

# MAINE STATE LEGISLATURE

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January 3, 1975

John B. Leet, Executive Director  
Maine Law Enforcement Planning & Assistance Agency  
295 Water Street  
Augusta, Maine 04330

Dear Mr. Leet:

This replies to your letter of December 30, 1974, in which you ask whether or not a member of the Legislature may lawfully serve on the Board of Directors of the Maine Law Enforcement Planning and Assistance Agency. The answer to that question is negative.

Article III, Constitution of Maine, provides:

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

"Section 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."

5 M.R.S.A. § 3350 expressly states that your Agency is "in the Executive Department to carry out programs of planning for more effective law enforcement and for assisting local and state agencies in improving law enforcement in the State."

It seems clear from these provisions that the Constitution of Maine prohibits a Legislator from serving as a member of the Board of Directors of your Agency. This conclusion is consistent with related judicial decisions and many advisory opinions of my predecessors. For example, see Howard v. Harrington, 114 Me. 443, mayor and judge; Reports of the Attorney General, 1924-1928, at page 261, legislator and medical examiner or public administrator; Report of Attorney General 1961-1962, at page 121, state employee and legislator; and Opinion dated October 24, 1972, legislator and Maine-New Hampshire Interstate Bridge Authority member;

opinions of the Attorney General; opinion dated March 19, 1970, municipal assessor and legislator; opinion dated February 21, 1967, legislator and chairman of Maine Potato Commission; opinion dated December 22, 1971, legislator and Maine Maritime Academy Trustee.

If I can be of any further aid to you in this matter, please advise me.

Very truly yours,

JOSEPH E. BRENNAN  
Attorney General

CRV  
JEB/ec