

In Chapter 123, Section 15, of the Public Laws of 1921, it is provided that "All unexpended balances of the State School Fund or of any funds or appropriations deducted therefrom shall, at the close of the year for which said fund or appropriation is available, be added to the permanent school fund of the State."

Chapter 69, Public Laws of 1921, provides that the State fiscal year shall end June 30, of each year. Construing the foregoing, it is our opinion that unexpended balances of the State School Fund cannot, in any event, be lawfully transferred to the State Contingent Fund prior to the end of the year, June 30th.

Yours very truly,

SANFORD L. FOGG;

Deputy Attorney General.

February 25, 1925.

*To His Excellency Ralph O. Brewster, Governor of Maine,
Augusta, Maine.*

DEAR GOVERNOR BREWSTER: In answer to your request for a construction by this department of Section 59 of Chapter 4 of the Revised Statutes, as amended by Chapter 87 of the Public Laws of 1917, relative to appropriations by cities and towns for advertising, this department makes the following reply:

Section 59, as amended, provides as follows:

"Any city or town may appropriate any sum, not exceeding one mill on a dollar, based on the valuation of the preceding year, to be ex-