

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 Years
1967 through 1972

FACTS:

Private and Special Laws 1967, Chapter 224 Chapter A, provides a bond issue to erect a dormitory at the Maine Maritime Academy. The Federal Government, through H. U. D., has made a grant to supplement the state funds plus Academy funds. It will be possible to build a larger facility.

H. U. D. must have security for its grant in the form of a mortgage on the dormitory and the land on which it stands.

QUESTION:

Does the Maine Maritime Academy have authority to mortgage its real estate?

ANSWER:

Yes.

REASONS:

The Maine Maritime Academy was created as the Maine Nautical Training School by P. & S. L. 1941, Chapter 37. Section 1 of that Act provides in part:

“ (it is) a body corporate and politic, having the same rights, privileges and powers as have corporations organized under the general law ”

Corporations organized under the general law may “hold and convey lands and other property,” 13 M.R.S.A. § 141. Therefore, the Maine Maritime Academy may give a mortgage on its property.

Very truly yours,

GEORGE C. WEST
Deputy Attorney General

August 1, 1968
Education

Kermit S. Nickerson, Deputy Comm.

Eligibility of Adopted Child to War Orphan Scholarship Because of Subsequent Service-Connected Death of Natural Parent.

SYLLABUS:

Adoption severs all legal relations between a child and his natural parents and disqualifies him of the right to a War Orphan Scholarship under the provisions of 20 M.R.S.A. §§ 3211 – 3214 by reason of the subsequent death of his natural father on active duty in the military service because of a service-connected disability.

FACTS:

20 M.R.S.A. §§ 3211 – 3214 provide for scholarship assistance to War Orphans. By definition these are children, not under the age of 16, whose father served in the military

or naval forces during certain conflicts and who was killed in action or died from a service-connected disability.

The applicant under consideration was legally adopted in 1956. Her natural father died in 1966, while on active duty, of a service-connected disability.

QUESTION:

Does a child, whose natural father died while on active duty of a service-connected disability, have a right to a War Orphan Scholarship when 10 years prior to the death she was formally adopted by foster parents

ANSWER:

No.

OPINION:

19 M.R.S.A. § 535, provides that by a decree of adoption, the natural parents are divested of all legal rights in respect to the child, who becomes, for all intents and purposes the child of his adopters and stands in the same position as if born to them in lawful wedlock.

The decree divests the natural parents of all legal relationship to the child, and divests the child of all rights in his natural parents except the right of inheritance. Consequently, the child in question did not retain any right to a War Orphan Scholarship by reason of the death of her natural father.

LEON V. WALKER, JR.
Assistant Attorney General

August 19, 1968
Bureau of Taxation

Ernest H. Johnson, State Tax Assessor

SUBJECT: The Attempt to Pass Property at Death in Contravention of the Statute of Wills

SYLLABUS:

AN ORDER TO DELIVER THE EQUITY IN AN INVESTMENT PLAN TO A SPECIFIED BENEFICIARY ON THE DECEDENT'S DEATH IS AN ATTEMPTED TESTAMENTARY DISPOSITION OF PERSONAL PROPERTY, AND IN ORDER FOR THE DISTRIBUTION TO BE VALID, IT MUST BE EXECUTED IN COMPLIANCE WITH TITLE 18 M.R.S.A. § 1.

FACTS:

The decedent died intestate leaving heirs at law. The estate is in the process of probate, an administratrix having been appointed. An inventory and statement of deductions has been filed with the Inheritance Tax Division.

One of the assets of the estate is equity in an investment plan established by