

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

I am forced to the conclusion that we cannot apply R. S. 125, section 36, to P. L. 1937, Chapter 221, section 7 and have the latter section fully covered or properly bounded. I shall be very glad to discuss this matter further with you and with Mr. Earle Hayes to see if we can't break down Section 7 and decide whether certain of the employees of the State referred to in these thirteen paragraphs cannot be brought within the provisions of R. S. Chapter 125, section 36.

FRANK I. COWAN
Attorney General

April 30, 1943

To:

Harrison C. Greenleaf, Comm'r

Institutions

From:

Frank A. Farrington, Deputy

Attorney General

Employment of State Prison Inmates

In your pencil memorandum of April 29th, you ask whether under existing State laws inmates of the State Prison may be employed to work in Searsport at unloading fertilizer.

Section 331 of Chapter 1, P. L. 1933 provides in part as follows: ". . . and the letting to hire of such of the convicts as the department deems expedient . . . shall be made with the warden, in the manner prescribed by the department."

Considered alone this section seems to permit general "letting to hire" of convicts within its terms.

However, Section 322 of Chapter 1, P. L. 1933 locates the State Prison ". . . in which convicts, lawfully committed thereto, shall be confined, employed, and governed as provided by law." Under this section it seems clear that employment is to be at the State Prison only.

Section 325 of said Chapter 1 permits employment of prisoners "in the construction or improvement of highways or on other public works" under certain arrangements and under certain rules and regulations, and is an exception to the general rule that employment must be at the prison, as provided in Section 322.

Section 331, above mentioned, must be considered in connection with sections 322 and 325 and on this basis Section 331 is limited by Section 325 to employment of prisoners on "public works" where the employment is to be outside the Prison. The type of employment under discussion cannot be considered as on "public works".

It is, therefore, the opinion of this department that existing laws will not permit inmates of the State Prison to be employed on the work concerning which you inquire.

FRANK A. FARRINGTON
Deputy Attorney General