

MAINE STATE LEGISLATURE

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STATE OF MAINE

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Inter-Departmental Memorandum Date March 7, 1966

To John J. Shea, Director, Probation & Parole
(Secretary, Probation and Parole Board)
From Courtland D. Perry, Assistant Atty. Gen'l.

Dept. Mental Health and Corrections
Dept. Same

Subject Parole Board Membership (Alternate Member)

FACTS:

The newly appointed Director of the Bureau of Corrections for the Department of Mental Health and Corrections arrived in Maine on March 6, 1966; prior to that date he resided, and worked, in the State of Wisconsin.

T., 34, M.R.S.A., 1964, §1551 provides in part:

"A State Probation and Parole Board, as heretofore created within the Department of Mental Health and Corrections and in this chapter called the 'board' shall consist of 3 members who are citizens and residents of the State.....The Commissioner of Mental Health and Corrections shall be ex officio a member of the board, except that he may appoint any suitable person from his department to serve during his pleasure, in his absence, as a member of the board, but in no case longer than his term of office as commissioner....."

QUESTION:

Is the new Director of the Bureau of Corrections a citizen and resident of the State of Maine, and thus qualified immediately to serve as the alternate ex officio member of the State Probation and Parole Board?

ANSWER:

No.

OPINION:

The word "residents" as it appears in the cited statute, in our opinion, is intended by the Legislature to require that all members of the State Probation and Parole Board shall be physically present within the State and shall intend to reside in Maine. It is our further opinion, however, that the word "citizenship" indicates a legislative intent that all members of the Probation and Parole Board shall be entitled to exercise political rights within this State, i.e., shall be entitled to vote, a prerequisite to which entitlement is 6 months' residence.

See: T., 21, M.R.S.A., 1964, §241.

John J Shea, Director
Probation and Parole

March 7, 1966

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The alternate member of the board appointed to serve in the absence of the Commissioner is subject to the citizenship and residency requirements of the statute, thus the newly appointed Director of the Bureau of Corrections under the statute must reside in this State 6 months before he may be considered for appointment as the alternate member of the board.

Courtland D. Perry
Courtland D. Perry
Assistant Attorney General

GDP/f