

5125/5791



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

January 17, 1996

The Honorable David Wright
Member, House of Representatives
P.O. Box 2237
Irmo, S.C. 29063

Dear Representative Wright:

You have requested advice as to whether the right to vote for members of the Board of Visitors of The Citadel must be limited to residents of this State. Your question arises under S.C. Code Ann. § 59-121-10, et seq. (Supp. 1994) which provides for the appointment of three of the Board's members by "...such means and methods as may be determined by the Association of Citadel Men...."

An early California decision provides some guidance on this issue. A case summarized at 97 ALR 2d 382 upheld the appointment of a fire commissioner for the city and county of San Francisco by a board of underwriters which included agents who were not United States citizens and agents who were otherwise not qualified electors of that city and county. In Re Bulger, 45 Cal. 553 (1875). "...[T]he court concluded the appointment could be made in the manner directed by the legislature, since in none of the provisions of the constitution was any limitation placed upon the exercise of this power." Similarly, because the South Carolina Constitution imposes no express limitations as to this matter and because authority exists for delegation of appointment authority to private groups having nonresident members, the General Assembly's delegation of appointment authority to the Association of Citadel Men does not appear to be contrary to the Constitution on the basis that the Association's members include non-residents.

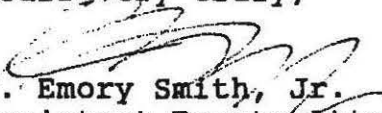
This letter is an informal opinion. It has been written by the designated Assistant Deputy Attorney General and represents the opinion of the undersigned attorney as to the specific questions asked. It has not, however, been personally reviewed by the Attorney General nor officially published in the manner of a formal

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opinion.

If you have further questions, please let me know.

Yours very truly,


J. Emory Smith, Jr.
Assistant Deputy Attorney General

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