

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1957 - 1958**

February 5, 1957

To Roland H. Cobb, Commissioner of Inland Fisheries and Game

Re: Roads in Areas of Active Lumbering Operations

You state that officers of the Eastern Pulpwood Company and Eastern Corporation have inquired if there is some way that their roads could be marked, where they had active lumbering operations, which would request the public to stay out, and if our wardens could give assistance in keeping the active area closed.

At the same time they would publicize the fact that thousands of acres with no active lumbering operations were being kept open for the benefit of hunters.

You state that the point that bothers you is, "Do we have authority under the present law for Game Wardens to enforce what seems to me the duty of Deputy Sheriffs in civil cases, rather than Fish and Game cases?"

Without inquiring into the legal principles of your problem, we wonder if the situation is not such that we might be able to cooperate with the officers of the above mentioned corporations. It may be that wardens, in their normal duties, could advise the corporations of trespasses and otherwise be helpful to the extent that the corporations reciprocate and keep the inactive portions of their land open for hunting.

JAMES GLYNN FROST

Deputy Attorney General

February 5, 1957

To Kermit S. Nickerson, Deputy Commissioner of Education

Re: Children of Military Personnel

We have your recent memo in which you state that a question has been raised as to whether the State laws would permit sending the children of military personnel, living on Federal property in one town, to schools in another town.

You state that the Federal Government will pay the cost under Public Law 874, but that Federal officials will approve the expense only if State laws permit sending the children to school in another town.

We would direct your attention to Section 163 of Chapter 41, R. S., which reads as follows:

"Special arrangements may be made to provide elementary school privileges in cooperation with the United States Government for a child or children residing with a parent or legal guardian at any light station, fog warning station, lifesaving station or other place within a United States government reservation under such rules and regulations as may be made by the commissioner and approved by the governor and council."

In view of the above quoted section of law, it is our opinion that there is ample authority to send the children of military personnel living on Federal property to elementary schools when so approved by the Commissioner and the Governor and Council, in conformity with the provisions of Section 163.

It would seem that children attending secondary schools are not provided for in Section 163, or to our knowledge in any other section. With respect to such secondary school children we would suggest that legislation would be appropriate.

JAMES GLYNN FROST  
Deputy Attorney General

February 7, 1957

To Doris M. St. Pierre, Secretary of Real Estate Commission

Re: Change of Address

We have your memo of February 4, 1957, with regard to the change of address where licensed resident brokers are returning their licenses with the request to change the address to other States.

As a condition to licensing, Section 7 of your law requires that every *resident* real estate broker shall maintain a place of business in this State. Notice in writing shall be given to the Commission by each licensee of every change of principal business location whereupon the Commission shall issue a new license for the unexpired portion without charge. A change of business location without notification shall automatically cancel the license theretofore issued.

If the resident broker is attempting to change his principal place of business from a point within this state to a point without this state, he has automatically forfeited his right to a resident license for he no longer maintains a place of business in this state.

Section 10 provides that a non-resident of this state may become a real estate broker or salesman by complying with all the conditions of this section and this chapter. It further provides that a non-resident applicant, if a broker, shall maintain an active place of business in the state in which he is located. You will note that this section pre-supposes two classes; one of which would be a non-resident who was a real estate broker in his home state, the other a non-resident who would not be a real estate broker in his home state. If he is a broker in his home state, the Commission may license him as provided in Section 10 under the so-called "comity" clause. If he is not, then he must take the examination as provided in your law and proceed accordingly.

If a resident licensee does not maintain a place of business in this state, his license should be revoked or canceled and the attempted change of address refused. A resident cannot become a non-resident until he leaves this state. Once he becomes a non-resident, he must then act in accordance with Section 10 as a non-resident.

You have stated in your memo that it is the purpose of these applicants to keep their Maine license active with the idea that they could avoid taking another examination if the individual returns to the state.

In view of the presence of the legislature, it might be wise for the Commission to consider whether or not it would be appropriate to ask the legislature to pass a law which would allow a real estate broker or salesman to place his license upon an inactive list or status during which time he could transact no real estate business and such license could be reinstated upon application and payment of