

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

November 9, 1943

William D. Hayes, State Auditor

Audit

I wrote to Judge Chaplin, Judge of Probate for Cumberland County, on November 2nd, asking for his interpretation of the statute re public administrators. He has had the Register of Probate reply under date of November 5th, and the interpretation of the law which appears in Mr. Peabody's letter is exactly in accordance with the construction which this office had already put on it. I quote from the letter:

"We construe this Statute to give the Public Administrator the sole right to take out administration except where the widow, widower, or next of kin files a petition for administration prior to the issuing of letters to the Public Administrator, as set forth in the latter part of this section. The creditor has no standing to petition or be appointed administrator.

"It will be noted, however, that the authority of the Public Administrator only extends to the estates of persons who die intestate in the County, that is, resident or domiciled therein, and not to cases where a non-resident of the State leaves property within the State of Maine. In the latter case, we construe the law to be that a creditor may petition for administration under the facts stated in section 30 even though he leaves no widow, widower or next of kin in the State of Maine."

FRANK I. COWAN

Attorney-General

November 10, 1943

Harrison C. Greenleaf, Commissioner

Institutional Service

I am returning herewith your proposed Executive Order in regard to the use of inmates of institutions. The only change I have suggested is in Paragraph 3, where I have substituted the word "permitted" for the words "required of the inmate."

I have added a fourth paragraph which should receive further thought, but in its present form reads as follows:

"Inmates of institutions shall not be permitted to be so employed against the objection of other persons employed on the same job, nor shall any persons convicted of homicide or offences of a flagrant nature or of sex offences be permitted to avail themselves of the privilege of such employment."

We have persons who are incarcerated in our prisons and others in corrective institutions who are potentially dangerous. The law does not permit us to keep them there indefinitely, but we would be properly subjected to severe criticism, if we released them for outside work under any except the gravest emergency. Such emergency cannot be regarded as existing as yet. I presume that the regulations which you contemplate in sections 1 and 2 will be sufficiently firm so that only those persons could be released for this activity (which is, after all, a great benefit to them) whose crimes are of a minor nature.