

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

September 25, 1951

To Everett F. Greaton, Executive Director, Maine Development Commission  
Re: Release of State's Claim for Old Age Assistance

Last April you consulted George C. West, Assistant Attorney General assigned to the Department of Health and Welfare, concerning the State's claim in the amount of \$2256.00 for Old Age assistance granted to a beneficiary now deceased. Your question was whether or not the claim could be waived, as a brother of the deceased would not sell the property for the purpose of resale to an industry wishing to settle in Bridgton unless the State would waive its claim against the beneficiary's share of the property.

R. S. 1944, Chapter 22, Section 272, as amended by P. L. 1947, Chapter 336, provides in substance that upon the death of a beneficiary of Old Age Assistance the State shall have a claim against his estate for all amounts paid to him under the provisions of the Old Age Assistance Law. This same section provides:

"The attorney general shall collect any claim which the state may have hereunder against such estate."

This provision of the statute is very clear and uses the mandatory word "shall" throughout the section.

The Attorney General, as attorney for the State, has certain rights as an attorney representing a client to handle legal matters in such a way as will be for the best interest of the State, provided he does not in any way act contrary to legislative authority.

In this particular type of situation the legislature has laid the mandatory law that the State *shall* have a claim and that the Attorney General *shall* collect any claim which the State has. It does not seem, in view of the wording of this provision of the statute, that the Attorney General has any authority to waive the claim which the State has. This is a matter that is solely within the discretion of the legislature, and not within the province of the Attorney General's office.

It is therefore my conclusion that the only way the State's claim for Old Age Assistance can be waived is by legislative action. The Attorney General must proceed to collect as much of the claim as he can in view of the value of any particular piece of property which constitutes the estate of a deceased Old Age Assistance beneficiary.

ALEXANDER A. LaFLEUR

Attorney General

September 25, 1951

To Honorable Frederick G. Payne, Governor of Maine  
Re: Appointment of Members of the Maine School Building Authority

This office has been requested to submit to Your Excellency our opinion with regard to Section 215 of Chapter 405, P. L. 1951, relative to the appointment of Members of the Maine School Building Authority.