MAINE STATE LEGISLATURE

The following document is provided by the

LAW AND LEGISLATIVE DIGITAL LIBRARY

at the Maine State Law and Legislative Reference Library

http://legislature.maine.gov/lawlib

Reproduced from scanned originals with text recognition applied

(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

We suggest that you follow the Act strictly and literally. It would appear that such a course would keep administrative costs at a minimum and allow a greater percentage of appropriated funds to be used for the purposes set forth in the Act.

GEORGE C. WEST

Deputy Attorney General

December 22, 1961

To: Maynard F. Marsh, Chief Warden, Inland Fisheries and Game

Re: Beaver Trappers and Landowner's Consent

You have asked by your memo of December 20, 1961, concerning the effect of Chapter 65, Public Laws 1961.

This chapter repealed the first sentence of the third paragraph of section 119 of Chapter 37 of the Revised Statutes. This sentence formerly read:

> "During such open season beaver may be trapped without the consent of the landowner in unorganized territory, and only with the consent of the landowner in organized territory."

This sentence constituted an exception to the general law on trapping as set forth in the second sentence of Chapter 37, section 70.

> "No person shall trap on or in any organized or incorporated place, or in any unorganized place on the cultivated or pasture area of land that is used for agricultural purposes, and on which land there is an occupied dwelling, or within 200 yards of any occupied dwelling, without first obtaining the written consent of the owner or occupant of the land on which said trap is to be set."

The exception, relating to beaver trapping, having been removed, the general law applies. A close reading of the general law as set forth in section 70 is less restrictive than seems from a hasty reading.

In order to require written consent the land must be 1) cultivated or, 2) pasture area used for agricultural purposes plus 3) an occupied dwelling on the land, or the trap must be within 200 yards of an occupied dwelling. Furthermore, the written consent may be obtained from either the owner or the occupant of the land.

Section 70, Chapter 37, does apply to beaver trapping. It is a general law and applies to trapping of any animal.

GEORGE C. WEST

Deputy Attorney General

December 27, 1961

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Eligibility for a War Orphan Scholarship

You have inquired whether or not a war orphan whose father was killed in World War II is eligible for war orphan aid when the child's mother subsequently marries and the husband adopts the son.

Revised Statutes, Chapter 41, Section 136, defines orphan of a veteran as follows:

> "Sec. 136. *'Orphan of veteran,' defined.* For the purposes of administering the provisions of sections 136 to 139, inclusive, an orphan of a veteran shall be defined as a child not under 16 and not over 22 years of age whose father served in the military or naval forces of the United States during World War I, World War II or the Korean Campaign and was killed in action or died from a service connected disability as a result of such service. War orphans, whose fathers entered the service from Maine or who have resided in the state for 5 years immediately preceding application for aid under the provisions of said sections and which children have graduated from high school and are attending a vocational school or an educational institution of collegiate grade, shall be eligible for benefits provided under said sections."

It is our opinion that the right to state aid vesting in the child of the veteran is not divested by the subsequent marriage of the mother and adoption of the son. The qualifications for the aid are those stated in Section 136, supra, and those qualifications contain no proviso relating to remarriage and subsequent adoption of the war orphan.

RICHARD A. FOLEY

Assistant Attorney General

January 2, 1962

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

Re: Recommendations of applicant for Broker's License

This is in answer to your request for an opinion interpreting the language contained in Revised Statutes of 1954, Chapter 84, Section 2-A, subsection II-C.

Section 2-A, subsection II-C, supra, provides in part:

> ". . . If applicant cannot procure such recommendations for the reason that he has not resided within the county for a period of 3 years, he may furnish similar recommendations from 3 persons with like qualifications from any county where the applicant has resided within the 3 years prior to the filing of his application. . ."

I will answer your question by citing an example. An applicant resided in County A during 1959, County B in 1960 and in County C during 1961. In 1962 he applies for a real estate broker's license. The applicant may present the recommendations required of persons resident in any of the counties in which the applicant has resided within the last 3 years prior to filing his application. Thus an application with recommendations from persons in either County A, B or C would be proper.

I would like to point out that the 3 year requirement on recommendations is not a resident requirement. The resident requirement of an applicant is one year as provided in Revised Statutes, Chapter 84, Section 2-A, subsection I-B.

RICHARD A. FOLEY

Assistant Attorney General