

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

August 15, 1951

To the Honorable Frederick G. Payne, Governor of Maine  
Re: Panel of Mediators

It has been requested of this office to submit to his Excellency an opinion relative to the appointment to the Panel of Mediators established by Chapter 353, Public Laws of Maine, 1951, of a person now a member of the Board of Arbitration, if that person resigns from the Board of Arbitration.

With regard to this matter, incompatibility of offices may be present either by virtue of the common law or through express legislation. Chapter 353, Public Laws, 1951, expressly states that a member of the Board of Arbitration and Conciliation may not be eligible to serve as a member of the Panel.

It is our opinion that, as distinct from such a provision as is contained in our Constitution, Article IV, Part Third, Legislative Power, which forbids certain persons from appointment to office for a definite period, incompatibility present by virtue of Chapter 353, Public Laws, 1951, is similar to common law incompatibility, in that appointment to the Panel of Mediators would effect an automatic resignation of the membership on the Board of Arbitration and Conciliation.

It is our opinion, therefore, that upon a member's resigning from the Board of Arbitration and Conciliation, such person would be eligible to appointment as a member of the Panel of Mediators.

JAMES G. FROST  
Assistant Attorney General

August 21, 1951

To Fred M. Berry, State Auditor  
Re: Fees

In your memo of July 23, 1951, you quote the following paragraph from the charter of the Western Washington Municipal Court:

*"Fines and penalties to be paid into county treasury. All fines and forfeitures and fees of the judge and recorder of said court, imposed and collected by said court, in all criminal cases, and all fees of said judge and recorder of said court in civil and criminal cases received by either or both, shall be accounted for and paid over quarterly into the treasury of said County of Washington, for the use of said county; . . ."*

and ask: "In this particular court, is the recorder liable for civil fees which have been extended on credit to various attorneys in the county, or is the recorder liable only for such civil fees as actually have been collected?"

*Answer.* We refer you to the memo of January 9, 1951, submitted to you by John S. S. Fessenden, Deputy Attorney General, and state that we are in concurrence with Mr. Fessenden's opinion that the extension of credit for fees due in civil cases would be at the peril of the court officer so extending credit, unless the charter of the particular court provides otherwise.

The use of the word "received" in the above quoted section of the charter is not an unusual one, and in such instances means more than simply the fees