

MAINE STATE LEGISLATURE

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April 17, 1963

Honorable Nelson C. Hancock
Member of Executive Council
State House
Augusta, Maine

Dear Mr. Hancock:

Re: Incompatibility of County Attorney and Industrial Accident
Commissioner.

You have asked if the same person can hold, at the same time,
the offices of County Attorney and Industrial Accident Commissioner.

At common law it has been said:

" . . . two offices are incompatible when
the holder cannot in every instance discharge
the duties of either "

We believe that one person cannot hold both offices and per-
form the duties of each office in a completely satisfactory manner.

You are concerned about a new county attorney taking over the
May term of Superior Court in Lincoln County.

First, this same situation prevails in other counties when
a new county attorney is elected and has to handle his first term
of court.

Second, the new county attorney may request the presiding
justice to appoint another attorney to aid him in the prosecution
of his cases. This has been decided by our Supreme Judicial Court
in two cases.

Honorable Nelson C. Hancock

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Third, the attorney general may, in his discretion, assist the county attorney. He may assign an assistant to such work.

We believe that the May term of court can be adequately handled by use of either the second or third methods.

Very truly yours,

George C. West
Deputy Attorney General

GCW:H