

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)

JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

March 14, 1978

Honorable Edward McHenry
House of Representatives
State House
Augusta, Maine

Dear Representative McHenry:

This responds to your request for an opinion on the question of whether there is any law which limits the time within which the Governor must swear in a person appointed to a particular position.

We would advise that there is such a law. 5 M.R.S.A. § 6 requires that all public officers must qualify to perform their duties within 30 days after being commissioned, that is, they must be sworn in and otherwise meet the qualifications of their particular office. The law in question reads as follows:

"All public officers appointed by the Governor shall, within 30 days after being commissioned, qualify to perform the duties of their office and the certificate of such qualification shall be filed in the office of the Secretary of State. Any such officer who fails to qualify and file a certificate of qualification in the office of the Secretary of State within 30 days shall be deemed to have forfeited his appointment and the office may be declared vacant by the Governor and a new appointment made."

This means that in the case of appointments that are personal to the Governor or any other appointing authority, the person must be sworn in within 30 days after the date on which the commission of appointment is signed. In the case of appointments which are

subject to legislative confirmation, the commissioning, as such, cannot occur until after the legislative confirmation procedures are completed with the appointee still being required to be sworn in and otherwise qualify within 30 days of the date of commission.

I hope this information is helpful.

Sincerely,



DONALD G. ALEXANDER
Deputy Attorney General

DGA/ec