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B-58378 July 31, 1946

Number: B-58378

Date: 1946-07-31

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Helen L. Maholm, Authorized Certifying Officer, Bureau of Labor Statistics, Department of Labor.

Dear Miss Maholm:

Reference is made to your letter of June 4, 1946, file No. 201, as follows:

"There is respectfully submitted for your consideration two public vouchers which have been presented to me for certification."

"The voucher from the Lewis Watch Shop covers repairs to a personally owned stop-watch which was borrowed and used in training classes conducted by the bureau pending purchase of a watch. The watch was accidentally dropped while in use necessitating repairs before it could run."

"The voucher in favor of Leslie G. Bourne, a supervisor is for a fine paid to the Criminal Division of the Municipal Court of the District of Columbia for the parking of a government owned mail truck in a no parking zone. The driver of the truck was delivering official documents and packages to a government building. As he was a new employee without sufficient funds to pay the fine, and was making a necessary delivery, the supervisor advanced the funds for payment of the fine. I find no precedent to follow in your published decisions as to the authority to expend funds for the purpose, and whether or not there is a legal responsibility of the driver of the truck to personally pay the fine."

"Please advise whether these vouchers may be appropriately certified for payment."

It is well established that, where private property is loaned gratuitously to the Government for the sole benefit of the Government, the latter is bailee, is required to exercise the highest degree of care in the use and protection of the property. See 8 C.J.S. Secs. 29, 25 Comp Gen. 539. Although there is not reported any administrative finding as to negligence on the part of the Government in connection with the damage to the stop- watch, it may be concluded that the facts and circumstances appearing reaspnably establish that the required degree of care was not used and, consequently, that the Government is liable for the reasonable cost of repairing the stop-watch. Accordingly, you are advised that the voucher transmitted with your letter in favor of the Lewis Watch Shop, covering the cost of repairing the stop-watch, may be certified for payment, if otherwise correct. Said voucher is returned herewith.

With respect to the voucher in the amount of $5 stated in favor of Leslie O. Bourne to reimburse him for money advanced to a subordinate employee to pay the latter's fine in that amount, there is not known to this office any authority to use appropriated moneys for payment of the amount of a fine imposed by a court on a Government employee for an offense committed by him while in the performance of, but not as a part of, his official duty. Such fine is imposed on the employee personally and payment thereof is his personal responsibility. Therefore, the said voucher in favor of Leslie G. Bourne may not be certified for payment and will be retained in this office.

Respectfully,

Comptroller General of the United States