

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

prescribed by statute in effect at that time. No provision of the law of that date or in the act passed in 1943 permits a lesser amount to be paid for a fraction of a year; but on or before January 1 of 1944 and continuing thereafter until the law is changed, the osteopaths in Maine will be obliged to pay the license fees for either a new license or a renewal in accordance with Chapter 131. The use of the word "renewal" in Chapter 131 does not change or modify anything hereinbefore written.

JOHN G. MARSHALL

Deputy Attorney-General

September 23, 1943

Harrison C. Greenleaf, Commissioner Institutional Service

In answer to your communication of September 21st relative to the use of some of the inmates at the South Windham Reformatory for employment outside the Reformatory grounds and particularly for the use of their labor in harvesting and processing of corn in the Gorham area, it would appear that the following things should be considered as necessary before affirmatively adopting a program of this kind.

First, in view of the fact that the last legislature reported unfavorably on a proposal to permit the usage of this kind of labor in the State, and the fact that there is no express provision in our law for using the inmates of penal institutions for labor in private undertakings, it would appear to be absolutely necessary to have an Executive Order under the War Powers Act by the Chief Executive of the State, covering this situation.

Secondly, there are certain constitutional limitations relative to servitude, and to obviate any violation here in such an undertaking, it will be absolutely necessary to have a written declaration by any inmate engaged in this endeavor, stating that he has volunteered to do the work and that he has been in no way forced, or ordered, to do so as a part of his penal service, and that it was in no way against his will.

Thirdly, any inmate or inmates permitted to work under such a program inaugurated pursuant to the foregoing suggestions should at all times be under the constant jurisdiction and supervision of an authorized guard of the institution in which these individuals are legally confined.

FRANK I. COWAN

Attorney-General

September 27, 1943

William D. Hayes, State Auditor

Audit

Cancellation of Bonds of State Employees and Officials leaving the Employment of the State

After a conference with Mr. Cowan, the Attorney-General, about the method of handling the cancellation of bonds of State employees and officials, the following is the recommendation of the Attorney-General's Department to all Departments.

First: In the cases where employees resign or otherwise leave the service of the State, each and every department head should notify the Personnel Department and the State Department of Audit immediately on the date of the termination of this employment, in writing. The Auditing Department would then be in a position to determine whether or not the conditions of the bond of the employee had been breached, and if not, the auditor should be authorized to notify the surety company, or other sureties, that the bond was cancelled, and any unearned premium could then be recovered for the State.

Second: When State officials or heads of departments, who have been appointed by the Governor, resign or leave the positions held by them, the Governor should notify the State Auditor, so that the same procedure can be followed as suggested in the foregoing paragraph.

Under Chapter 320, P. L. 1933, the State Auditor and the Commissioner of Finance are authorized to determine the amount of the bond and the extent of the coverage necessary for each official or employee obligor, and the foregoing suggestions would seem to coordinate the necessary supervision that the State Auditor is supposed to exercise in these situations. Before the bond is cancelled, the State Auditor should be in a position to know whether there had been any default or defalcation at the time the obligor terminates his or her employment with the State. In cases where the State Auditor is in doubt as to any default or defalcation on matters of law, he should at all times consult the Attorney-General's Department before cancelling the bond. However, if the State Auditor finds no default or defalcation, he would simply notify the bonding company, or other sureties, and would have the authority to sign the cancellation order and the release to the bonding or surety company or sureties.

This is entirely a matter of policy, and it is thought that it would expedite the method of cancelling bonds and save unearned premiums, and yet protect the State on the obligations of the obligors. If it is to be adopted, the Governor and Council should pass on it as a matter of procedural administration and circularize the same among all the departments.

JOHN G. MARSHALL
Deputy Attorney-General

September 27, 1943

David H. Stevens, State Assessor Bureau of Taxation

Potato Tax

In response to your inquiry whether or not persons in the State of Maine engaged in the dehydration of potatoes shall deduct 1¢ per barrel from the purchase price of potatoes bought by the dehydrating plant:

Subject to the conditions hereinafter set forth, the answer is that the tax shall be so collected by the dehydrating plants, the same as any other purchaser, under the provisions of Chapter 84, P. L. 1937, as amended.