

MAINE STATE LEGISLATURE

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May 25, 1971

Honorable John F. Clemente
House of Representatives
State House
Augusta, Maine

Dear Representative Clemente:

This is in reply to your letter of May 21 requesting an opinion whether a member of the State Legislature can at the same time serve as a Trustee of the University of Maine.

M.R.S.A., Const., Article III, § 1, provides that the powers of the government shall be divided into three distinct departments; the legislative, executive and judicial. Article III, § 2, provides that no person belonging to one of these departments shall exercise any of the powers properly belonging to either of the others.

20 M.R.S.A. § 2252, declares the University of Maine to be an instrumentality and agency of the State for the purpose for which it was established. Its trustees are appointed under its charter by the Governor with the advice and consent of the Executive Council. Also by its charter, the Governor and Council at all times have the power to examine into its affairs and may direct the Attorney General to institute process against the trustees. It is clear then that a trustee exercises powers of the executive branch of the State government. If he were at the same time a member of the Legislature, he would be holding incompatible offices under the Constitutional limitation above cited.

Very truly yours,

Leon V. Walker, Jg.
Assistant Attorney General

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