

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**

80-40

RICHARD S. COHEN
ATTORNEY GENERAL



STEPHEN L. DIAMOND
JOHN S. GLEASON
JOHN M. R. PATERSON
ROBERT J. STOLT
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

February 20, 1980

David Redmond
State Parole Board
Mental Health & Corrections
State House
Augusta, Maine 04333

Dear Mr. Redmond:

You have asked whether a Legislator may serve as a member of the State Parole Board. It is our opinion that an individual may not simultaneously hold both of these offices.

Article III, Section 2 of the Maine Constitution prohibits a person from serving in both the Legislative and Executive Departments at the same time. Since there is no doubt that a State Legislator is serving in the Legislative Department, the question becomes whether a member of the State Parole Board would be considered to be serving in the Executive Department.

Under 34 M.R.S.A. § 1551, the State Parole Board is expressly made a part of the Department of Mental Health and Corrections. Furthermore, its members are appointed by the Governor. Thus, there can be no doubt that persons sitting on the Parole Board are serving in the Executive Department of state government.

In light of the constitutional prohibition against serving in the Legislative and Executive Departments at the same time, it seems clear that a person may not be a member of the State Parole Board while serving in the State Legislature.

Please feel free to contact me if I can be of any further service.

Sincerely,

Stephen L. Diamond

STEPHEN L. DIAMOND
Deputy Attorney General

SLD:mfc