

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

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

1937 law, the 1941 law and the 1943 law. This section was amended by the Public Laws of 1947, Chapter 83, and again by Chapter 349, Section 1, of the Public Laws of 1949, which repealed Section 64 of Chapter 5 of the Revised Statutes and enacted a new section in place thereof.

Section 5 of said Chapter 349, P. L. 1949, also provides that a poll tax shall be assessed annually on or as of April 1 on all residents in unorganized territory who are required by law to pay a poll tax, and the tax shall be paid to the State tax assessor, who shall give a receipt therefor. Poll taxes assessed and collected from electors in unorganized territory who register in a town as voters shall be paid by him to such town for any year in which such electors actually vote therein, provided the State tax assessor receives from the officials thereof a certification of such registration and act of voting by June 1st of the following year, and such payment shall be considered as an assessment on such electors by such town officials. The remainder of the poll taxes collected, if any, shall be paid to the Treasurer of State.

Now going back to the last word on the subject, Section 1 of Chapter 349, P. L. 1949, this provides that persons having legal residence in unorganized territory and having the legal qualifications of voters, may vote in all county, state and national elections if such town is in the same county; if not so situated, then only in state and national elections.

In view of the many changes in the law since 1921 when Attorney General Shaw made a ruling to your board of registration, and in view of the plain language in the 1949 Act, Mr. Poolaw can vote only in county, state and national elections. The statute is silent on municipal elections. I am sending him a copy of this letter, so that he will know upon what law my decision is based.

RALPH W. FARRIS
Attorney General

December 19, 1950

To Brig. Gen. George M. Carter, The Adjutant General

Re: Question of Authority of the Governor of the State of Maine to Extend Regular enlistments of Members of the Military Forces of the State

I acknowledge receipt of your memo of December 14th relating to the above-entitled subject matter. You call my attention to the fact that on July 27, 1950, the 81st Congress of the United States passed Public Law 624 which gives extensive powers to the President of the United States with respect to the Armed Forces of the nation and in general to promote the overall security of the nation.

You further state in your memo that on the same date there was published from the Executive Department of the United States Government Executive Order 10145 implementing the provisions of Public Law 624 which extended enlistments of all members of the Armed Forces for a period not to exceed twelve months. You further note that under the terms of Section I of P. L. 624 this authority granted to the President would expire on July 9, 1951.

You further state in your memo of the 14th that by directive of the Department of Defense the National Guard Bureau notified the States that the

extension of enlistments directive affecting Army personnel also applied to the National Guard of the United States and the several States. You further call my attention to the fact that at the State level several different interpretations have been placed on this directive. The Attorney General of Ohio has ruled that "Section I of the Act of 27 July 1950, P. L. 624, 81st Congress, does not apply to a member of the Ohio National Guard." You further state that several other State Attorneys General have rendered similar opinions, while some other jurisdictions, including New York, New Jersey, Hawaii and Puerto Rico, where the language of their military codes permitted, have extended their enlistments; but that most States up to this time have taken no action, feeling that they had no legal authority to do so under their State statutes.

Upon the basis of the foregoing you request a review of this point by the Attorney General and an opinion from him as to whether or not any of the State statutes granting powers and quoting duties of the Chief Executive do give him the authority to extend the enlistments of currently enlisted personnel of the National Guard.

In reply I wish to advise that Section 33 of Chapter 12, R. S. 1944, provides in part as follows:

"The organization of the national guard of Maine, including enlistments, appointments, promotions, discharges, equipment, uniforms, reductions, and warrants of non-commissioned officers, instruction and training, armament, discipline, and elimination and disposition of officers, shall be the same as that which *is now or may hereafter be prescribed* or provided by the laws and regulations of the United States for the national guard; and the commander-in-chief (meaning the Chief Executive) *is authorized, and it shall be his duty*, to issue and prescribe from time to time such orders and regulations, and to adopt such other means of administration as shall maintain the prescribed standard of organization, armament, and discipline; . . ."

Construing this section in connection with Section 90 of Chapter 12, R. S. 1944, as amended by Chapter 326, Section 33, P. L. 1949, it is my opinion that the Governor has power under our National Guard Statute to follow out the directive issued by the Commander-in-Chief of the Army and Navy of the United States and of the militia of the several States and to issue a regulation extending the enlistments of all members of the National Guard in conformity with Executive Order No. 10145 authorized under the provisions of P. L. 624 of the 81st Congress.

RALPH W. FARRIS
Attorney General

December 21, 1950

To Ernest H. Johnson, State Tax Assessor
Re: Taxation of Insurance Companies

Your memo of December 19th received, asking if an insurance company located outside the State of Maine and having no agents within the State, but dealing directly by mail in issuing policies and collecting premiums on