

MAINE STATE LEGISLATURE

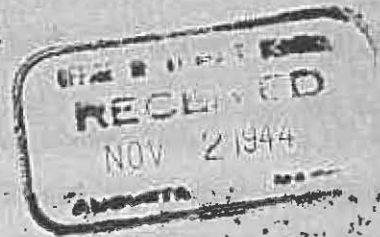
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STATE DEPARTMENT OF AUDIT
STATE HOUSE, AUGUSTA



MEMORANDUM

TO: Abraham Breitbard - Deputy Attorney General

Nov. 2, 1944

FROM: Harold E. Crawford - Municipal Auditor

SUBJECT: Imposition of Probation for payment of fines and costs

It has become necessary in our audit of the municipal courts of the state to ascertain the legal status of fines and costs committed to the Probation Officer under the provisions of Section 13, Chapter 147 of the Revised Statutes of 1930. Inasmuch as the answer lies in the interpretation of this and related sections of this chapter, may we have the benefit of your interpretation, with particular reference to the two cases following.

Case #1.

John Doe, on June 1st, is convicted in municipal court on an intoxication charge, and after due inquiry by the court relative to the circumstances of the respondent, is sentenced to pay a fine of \$5.00 and costs of \$4.70 and released into the custody and control of the Probation Officer for such payment. The docket entry reads "Sentence - To pay a fine of \$5.00 and costs of \$4.70, probation 10 days for payment". The proper writing is handed the respondent and he is turned over to the Probation Officer. On June 11th, the \$5.00 fine having been received from the respondent, but not the \$4.70 representing costs, the Probation Officer notifies the court of the violation of the terms of the probation.

Question 1. Does the \$4.70 balance remain a legal obligation against the respondent, legally collectible by the Probation Officer on June 11th or at any time after the expiration of the probationary period?

Question 2. Would the acceptance of, and the receipt for, such amount at a subsequent date by the Probation Officer constitute the legal execution of the original sentence? Would any liability for such acceptance, upon demand, fall upon the Probation Officer?

Question 3. Under Section 14, Chapter 147 of the Revised Statutes of 1930, as amended by Chapter 5, of the Public Laws of 1945, may such respondent subsequent to June 11th be brought by the Probation Officer without a specific command from the court, or on a bench warrant or capias duly issued, by any officer, before the court and committed in default of payment of the \$4.70 involved? If not, is there any means by which the collection of the costs may be enforced by the court?

Question 4. Upon receipt of the notice of violation of probation by the court, is the court in any way obligated to take any steps to secure the return of the respondent for the purpose of enforcing the original sentence; i.e., payment for the use of the county of the full \$9.70 by the respondent?

Case #2.

Under otherwise identical circumstances stated in Case #1, the sentence of the court reads -- "Sentence - to pay a fine of \$5.00 and costs of \$4.70, 10 days to pay, probation one year", or similarly "\$5.00 and costs, 1 year probation providing fine and costs paid within 10 days", it being the interpretation of the court that for the terms of payment, i.e., \$9.70 within the ten-day period, to be enforceable, the respondent must be on probation at the time such enforcement is attempted.

Question 1. Is any unpaid balance on June 11th in the hands of the Probation Officer in any different status with regard to collection by him than the balance outlined in Case #1, question 1?

Question 2. Is the additional provision relative to continued probation beyond the ten-day period noted in Case #2 necessary for the enforcement of the payment as outlined in Case #1?

Question 3. May the court, by the addition noted above, issue process to return the respondent to court, or at its discretion at any time prior to the termination of the year set by the court for the enforcement of the collection of the unpaid balance, or must process and service reasonably follow notification of the violation on June 11th?

HEC/KER

Howard E. Campford
Municipal Auditor