STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

In the absence of a statute, it is certainly clear that public funds cannot be used for the transportation of pupils to private religious schools.

We do not answer whether it may be done when no additional use of public funds is involved.

JOHN S. S. FESSENDEN
Deputy Attorney General

July 19, 1949

To Ray S. Foster, Sheriff of Washington County
Re: Mittimus Fees

I received your letter of July 11th in regard to collecting mittimus fees. You state that you could never find any authority for you to collect them, so in order to settle the question you are writing me. You state that a man was committed from Lubec to your Machias jail on a mittimus from the Western Washington Municipal Court in default of payment of a fine of $10 and costs of $8.52, a total of $18.52, and that the judge sent you word to collect the mittimus fees before this man was released, plus costs of commitment from Lubec, amounting to $7.20, which would make the total $25.72. You ask whether, if offered the $18.52, you should accept it unless the costs of commitment are also paid.

Under Section 166 of Chapter 79, R. S., subdivision XXIX, the statute provides: "For the service of a warrant, the officer is entitled to $1, and $1 for service of a mittimus to commit a person to jail. . . and usual travel, with reasonable expenses incurred in the conveyance of such prisoner." I think this is sufficient authority for you to charge for the mittimus in addition to the fees. I feel that you should follow this practice, as it means quite a lot to your county. . . The legislature never intended the county to be responsible for transporting prisoners for commitment and I think that the statute which I quoted takes care of the same under "reasonable expenses incurred in conveyance of such prisoner."

RALPH W. FARRIS
Attorney General

July 19, 1949

To Adam P. Leighton, M. D., Secretary,
Board of Registration in Medicine

I received a letter from you dated July 12th, relating to the question of whether the Board should accept graduates of Continental European Medical Schools, with a copy enclosed of the application of Edmund Kahan, M. D., of Hindsboro, Illinois. Dr. Kahan is a graduate of the Vienna Medical School where he received the degree of Doctor of Medicine on February 6, 1937, and was admitted to practice before the Illinois State Board on August 5, 1940. You have a certificate of the Superintendent of Registration of the State of Illinois with his seal thereon.

It is my opinion that if the State of Illinois has registered Edmund Kahan, M. D., and if Illinois is still a reciprocity State, there is no other course for the Board to take than to endorse Dr. Kahan's applicatoon for admission under reciprocity. I spoke briefly with Herbert Locke about this matter the other day, and he could see no other way than I have outlined here. You should advise this gentleman where he stands, so far as Maine is concerned. . I am returning Dr. Kahan's application for endorsement by the Board.

RALPH W. FARRIS
Attorney General

July 19, 1949

To Jean Lois Bangs, Assistant Attorney General assigned to Social Welfare
Re: Estate of Former Recipient of Old Age Assistance

I have your memo of July 13th, giving a brief summary of the situation pertaining to an estate represented by Charles B. Small, attorney of Bath, Maine.

I note that the State has filed proof of claim against this estate in the amount of $1902, which represents the total amount of old age assistance granted during the recipient's lifetime, and that her total estate consists of a legacy from her brother's estate in the sum of $2340. You further state that the expenses of administration and costs of burial amount to approximately $700.

Mr. Small in behalf of the estate has offered to compromise the State's claim for $500, which you refused; but you did offer to settle the State's claim in an amount of approximately $1100. One of the sons of the deceased and Mr. Small, the attorney, feel that the sons should be entitled to a greater allowance and that your figure of settlement is unreasonable.

I hereby confirm your offer to settle this claim for $1100, and I will state that the State is not responsible for the care of Mrs. —— taken by her sons, who are legally responsible to support their own mother, under the Old Age Assistance Law. She did not receive old age assistance after December, 1947. The State's claim is prior to the date of her last sickness and the sons have no claim for services rendered by reason of her last sickness, having filed no claim within the time limit set by statute. Furthermore, if they had filed such a claim and it had been called to my attention, I should have objected to same. Strictly speaking, you should make no allowance to the sons for the care which they gave to their mother during her last sickness. It was a legal and moral obligation on the sons to support their mother. It is a shame that at this late date they should expect the State to assist them in caring for their dying mother.

My advice at this time is to compromise for $1100, as you have offered to do, and if they do not accept this, we shall insist on the full $1600 balance remaining in the estate on our proof of claim, which is now on file in the Probate Court.

RALPH W. FARRIS
Attorney General