APPENDIX G

Permissible Sale of Prison-made Goods to Other Institutions

INASMUCH as no state appears to have explicitly forbidden purchase of its own prison-made products by other state institutions, it is probable that such other institutions constitute a potentially available market even in the absence of statutes, such as follow, which expressly authorize such purchases. Whether or not these other institutions are obligated to furnish such a market is another matter.

Arizona. 3 Code Ann. (1939) sec. 47-304. "Sale upon the open market" prohibited by section 47-301 "shall not include sales or exchanges between any penal or charitable institutions maintained wholly by the state of Arizona or its political subdivisions. . . . ."

Arkansas. Digest of Stats. (1937) sec. 12777. It is unlawful to use, possess, sell, convict-made goods, but "nothing herein shall prevent the sale or distribution of such goods by the State Prison Board . . . . to the State or any political subdivision thereof, or the tax supported institutions of either." Cotton and other farm products produced on state-owned or state-leased lands are not precluded from general sale.

Colorado. 4 Stats. Ann. (1935) ch. 131, sec. 107. Use, consumption, or sale of convict-produced goods is unlawful except by the state, or its subdivisions, or public institutions.

Connecticut. Gen. Stats. (1939 supp.) sec. 1448e. It is unlawful to use, sell, etc., but nothing herein forbids sale to the state, or a political subdivision, or public institution, or to any person or corporation for its own consumption without resale.

Florida. Stats. (1941) sec. 959.02. It is unlawful to sell convict-made goods, but the prohibition is not to be construed as forbidding sale to any institution supported in whole or in part by the state or a political subdivision.
Georgia. Code Ann. (1933) sec. 77-356. Superintendent of state farms has no power to sell prison products, “except for the needs of the state,” etc. To the same effect, sec. 77-323.

Sec. 77-332. The prison commission is authorized and directed to manufacture road signs and automobile license tags which are to be sold to the state highway board.

Idaho. 1 Code Ann. (1932) sec. 20-703. The statutory preclusion of sale of convict-made goods on the open market “shall not include the sale and/or exchange with other penal, charitable and/or custodial institutions the major portion of whose maintenance is contributed by this state.”

Kansas. Gen. Stats. Ann. (1935) sec. 76-2468. Board of administration may sell all products to the state at as near market price as possible.

Sec. 76-2466. Products of prison labor “may be disposed of to the state or for or to any public institution.”


Louisiana. Code of Crim. Proc. (1932) art. 1322. Forbids sale of convict-made goods of certain types, but provides that “nothing in this act shall be construed to forbid the sale, exchange, or distribution of such goods to any institution supported in whole or in part by funds derived from public taxation.”

Michigan. 3 Comp. Laws (1929) sec. 17636-8. (Mich. Stats. Ann. § 28.1528.) The prison commission may contract with other state institutions for prison products, and the state purchasing agent may buy such products, even for exchange for products of prisons in other states.

Mississippi. Gen. Laws (1940) ch. 137, sec. 1. Restrictions on sale do not apply to sales to institutions controlled or supported wholly or in part by the state or political subdivisions, or those of other states or the federal government.

Montana. 5 Rev. Codes (1935) sec. 11573.2. Restrictions on sale do not apply to sales to other state institutions or those of political subdivisions.

New Mexico. Stats. Ann. (1941) 41–3309. The sale of prison-made goods manufactured in another state is prohibited, but this shall not be construed "to forbid the sale of such goods to the State or any political subdivision thereof, or to any public institution."

New York. 10B McKinney's Consol. Laws Ann. (1938) sec. 170. Convicts in penal institutions may work for, and their products be disposed of to, the state and the political subdivisions thereof.

North Carolina. Code Ann. (1935) sec. 7762. Prison products may be disposed of to any public institution owned, managed, or controlled by the state or any county, city, or town.

North Dakota. Comp. Laws (1913) sec. 11270. Prison products may be sold to make needed repairs, additions, or improvements to the public buildings of the state. Surplus brick may be disposed of to private purchasers. Laws (1933) ch. 242. Coffins made at the penitentiary may be sold to state or private purchasers.

