

MAINE STATE LEGISLATURE

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March 13, 1963

Walter F. Ulmer, Commissioner

Mental Health and Corrections

Courtland B. Perry, Asst. Attorney General

Mental Health and Corrections

Employment of Inmates of the Reformatory for Men and of Prisoners of the Maine State Prison on Public Works Projects--Liability for Personal Injury and Property Damage.

Recently you requested an opinion from this office based on the following question:

"Supposing that we had people from the Boys Training Center, Reformatory for Men or Maine State Prison out on work crews and there was a serious accident embodying personal injury and damages to property. Would we have any insurance coverage that you know of? Is the Department liable to the relatives of people involved and are there any other complications which we should probably investigate and take care of?"

The State of Maine carries liability insurance only on its fleet of vehicles and on elevators in certain state-owned buildings.

A civil action could be brought against the State of Maine for personal injury to an inmate or prisoner arising from the employment of inmates or prisoners on Public Works Projects for the State, only if the Legislature authorizes such an action to be brought against the State and the question of liability would be determined at the trial.

Generally it would not be a relative who would bring such action, but would be the person injured; the most important exception to this rule would be in the case of death, wherein the personal representative of the decedent would bring an action on behalf of the widow, children, or heirs, and on behalf of the decedent's estate.

It appears from the language of Section 3 A of Chapter 27 of the R.S., that the Legislature contemplated that the department would establish reasonable provisions for the protection of inmates and prisoners assigned to Public Works Projects for the State. Latitude is given to the Department as to the extent of such rules and conditions, however, it is the opinion of this office that such rules and conditions

should at least, provide for careful screening of inmates and prisoners in order to assure that the ignorant, the irresponsible, and the otherwise unqualified inmates or prisoners are not assigned to tasks on Public Works Projects for the State which are beyond their capabilities.

If any inmate or prisoner were to suffer personal injury while employed on a Public Works Project for the State, through the failure of departmental personnel to place a qualified man on a particular task, it is altogether possible that the Commissioner or the responsible Institutional Head could be held personally liable for such injury.

Although, the Statute above cited, provides only for the protection of inmates and prisoners, the general public is similarly protected by common law rules relating to tort liability. In the event, that a member of the general public should suffer personal injury or property damage through the employment of inmates or prisoners on Public Works Projects for the State, a civil action could be brought against the State, only under the conditions set forth above. Should departmental personnel fail to assign qualified men to tasks on work projects for the State, and should a member of the general public suffer personal injury or property damage because of such failure, the responsible departmental officials may be subject to personal liability.

Children committed to the Boys Training Center are not mentioned in Section 3 A of Chapter 27 and, therefore, may not be employed on Public Works Projects.

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STATE DEPARTMENT

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cc: Attorney General's Department