

MAINE STATE LEGISLATURE

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February 8, 1974

Honorable James K. McMahon
House of Representatives
State House
Augusta, Maine 04330

Dear Representative McMahon:

This is in response to your inquiry of January 31, 1974, in which you ask this office whether there would exist a conflict in the event that you, while a member of the Maine Legislature, were to acquire employment as a substitute or part-time teacher, or both, at the Boys Training Center. This is to advise that a conflict would exist in the event that you, as a Legislator, were to acquire employment as a teacher at the Boys Training Center, which is within the Executive Branch of State government; the two offices would be incompatible. I cite you to the following provisions of the Maine Constitution.

Art. III, §1. The powers of this government shall be divided into three distinct departments, the legislative, executive and judicial.

§2. 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.

See also, Opinions of the Attorney General, May 29, 1956 and January 23, 1962, copies of which are attached for your convenient reference.

Although the above-cited and attached opinions of this office presumably dealt with questions raised in connection with classified state employees, the answer must be the same in reference to the

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position contemplated to be entered by you as a Legislator; i.e., a teaching position at the Boys Training Center rendered unclassified by 5 M.R.S.A. § 711, sub-section 8. The Maine Supreme Judicial Court in Coombs v. State Board of Education, 308 A.2d 582, (May, 1973) has recognized an unclassified teaching position analagous to the teaching position in question here as within the executive branch of State government.

Yours very truly,

JOS A. LUND
Attorney General

JAL/jwp

Att.