

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

March 17, 1950

To Stuart C. Burgess, Assistant Attorney General
Re: Fines imposed in Unemployment Fraud Cases

Your question dated March 8, 1950, addressed to the Attorney General, has been referred to me for an expression of opinion.

As I understand the statutes of this State, your question with respect to the disposition of fines imposed in unemployment fraud cases would be as follows:

Under the provisions of Section 5 of Chapter 137, R. S. 1944, the presiding officer of the court imposing the fine for violation of the Employment Security statute for an unemployment compensation fraud committed thereunder should pay the fine into the treasury of the county where the offense was prosecuted.

The authority for such court to impose a fine is found in the penalty sections of Chapter 24 of the Revised Statutes, which is now Chapter 430 of the Public Laws of 1949. In the amended Chapter 24 these penalties are set forth in Section 28 found on pages 569 and 570 of the Public Laws of 1949. In my opinion the fines mentioned in the penalty sections are the same fines as are contemplated in the second sentence of Section 12 of Chapter 430, P. L. 1949, page 543. This being the case, going back to Section 5 of Chapter 137, R. S. 1944, the county treasurer should, upon the approval of the county commissioners, pay to the State for the special administrative expense fund established by Section 12 *supra* the amount of the fine imposed and collected under the penalty sections first mentioned. The duty of the county treasurer in this respect is found in the third sentence of Section 5 of Chapter 137.

JOHN S. S. FESSENDEN
Deputy Attorney General

March 24, 1950

To Honorable Frederick G. Payne, Governor of Maine
Re: Old Age Assistance

There are two philosophies behind this situation:

1. Good administration (so-called)
2. Humanitarianism

I have watched these clash for the thirteen years that I have participated in state government.

While the Social Security program in its overall picture is a great humanitarian movement, many of its administrators at both federal and state levels, treating people as a commodity, operate the program as an *exact* science instead of a *social* science. I have seen it over and over again.

Judges are often criticized in the sentences meted out. However, it is in recognition of the "social science" that discretion is given. You are aware that the opposite philosophy would deny discretion to judges and require the same sentence in all apparently similar cases. This philosophy is entirely wrong in my judgment because its premise is faulty. The premise is, in effect, that since the cases are similar the people are alike.