

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

September 23, 1952

To Melvin E. Anderson, County Attorney, Aroostook
Re: Labor of Prisoners

. . . You ask the opinion of this office as to whether or not county commissioners can place prisoners in the county jail to employment without the consent of the sheriff, under the provisions of either section 20 or section 25 of Chapter 79 of the Revised Statutes.

It will be noted that in both said sections it is stated that the county commissioners "may authorize" the employment of prisoners. A complete reading of the statutes relative to county commissioners and sheriffs would show that the county commissioners, political officers of the State, are primarily the finance officers of the county and that the sheriff has absolute and exclusive custody and charge of all prisoners confined in the jail. The sheriff is the one primarily liable for the safekeeping of the prisoners and it is our opinion that the county commissioners may not order such prisoners to work outside the jail without first receiving the permission of the sheriff.

To this effect we draw your attention to *Sawyer v. County Commissioners*, 116 Maine, 408 at page 412, where the provisions under consideration here have been directly considered. With respect to the words, "may authorize," it is there said:

"This last provision is significant. The commissioners are not permitted to set the prisoners at work, themselves. They can only authorize the keeper of the jail to do this."

JAMES G. FROST
Deputy Attorney General

September 24, 1952

To Earle R. Hayes, Secretary, Maine State Retirement System
Re: Options

This will acknowledge receipt of your memo of September 23, 1952.

You state that on the application required by your System, Alga L. Towle designated her stepfather as her beneficiary. You further indicate that Miss Towle attained eligibility for retirement, but died before she elected one of the options provided under section 10 of Chapter 60, R. S., as amended. You then inquire if a stepfather can be considered to conform to the provision of the law above referred to, which names "father" as a beneficiary in such cases.

We do not believe that the problem as to whether or not a stepfather can be considered to be included in the term "father" is involved in this case.

We interpret the effect of section 10 of Chapter 60 to mean:

1) upon the death of a person who has attained eligibility for retirement but has not elected one of the optional forms permitted by section 10, then in such event it is as if Option No. 2 had been elected. Option No. 2 provides for payment after death of the employee "for the life of the beneficiary nominated by him by written designation. . ."