

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

February 5, 1943

To:
Earle R. Hayes, Secretary Employees' Retirement System

From:
Frank A. Farrington, Deputy Attorney General

Retirement under Disability Provisions

This will acknowledge receipt of your memorandum of February 4th, in which you ask whether an employee of the Highway Department who began work in 1917, and is now about to request retirement under the disability provisions of the retirement law, and who was injured in line of duty in 1932, drawing compensation for some 113 weeks, should have this period of 113 weeks included in figuring his prior service credit.

It is the opinion of this department that this employee was an employee during the period of 113 weeks, and that said period should therefore be included in figuring his prior service credit.

FRANK A. FARRINGTON
Deputy Attorney General

February 8, 1943

To:
F. K. Purinton, Executive Sec'y Executive

From:
Frank A. Farrington, Deputy Attorney General

Acceptance of Jurisdiction on Behalf of the United States

With reference to your memorandum of February 6, 1943 it is the opinion of this department that it is proper for the Governor to acknowledge receipt of acceptance of jurisdiction by the United States in connection with certain parcels of land covered by the letters of acceptance.

The originals of these various letters should be filed with the Secretary of State.

Returned herewith are the four originals and copies of said acceptances.

FRANK A. FARRINGTON
Deputy Attorney General

February 10, 1943

To:
Earl Hutchinson, Director Education
Secondary Education

From:
Frank A. Farrington, Deputy Attorney General

Pennell Institute, Gray, Maine

Reference is to your memorandum on the above subject dated February 4, 1943.

We are unable to find any evidence that Pennell Institute has ever been incorporated, the building having been given to the town of

Gray by Henry Pennell in his Will, which Will was entered in Probate Court in July, 1884 along with a fund to be administered, in accordance with the terms of the Will, by the selectmen of the town, this fund is to be carried upon the books of the town and be known as the "Pennell Fund."

Chapter 43, Private and Special Laws 1887, authorizing the town of Gray to accept the gift "upon the terms and conditions and subject to the obligations and requirements expressed in said Will . . .", also provided that the town should be entitled to the same State Aid for any money raised for the school as it would be entitled to if the same were expended for a free high school.

In the opinion of this department Pennell Institute, so-called, is a school which the town acquired by gift, along with the trust fund and is not an incorporated academy as is contemplated by Subsection I, Section 105, Chapter 19, Revised Statutes 1930.

FRANK A. FARRINGTON

Deputy Attorney General

February 16, 1943

Frederick A. Moran, Chairman
Division of Parole
Executive Department
Albany, N. Y.

Dear Sir:

Governor Sewall has passed me your letter of February 11th, in regard to Reid Dwyer, Your Sing Sing No. 84173, our Reed Dyer, Maine State Prison No. 7,009. There is nothing in our statutes which provides that a pardon restores the beneficiary to the guiltless condition which he occupied before his commission of the crime. A pardon, so far as our statutes go, extends no farther than the definition that will be found in Webster's Dictionary. Our Legislature has not made any provision for the wiping out of the record of the conviction.

There is a dictum in the case of *Penobscot Bar vs. Kimball*, 64 Maine, Page 150, which uses the following language:

"But we further find that he has been pardoned by the executive for that offence. The effect of that pardon is not only to release the respondent from the punishment prescribed for that offence and to prevent the penalties and disabilities consequent upon his conviction thereof, but also to blot out the guilt thus incurred, so that in the eye of the law he is as innocent of that offence as if he had never committed it. The pardon as it were makes him a new man in respect to that particular offence, and gives him a new credit and capacity. To exclude him from the office he held when he committed the offence is to enforce a punishment for it notwithstanding the pardon. *Ex parte Garland*, 4 Wallace, 380."