Ohio. Throckmorton's Code Ann. (1940) sec. 2230. Prison labor may be used for supplies of institutions of the state or political subdivisions.

Pennsylvania. 71 Purdon's Stats. Ann. (1930) sec. 602. It is the duty of the department of welfare to sell the articles which cannot be used by the penal institution that manufactures them to other institutions or departments of the state.

Rhode Island. Gen. Laws (1938) ch. 64, sec. 5. The prohibition of the sale of convict-made goods shall not include their sale or exchange to or with other reformatory or custodial institutions or to any other department, institution, or agency of the state.

Tennessee. Michie's Code Ann. (1938) sec. 12209 (4). "No goods, wares or merchandise manufactured, in whole or in part by convicts or prisoners (except those on parole or probation) shall be sold or offered for sale in this state by any person, firm, association or corporation or by any federal authority, state or political subdivision thereof; provided, however, that nothing in this chapter shall be con-
strued to forbid the sale, exchange or disposition of such goods to any institution supported wholly or in part by funds derived from public taxation and operated under the supervision of the United States of America, the state of Tennessee or any other state of the union, or any political subdivision thereof.”

**Texas.** 2 Vernon’s Penal Code (1925) art. 1137i-1. Nothing shall be construed to prohibit the sale of prison-made goods “to the State, or to any political subdivision thereof, or to any public institution owned or managed and controlled by the State or any subdivision thereof.”

**Utah.** 5 Code Ann. (1943) sec. 85-9-32. The board of correction shall employ “as many prisoners as are necessary in making articles for the various state departments and institutions, as far as practicable, who shall pay the market price of all articles furnished.”

Sec. 85–9–89. Prohibition of sale on open market does not apply to sales to state institutions.

**Vermont.** Laws (1937) No. 165, sec. 5490. The commissioner “may contract with the motor vehicle, highway and any other department or agency of the state for the manufacture of motor vehicle number plates, road and highway signs or other plates, signs or products required by said departments and agencies. Such departments and agencies shall give preference to such prison made goods when deemed for the interest of the state in the solution of its prison labor problems.”

**Washington.** 10 Remington’s Rev. Stats. Ann. (1932) sec. 10221. All convicts may be employed by authority of the board, under charge of the superintendent and such skilled foremen as necessary in performance of work for the state, or manufacture of articles for the state, or the manufacture of which is sanctioned by law. At the state penitentiary no articles shall be manufactured for sale, except jute fabrics and brick. In this connection the board is authorized to purchase and employ and dispose of articles manufactured and not needed by state, for cash, at private sale, as provided by law.

7 Remington’s Rev. Stats. Ann. (1932) sec. 5847-1. “... This act shall not prohibit the sale to or exchange between penal
institutions and/or departments of this state for use or consumption by said institutions, of goods manufactured by convicts or prisoners of the state of Washington.

Wyoming. Rev. Stats. (1931) sec. 108-816. "... All articles manufactured at the state penitentiary and not required for use therein, may be furnished to the state or for or to any public institution owned or managed and controlled by the state, or for use on any roads or highways under the direction of the state highway commission. ..."

District of Columbia. Code (1940) sec. 24-418. Brooms made by the inmates of the reformatory may be sold to the various branches of the government of the District of Columbia.

42 Acts of Congress affecting the District of Columbia 473; Public Act No. 602, 76th Congress, ch. 333, 3d Session. Appropriation of $30,000 for industrial enterprises for the workhouse and reformatory: "Provided, That the various departments and institutions of the District of Columbia and the Federal Government may purchase, at fair market prices, such products and services as meet their requirements. ..."

42 Acts of Congress affecting the District of Columbia 915; Public Act No. 851, 76th Congress, ch. 872, 3d Session. The transportation of convict-made goods in interstate commerce is unlawful: "Provided, That nothing herein shall apply to commodities manufactured in Federal or District of Columbia penal and correctional institutions for use by the Federal Government. ..."

Federal. 31 U. S. C. A. sec. 686. Executive departments and independent establishments of the Government may purchase necessary supplies from other Federal agencies. But these sections shall not be construed to authorize purchase of convict-produced goods except as otherwise provided by law. (18 U. S. C. A. sec. 744g requires such purchase under certain restrictions.)