

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**

December 18, 1974

Honorable James K. McMahon
41 Grove Street
Kennebunk, Maine 04043

Dear Representative McMahon:

In a telephone conversation with this office December 10, 1974, you asked if a conflict of interest or incompatibility of offices would exist in the event you accepted a paid staff position with Congressman Emery. The staff position would be as field director in York County at an annual salary under \$10,000 (the specific amount was not given). You would work out of an office on a day-by-day basis on matters such as responding to complaints, attending meetings with municipal officers, etc., thus giving the Congressman a voice in York County. The salary would be paid from an allotment to the Congressman.

After examination of State statutes and constitutional provisions, we find no prohibition, per se, to such employment.

With regard to a reading of federal statutes and federal constitutional provisions, we see no illegality resulting from such employment, per se. The federal Hatch Act, so called, would not be applicable because the contemplated employment would not be in the executive branch of federal government.

We express no opinion whatever on the policy questions raised by such employment, nor do we express any opinion on behalf of the Federal Government.

We would be remiss if we did not indicate that the State statute on legislative ethics, 3 M.R.S.A. § 380, provides that

Honorable James K. McMahon
Page Two
December 18, 1974

a conflict of interest includes, among other things, a situation where a Legislator accepts or engages in employment which could impair the Legislator's judgment. 3 M.R.S.A. § 382, § 1, ¶ E. The provisions of 3 M.R.S.A. § 383 specify that in the event the Committee on Legislative Ethics determines that a member of the Legislature has a conflict of interest, as defined in § 382, the member shall be precluded from voting on any question in connection with the conflict. Any decision regarding conflict of interest based upon legislative ethics is for the Legislative Committee. We intimate no opinion whatever on that subject.

Thank you for your attention.

Very truly yours,

JON A. LUND
Attorney General

JAL/jwp