

# MAINE STATE LEGISLATURE

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May 11, 1959

Ferry D. Hayden, Commissioner

Institutional Service

George A. Wathan, Assistant

Attorney General

**Transfer of Prisoners of the Maine State Prison to a Federal Penal Institution.**

This memorandum is in regard to clarification of transfer procedure and is written from the point of view of the attorney who would represent the State. It involves the proof needed to effect a proper transfer.

Chapter 27, Section 32-A provides for a transfer of prisoners of the Maine State Prison to a federal penal institution under the following terms:

A prisoner may be transferred to the federal institution if the following steps are taken:

- A. The Warden certifies to the Commissioner of Institutional Services that any person committed to the prison (1) whose presence may be seriously detrimental to the prison or (2) who wilfully and persistently refuses to obey the rules and regulations of the prison or (3) who is considered incorrigible.
- B. Commissioner of Institutional Services approves said transfer.
- C. United States Attorney General must accept application and transfer.
- D. Commissioner may contract with the Attorney General of the United States or other designated official in each individual case for the care, custody, etc., of the prisoner.

Title 18 U. S. C. A., section 5003, provides that the United States Attorney General may after a certification from the Director of the Bureau of Prisons that facilities and staff are available at a federal institution, contract with state officials for the custody, care, education, and treatment of persons convicted in the courts of such a state, provided the United States is fully reimbursed.

Such person shall be subject to the laws and regulations applicable to a person committed for violations of United States laws not inconsistent with the sentence or contract.

Memo to Perry D. Hayden

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May 11, 1959

The contract executed in the case of Thomas Pratt is a blanket contract, and it appears that the steps required by Section 32-A, Chapter 27, have not been strictly complied with.

It might be well to set up the rudiments of a certificate for the Warden to use which sets out the facts of the case upon which he concludes that the prisoner should be transferred with a space for the Commissioner to approve. Then draw up the form for a contract with the United States Attorney General and fill in the blanks in each case, making duplicate originals--one for the State and the other for the federal agency. With this record on file, the question raised by the Pratt case would be easily answered.

George A. Wathen  
Assistant Attorney General

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