

826.

CONVICT LABOR—CANNOT FARM OUT PRISONERS OF OHIO STATE REFORMATORY.

SYLLABUS:

*By the terms of Section 2228, General Code, no contract shall be made by which the labor or time of a prisoner in the Ohio State Reformatory, or the product or profit of his work, shall be let, farmed out, given or sold to any person whomsoever; and it is immaterial whether the consideration therefor be money or farm produce.*

COLUMBUS, OHIO, August 4, 1927.

HON. JOHN E. HARPER, *Director, Department of Public Welfare, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter of recent date requesting my opinion on the questions asked in a letter written to you by the Superintendent of the Ohio State Reformatory which you enclose and which reads as follows:

“On June 22nd you wrote relative to the employment of convicts, Section 2228 of the General Code. In the last paragraph you say that the practice of sending prisoners of the Ohio State Reformatory out to work for the farmers for a cash consideration is a direct violation of the law and must be discontinued.

I am writing to know if this applies also to cases where a share of the crop is accepted as compensation. I have in mind, particularly, picking up potatoes for the farmers and receiving from six to eight bushels for each hundred picked.

Farmers are urging me to help them thresh and do other work. Would it be permissible to help thresh if we receive two bushels of wheat per day for each boy; also in cutting and husking corn to receive the number of bushels that would be equivalent to a reasonable price per day, say \$2.50 per day and their dinners?”

On March 29, 1906 (98 O. L. 177) the legislature passed an act entitled:

“An Act to prohibit the competition of prison labor with free labor and to provide for the employment of prisoners in jail and at the prisons upon the manufacture of crushed stone, brick, draining, ballasting material, for the repair and construction of public roads and for the employment of jail and state penitentiary prisoners in the manufacture of road building materials.”

The first paragraph of Section 1 thereof is now Section 2228, General Code, and reads the same as when originally enacted. This section provides:

“The board of managers of the Ohio penitentiary, the board of managers of the Ohio state reformatory, or other authority, *shall make no contract by which the labor or time of a prisoner in the penitentiary or reformatory, or the product or profit of his work, shall be let, farmed out, given or sold to any person, firm, association or corporation.* Convicts in such institution may work for, and the proceeds of their labor may be disposed of, to the state or a political division thereof, or for or to a public institution owned or managed or under the control of the state or a political division thereof, for the purposes and according to the provisions of this chapter.” (Italics the writer's.)

Section 41, Article II of the Constitution of Ohio, adopted September 3, 1912, provides:

"Laws shall be passed providing for the occupation and employment of prisoners sentenced to the several penal institutions and reformatories in the state; and no person in any such penal institution or reformatory while under sentence thereto, shall be required or allowed to work at any trade, industry or occupation, wherein or whereby his work, or the product or profit of his work, shall be sold, farmed out, contracted or given away; and goods made by persons under sentence to any penal institution or reformatory without the State of Ohio, and such goods made within the State of Ohio, excepting those disposed of to the state or any political subdivision thereof or to any public institution owned, managed or controlled by the state or any political sub-division thereof, shall not be sold within this state unless the same are conspicuously marked 'prison made'. Nothing herein contained shall be construed to prevent the passage of laws providing that convicts may work for, and that the products of their labor may be disposed of to the state or any political sub-division thereof, or for or to any public institution owned or managed and controlled by the state or any political subdivision."

As stated in Vol. 36, Cyc. at page 1114:

"In the interpretation of statutes words in common use are to be construed in their natural, plain and ordinary signification. It is a very well settled rule that so long as the language used is unambiguous, a departure from its natural meaning is not justified by any consideration of its consequences, or of public policy, and it is the plain duty of the court to give it force and effect."

In view of the foregoing and answering your questions specifically it is my opinion in the case you present that it is immaterial whether the consideration received be cash or produce. The Constitution of Ohio, and the section of the General Code above quoted expressly and specifically prohibit the making of any contract by which the labor or time of a prisoner in the reformatory, or the product or profit of his work, shall be let, farmed out, given or sold to any person whomsoever.

Respectfully,

EDWARD C. TURNER,  
*Attorney General.*

827.

BANKS—AUTHORITY OF TRUST DEPARTMENT TO PURCHASE SECURITIES FROM BOND OR INVESTMENT DEPARTMENT OF SAME BANK—LIABILITY OF BANK WHEN SUCH PURCHASE HAS BEEN MADE—AUTHORITY OF SUPERINTENDENT OF BANKS TO EXAMINE BOOKS AND AFFAIRS OF TRUST COMPANY.

*SYLLABUS:*

1. *There is no authority for the purchase by the trust department of a bank from the bond or investment department of the same bank, of securities in the investment of trust funds of an estate in its hands as trustee, unless specific authority therefor is found in the trust agreement.*