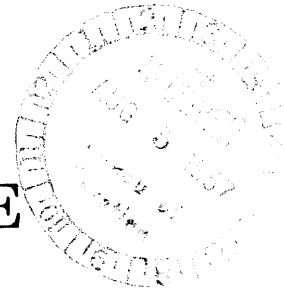
# STATE OF MAINE



# REPORT

OF THE

# ATTORNEY GENERAL

for the calendar years

1955 - 1956

militia excepted, shall have a seat in either house during his being such member of Congress, or his continuing in such office."

Section 2 of Article III of the Constitution of Maine provides:

"No person or persons, belonging to one of these departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted."

Based on the foregoing, it is our opinion that an employee of the Executive branch cannot carry out his duties as such and also be a member of the Legislature; nor should any member of the Executive branch be given leave to attend the annual session of the Legislature or any special session thereof.

Further, no member of the Legislature should be employed by the Executive branch after the regular session, unless and until he has resigned from that body.

If the Constitution were not so specific, undoubtedly public policy would dictate the same answer.

We trust that this answers your problems.

ROGER A. PUTNAM
Assistant Attorney General

June 13, 1956

To Norman U. Greenlaw, Commissioner of Institutional Service

Re: Contract—Costs of Return of Parole Violators

We have examined the letter dated May 21, 1956, from Brevard Crihfield of the Secretariat of the Council of State Governments, and the attached contract, which he requested you to execute, concerning costs of cooperative returns of violators of parole and probation.

In brief, the contract relates to a device whereby violators can be transported between States by officers deputized by this State, but who are actually officers of another State, with the payments of costs to such persons for necessary expenses incurred in the transportation of such violators. This would, in effect, mean that the State would pay to officers of another State expenses incurred in returning to this State violators of our laws.

While we do not have at hand the descriptive legal brief relating to informal cooperative agreements, we are of the opinion that legislation would be necessary, authorizing the Commissioner to execute this agreement with officers of another State.

It will be noted that on page 102 of the Handbook on Interstate Crime Control published by the Council of State Governments, it is stated,

"Thus, the key question to a plan for cooperative returns of violators rests with adequate statutory authority giving appropriate officals power to deputize parole and probation officers (out-of-State agents)."

We are returning herewith the above named Handbook, which accompanied your request for an opinion.

JAMES GLYNN FROST
Deputy Attorney General