

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

and in whom, until the powers were taken away from him by express statute, reposed the general duty of taking care of the interests of the people of the counties. The statute has now put on the Commissioner of Inland Fisheries and Game the responsibility formerly held by the sheriff of searching for persons who have gone on hunting or fishing trips, or trips for any other purpose, in the woodlands of the State and have not returned within a reasonable time. This statute, however, does not deprive the sheriff, a common-law officer, of any of his powers and responsibilities except those expressly so stated.

FRANK I. COWAN

Attorney-General

November 24, 1943

Carl R. Smith, Commissioner of Agriculture

Interpretation of the Stipend Law, as amended under c. 87, P. L. 1943

I have your memo of November 19th containing the following statement of your understanding of this law:

"It is my understanding that the Stipend may be paid on the basis of 1941, or any normal year prior to 1941, but if in 1943 any Fair paid out more premiums than were paid in 1941 (or 1940) that Fair should be paid on the basis of the premiums paid in 1943, or whichever were greater, 1941 or 1943."

You have correctly interpreted the statute. There is one addition that you have not mentioned. The statute authorizes you, in the case of a payment based on a year prior to 1941, to pay "a stipend or such proportionate part of such stipend" as you may determine. This gives you broad authority to determine how much of a stipend you shall pay under such circumstances and simply limits the maximum amount.

Your interpretation of the statute in the following words, "or whichever were greater, 1941 or 1943," is a liberal one and places a strained construction on the words, "shall cease to pay," but nevertheless it seems to me that it more nearly interprets the intention of the legislature than would a conclusion that if an association pays a small premium in 1943, it is thereby debarred from having this stipend based on an earlier year. . . .

FRANK I. COWAN

Attorney-General

November 24, 1943

Honorable Sumner Sewall, Governor

Executive

Miss Ross has sent to this office the letter of Henry L. Stimson, Secretary of War, bearing date November 1, 1943.

Any recognition by the Governor that the United States accepts exclusive jurisdiction, as set out in the third paragraph of Secretary Stimson's letter, should quote Chapter 248 of the Public Laws of 1939 in full and should contain a statement by the Governor that the juris-

diction acquired by the Federal Government is not exclusive, but is limited by the terms of said Chapter 248.

I am returning herewith Secretary Stimson's letter and the copy thereof.

FRANK I. COWAN
Attorney-General

November 24, 1943

Harrison C. Greenleaf, Commissioner Institutional Service

I have your memorandum of November 15th in regard to an Executive Order for employment of inmates of State penal and corrective institutions, and note the form of the suggested draft of the Order.

Mr. Purinton came in to discuss this matter with me yesterday. There are three things that I wish to make clear.

1. The Attorney-General has a peculiar responsibility in this particular question, because it has to do with the method of punishment of citizens of the State who are incarcerated because of crimes committed and also has to do with permitting inmates of non-penal institutions to work outside of the institutions under conditions where it is possible that somebody might raise an objection or a criticism and claim that it was actually forced labor. Personally, I think the idea is a very good one and that in so far as possible we should permit every one of these people to assist within the limits of their abilities in carrying forward the war effort. (Whether or not there is a maladjustment in free labor and a maladministration in Washington which results in that possible man-power shortage is a question that does not enter into this discussion.)

2. The proposed form of the Order, as appears in the copy attached to your memo of November 15th, contains all the safeguards that occur to me as being practicable for inclusion. Other persons considering the matter might think of other words that could properly be incorporated, but I don't think of anything else that would need to go in, so I approve the form of the Order.

3. There is no question in my mind but what the Governor has the power and authority to issue this Order under the terms of the Civilian Defense Act. However, we know that he has acted with great care in issuing orders under that Act and that he has been very reluctant to go a single step farther than seemed absolutely necessary. He did not want these great powers and accepted them only because he felt it was his duty. My question, September 23rd, was not one in regard to the power and authority of the Governor, but whether or not he would want to issue this Order in the face of a refusal by the legislature at its last session to pass specific legislation covering the matter. (See 91st Legislature, L. D. # 621, House Paper 1166.) I was not present at the discussion of the proposed act. I note from your memorandum that the bill was reported "Ought not to pass," because you felt, and so advised the committee, that the number of people in the institutions was so low that there would not be any labor available beyond that needed for doing the necessary work in the institution itself. If that