

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)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

March 11, 1968

Allen G. Pease, Adminis. Asst.

Executive

George C. West, Deputy

Attorney General

You brought me a note on March 11 in which you asked two questions.

QUESTION NO.1:

Does the decision of the Attorney General in Report of the Attorney General, State of Maine, 1955-56, pp. 75-76, prohibiting service in legislature by members of the executive branch, apply to unclassified employees as well as classified?

ANSWER: Yes.

REASONS:

Attached is a copy of the opinion contained in the Attorney General's Report 1955-56, page 75. This opinion would apply to unclassified employees as well as classified. This opinion is based entirely on two provisions of the Constitution and generally would be more applicable to unclassified employees than to the classified personnel.

QUESTION NO. 2:

Does Article IV, Part Third, Sec. 11 of the Constitution, or Title 5, Chapter 57, Sec. 679, M.R.S.A. , in any way preclude the running for legislative office by an unclassified employee of the executive branch?

ANSWER:

This is a 2-part question. The answer will appear below.

REASONS:

If you will note in the attached opinion, Article IV, Part Third, Section 11 of the Constitution is quoted and is a basis for the decision in the opinion of May 29, 1956. That opinion, of course, does not answer the question of an unclassified employee being a candidate for the legislature.

March 11, 1968

The Constitutional provisions do not seem to prevent an unclassified employee from being a candidate for the legislature. I can find no case in this State, nor an opinion from this office, indicating that a person holding an unclassified position may not be a candidate for the legislature.

I would point out, however, that if an unclassified employee were a candidate for the legislature, his employer could request his resignation if he believed that the time spent in his campaign prevented the employee from doing his work.

Title 5, M.R.S.A. § 679 applies only to employees in the classified service by its express language. Therefore, the answer to the second part of the second question would be "No."

George C. West
Deputy Attorney General

GCW:H