

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

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

was the reason for the bill being reported "Ought not to pass," or if some such reason as that, originating in the State itself, was responsible for lack of passage, then I see nothing in the action of the legislature that should tie the hands of the Governor.

FRANK I. COWAN
Attorney-General

December 1, 1943

Harold E. Crawford, Municipal Auditor

I have your memo of November 30th in regard to court officers. I believe that the language of paragraph six of chapter 126, section 4, on page 1533 of the Revised Statutes, must be interpreted to mean that "for said attendance and service" "upon the supreme judicial court or the superior court," the deputy sheriff and court messenger are to receive \$5. a day. This is entirely separate from any other work they may do or services they may perform while not in attendance on the court. If the court sits for half a day or less, the officers nevertheless are entitled to a day's pay, because they are holding themselves in readiness for service, and it is not their fault if the judge is not in the courtroom. During such times as the judge is not in the courtroom and as he does not require the immediate attendance of the deputy sheriff or the messenger, these officials are entitled to any fees they may be able to earn from services that will not interfere with their court duties. The same is true of any services they may perform after court adjourns at night or before it comes in, in the morning.

FRANK I. COWAN
Attorney-General

December 1, 1943

Hon. Lester M. Bragdon
York Village, Maine

Dear Lester,

I have your letter of November 16th in regard to automobile inspection. The legislature passed Chapter 72, P. L. 1941, changing the dates of inspection from May and November to April and October. Under the procedure that has been in use for several years, an act to be amended is printed in full and the amendment printed in black-faced type.

At the same session the legislature passed Chapter 205, making further amendments to the original act. At that time the amendment which appears as Chapter 72 had not become law, and it could not be known that it would become law until ninety days after the legislature adjourned. Chapter 205 was set up in the ordinary fashion. Whether or not anybody noticed that there was an apparent conflict between 205 and 72, I don't know, and I cannot express any opinion on the subject.

In cases such as this, which, I may say, occur frequently, we take the original act and add to it all amendments made at a session of the legislature. If there is no conflict between the amendments themselves, we have assumed that there was no conflict in the laws, since the legislature plainly expressed itself on the matter of amendments.