

MAINE STATE LEGISLATURE

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August 25, 1944

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To Francis K. Purinton, Executive Secretary, Executive Department
From Frank I. Cowan, Attorney General

I have your memo of August 22nd in regard to the term of office of the Adjutant General.

This matter was considered very carefully in the winter or early spring of 1941, but I cannot find a copy of the opinion issued at that time.

The Constitution of Maine, Article XXVIII, provides, "The adjutant general . . . shall be appointed by the governor." No term is set. R.S.1930, Chapter 18, Section 8, provides that "The staff of the commander-in-chief shall consist of the adjutant general, who shall be ex officio chief of staff, etc." R.S. Chapter 18, Section 22, provides for the appointment by the Governor of staff officers, and Sections 23 and 24 provide for the duties and qualifications of staff officers.

The Federal Military Law, a copy of which I do not have before me at the present moment, sets up "staff officers" on a permanent basis, and if I remember correctly, subject to the authority of the Secretary of War.

As I recall my 1941 opinion, I said at that time that the Adjutant General of the State is the personal representative of the Governor in the military arm of the State. As such, it is necessary that he be subject to the control of the Governor. ~~As much as our statutes do not provide for any term, I said at that time that he holds office at the pleasure of the Governor. I said further that he is "ex officio" chief of staff, but that he is not a staff officer.~~

If I were writing the opinion again, I should arrive at exactly the same conclusions, ~~although the experience of the last three and a half years might give me a different form of argument.~~

Frank I. Cowan
Attorney-General

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