

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date March 30, 1967

To Ward Murphy, Superintendent

Dept. Mental Health and Corrections
(Reformatory for Women)

From Courtland D. Perry, Asst. Atty. Gen'l.

Dept. Mental Health and Corrections

Subject Authority of Reformatory for Women to Receive for Confinement Persons Convicted
of Crime in Courts of the United States

FACTS:

From time to time, it may be deemed to be desirable to permit confinement of persons in the Reformatory for Women, who have been convicted of crimes in Courts of the United States.

A case in point is that of Juanita L. Bradbie, AKA: Rita Bree, currently confined in the Reformatory for Women in execution of a State Prison sentence, from which it is anticipated she will be paroled in May, 1967 to a Federal Detainer, pursuant to which she is subject to a two year term of imprisonment for the commission of a crime against the United States.

It is considered undesirable to permit confinement of this inmate in the Federal Women's Reformatory at Alderson, West Virginia, due to the current confinement therein of women who for personal reasons may bring harm to Juanita L. Bradbie; this inmate is now 52 years of age.

QUESTION:

Has the Reformatory for Women authority to receive for confinement Juanita L. Bradbie, or any other woman, convicted of crime in any Court of the United States?

ANSWER:

No.

OPINION:

Title 34, M.R.S.A., 1964, §851 provides in pertinent part as follows:

"The State shall maintain a reformatory in which all women over the age of 16 years and under the age of 40 years who have been adjudicated juvenile offenders, or who have been convicted of or have pleaded guilty to crime in the courts of the State or of the United States, and who have been duly sentenced and removed thereto, shall be imprisoned and detained in accordance with the sentences or orders of said courts and the rules and regulations of said reformatory....."

Title 18, U S C, §4082 as amended by P.L. 89-176 provides in pertinent part as follows:

"(a) A person convicted of an offense against the United States shall be committed, for such term of imprisonment as the court may direct, to the custody of the Attorney General of the United States, who shall designate the place of confinement where the sentence shall be served.

"(b) The Attorney General may designate as a place of confinement any available, suitable, and appropriate institution or facility, whether maintained by the Federal Government or otherwise, and whether within or without the judicial district in which the person was convicted, and may at any time transfer a person from one place of confinement to another....."

Title 18, U S C, §4002 provides in pertinent part as follows:

"For the purpose of providing suitable quarters for the safekeeping, care, and subsistence of all persons held under authority of any enactment of Congress, the Director of the Bureau of Prisons may contract, for a period not exceeding three years, with the proper authorities of any State, Territory, or political subdivision thereof, for the imprisonment, subsistence, care, and proper employment of such persons....."

It is the opinion of this office without going further that the Reformatory for Women is precluded from receiving Juanita L. Bradbie as an inmate sentenced by a Court of the United States under T., 34, M.R.S.A., §851, since that section sets the upper age limit at 40 and Juanita Bradbie is now 52 years of age.

We are of the further opinion that the Reformatory for Women is without authority to accept women of any age convicted of crimes in Courts of the United States, based upon the following: The Maine Statute provides that the Reformatory for Women is for the imprisonment and detention of women sentenced and removed thereto, which in the conjunctive, covers women sentenced by Courts of the United States. The language of §851 in this regard is identical to that contained in the Legislative Enactment authorizing the creation of the Reformatory for Women, P.L., 1915, c. 206, §1.

Under the provisions of Title 18, U S C, §4082 all persons convicted of crimes against the United States are committed to the custody of the Attorney General of the United States, and the place of confinement forms no part of the sentence of the Court; the Court is powerless under this section to designate the place of confinement.

Under Title 18, U S C, §4002, the Director of the Federal Bureau of Prisons may contract with proper authorities of a State for the imprisonment of Federal prisoners in State facilities, the result in our view, is, that the Maine Statute contemplates a disposition by a Federal Court, which such Court is without authority to make, and in

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so contemplating direct sentences to the Reformatory for Women from Federal Courts the Statute makes no provision for any official of this State to contract with the Federal authorities, and no other Statute can be found granting such authority; thus, there are no "proper authorities" in Maine with whom the Director of the Federal Bureau of Prisons may contract.

Section 851 as it relates to persons sentenced by Courts of the United States when read in connection with applicable provisions of the United States Code is a nullity. We are unable by any implication from, or construction of, the pertinent language of §851 to find the authority necessary to permit the Reformatory for Women to serve as a place of confinement for Federal prisoners.

Legislation would be necessary in order to permit such use of the Reformatory for Women, and pursuant to this opinion L.D. 1121, §15, should be amended to include appropriate language permitting such use.

Attached to this opinion is a SUGGESTED AMENDMENT to L.D. 1121, which bill hasn't been heard.

Courtland D. Perry
Assistant Attorney General

Cleared for issuance by Attorney General March 31, 1967

SUGGESTED AMENDMENT to L.D. 1121, Section 15, Part 3, and Addition of Part 5

3. Females over 17 years of age. Females over the age of 17 years and under the age of 40 years who have been convicted of, or who have pleaded guilty to, crimes in the courts of the State, and who have been duly sentenced and committed thereto;

PART 5 TO FOLLOW IMMEDIATELY AFTER PART 4.

5. Confinement of Federal Prisoners Authorized. The Superintendent of the Women's Correctional Center is authorized, subject to the written approval of the Commissioner, to contract with the Director of the Federal Bureau of Prisons acting pursuant to Title 18, U S C, §4002, for the imprisonment, subsistence, care and proper employment of women convicted of crimes against the United States, and may receive and detain any such women pursuant to such contracts.