

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

for that period of time and, within the meaning of the section in question, have "worked" for that period of time.

FRANK F. HARDING
Attorney General

July 18, 1958

To Ronald W. Green, Commissioner of Sea and Shore Fisheries (for forwarding by him to Clerk of Courts)

Re: Costs in Short Lobster Cases

You ask, with respect to the trial of a short-lobster case in the Waldo County Municipal Court, who is responsible for the witness fee submitted by a constable who was a witness in the case.

You state that under the new rule costs are not taxed, and the fine, if paid, goes to the Commissioner of Sea and Shore Fisheries, and you also inquire if that bill should be paid by the Commissioner direct to the witness.

The Commissioner does not pay such witnesses.

We would draw to your attention Section 114 of Chapter 38 of the Revised Statutes of 1954, as amended. This section imposes a fine of \$5 for each short lobster. Thus, in the present case, the respondent, having had three short lobsters in his possession, would be liable to a fine of \$15.

Section 114 also provides that the court may, in its discretion, add to the fines provided a sum not to exceed \$10 on each complaint, to be included in any fine imposed to cover said costs, without taxing such costs and without reference to such costs.

Such \$10 sum was added to the present case, and plus the amount of the fine made up the \$25 imposed. It therefore appears to me that such costs as are due and owing as a result of such a case should come from the \$10 assessed.

JAMES GLYNN FROST
Deputy Attorney General

July 18, 1958

To Michael A. Napolitano, State Auditor

Re: Assessment on Patients at Pineland Training Center

We have your memo inquiring as to the legality of Pineland Training Center's charging \$1 a week against each gainfully employed patient on trial visit and under the supervision of the Center. No such charge would be made against persons receiving less than \$5 per week.

In each such case the individual on trial visit is visited periodically by a member of the psychiatric social service of the Center.

It is our opinion that a charge can properly be made against the patient in such a case. The amount of the charge, however, is not for our determination.

Under both Sections 5 and 144 of Chapter 27, R. S. 1954, authority is granted to make a proper charge against patients of the Center for care, etc.

The last paragraph of Section 5 reads:

“It (the Department) shall also fix rates and collect fees for the support of patients in state hospitals, sanatoriums and other state institutions and provide for the training of nurses in state hospitals and sanatoriums.”

Section 144 reads:

“All indigent and destitute persons in this state, who are proper subjects for said school and have no parents, kinsmen or guardian able to provide for them, may be admitted as state charges and all other persons in this state, who are proper subjects for said school, when parents, kinsmen or guardian bound by the law to support such persons are able to pay, shall pay such sum for care, education and maintenance of such persons as the department shall determine, and such persons from other states having no such institution or similar school may be received into such school when there is room for them without excluding state charges, at a cost to such person or those who are legally responsible for their maintenance, of not less than \$3.25 per week; and the state may recover from any person admitted to said school, if able, or from persons legally liable for his support, the reasonable expenses of his support in said school.”

A patient upon *bona fide* trial visit, still under the care and supervision of the Center, is subject, in our opinion, to be charged, if under the circumstances that patient is able to pay a portion of the expense involved in supplying that care.

JAMES GLYNN FROST
Deputy Attorney General

July 18, 1958

To Earle R. Hayes, Executive Secretary, Maine State Retirement System

Re: Social Security Coverage for Public Library

We have your memo asking our opinion as to the status of the Farmington Public Library.

It appears that you transmitted Modification No. 49 to the Department of Health, Education and Welfare of the Federal Government for the purpose of extending Social Security coverage to the employees of said library.

The Regional Representative of the Bureau of Old-Age and Survivors Insurance requests an opinion as to whether the library is a political subdivision of the State.

It is our opinion that the Farmington Public Library is not a political subdivision of the State for the purposes of Social Security coverage.

The said library was incorporated under the provisions of Chapter 55 of the Revised Statutes of 1883, the counterpart of which statute is seen in Chapter 54 of the Revised Statutes of 1954.

The corporations so incorporated are not political subdivisions of the State. They are private, as distinguished from public, corporations in that they do not exercise any portion of the sovereignty.