

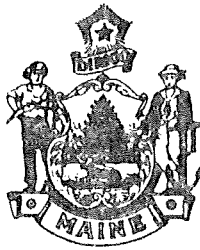
# MAINE STATE LEGISLATURE

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JAMES E. TIERNEY  
ATTORNEY GENERAL



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

February 2, 1981

Mary Ann Lynch  
Executive Department  
State House  
Augusta, Maine 04333

Re: Interpretation of 30 M.R.S.A. § 6212

Dear Ms. Lynch:

Your letter to Attorney General Tierney asks whether a member of the Maine Legislature may be appointed to the Maine Indian Tribal-State Commission created by 30 M.R.S.A. § 6212. The answer is no.

The Maine Constitution provides that no member of one branch of government may exercise the powers of another. Me. Const., Art. III, Section 1 and 2. In this instance the Commission has the authority to enact fishing regulations on waters within and bordering on Indian Territory. Insofar as the Commission is exercising regulatory authority, its status is no different from that of any other statutorily created administrative agency. This office has consistently rendered opinions concluding that a legislator may not at the same time hold a position as a member of a State regulatory agency. See for example Opinions of the Attorney General dated April 28, 1975 (incompatible for Legislator to be a member of Public Utilities Commission); March 6, 1974 (incompatible for Legislator to be member of Maine Dairy Council); January 3, 1975 (incompatible for Legislator to be a member of Maine Law Enforcement Planning and Assistance agency); February 21, 1970 (incompatible for Legislator to be member of Maine Potato Commission); December 22, 1971 (incompatible for Legislator to be Trustee of Maine Maritime Academy); and June 20, 1973 (incompatible for Legislator to be member of Land Use Regulation Commission). We think those opinions clearly applicable to this case, and we conclude that a legislator may not be appointed to the Commission.

Very truly yours,

JOHN M. R. PATERSON  
Deputy Attorney General

JMRP:jg