

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

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

Maine risks, is subject either to the insurance premium tax under R. S. Chapter 14, Section 133, or the fire investigation tax under R. S. Chapter 85, Section 29.

After reading these sections I am of the opinion that these companies are doing an interstate commerce business and that the statutes which you quote would not apply in either case, provided that these insurance companies are not registered as foreign corporations and, as you set forth, have no agents in this State. They would be doing business in the States of their home offices, as the contracts are made and the premiums received at their home offices outside the State of Maine.

RALPH W. FARRIS
Attorney General