

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

Moreover, a deputy cannot himself appoint a deputy, which is a very distinct limitation on the powers and authority of a deputy.

It therefore seems necessary that we hold that there is a vacancy in the office of Secretary of State.

Attorney General

May 21, 1942

From:
The Attorney General

To:
Dept. Adjutant General—Colonel Hart

Re: *Enlistment in State Guard*

I have your memorandum of May 20th asking if a person must be a citizen of the United States to be eligible for appointment as a commissioned officer in the Maine State Guard. The answer is, "No".

Chapter 312, P. L. 1941, approved January 23, 1942, uses the words, "such able-bodied male citizens of the state and such other able-bodied men who have or shall have declared their intention to become citizens of the United States". The language must be interpreted in accordance with the general military law of the State in view of the fact that it contains no express statement about citizenship of officers.

R. S. Chapter 18, Section 1, provides that the "militia of the State of Maine shall consist of all able-bodied male citizens of the state and all other able-bodied males who have or shall have declared their intention to become citizens of the United States, . . .".

Section 2 of said Chapter 18 provides for commissioned officers without requiring that they shall be full citizens.

As clearly appears from the wording of the general military law of the State, there was no intention on the part of the legislature that a person must be a full citizen in order to be an officer in the National Guard. The language of the State Guard Act being exactly the same, we should put the same interpretation on it. Certainly, if, over a period of many years, the policy of the State has been that a person may serve as an officer in the National Guard without being a full citizen, the same intention is clear when we find exactly the same language in the State Guard Act.

FRANK I. COWAN
Attorney General