

# MAINE STATE LEGISLATURE

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November 20, 1973

Clarence D. Read, Jr.

Military Bureau

Charles R. Larouche, Assistant

Attorney General

Eligibility of Aide-de-Camp for placement on Military Retired List

This replies to your memo of November 8, 1973, on this subject.

It appears that B. served as a commissioned officer in the Maine Army National Guard for four years, resigned his commission in 1958 and was then honorably discharged. It further appears that in 1960, B, who then had no status in the Maine National Guard, nor in any other authorized State military or naval force, accepted a commission as "Colonel (Aide-de-Camp)" from the Governor. He acted in the capacity of aide-de-camp until 1967. Mr. B. requested that he be placed on "the retired list" pursuant to 37-A M.R.S.A. § 932. The Adjutant General initially denied that request in 1967, and subsequently confirmed that denial after further consideration and the advice of his Staff Legal Officer. Mr. B. renewed his request on September 7, 1973, and the Staff Judge Advocate has rendered an extensive opinion to the Adjutant General stating that Mr. B. is not entitled under 37-A M.R.S.A. § 932 to be placed on the retired list.

You ask whether or not this office concurs in the conclusion of your Staff Judge Advocate. The answer to that question is affirmative. 37-A M.R.S.A. § 932 provides in pertinent part:

"Any person who has served as a commissioned officer in the Maine National Guard or other authorized state military or naval forces for a period of not less than 9 years may, upon personal request, be placed upon the retired list."

The critical question is whether or not the acceptance of an appointment as an "aide-de-camp" to a Governor-Commander-in-Chief constitutes service as a commissioned officer in an authorized State military or naval force. While Mr. B. was on the staff of the Commander-in-Chief-Governor, there is no indication that he thereby served in any authorized military force. A "staff" is not a "military force" nor does it appear that the Governor's staff is a part of any military force.

Accordingly, I concur in the well-reasoned and well-written opinion of your Staff Judge Advocate.

**NOT A FORMAL OPINION**

CRL:H

Charles R. Larouche  
Assistant Attorney General