

# MAINE STATE LEGISLATURE

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December 4, 1964

Mr. Harold C. Gallagher  
38 Pearl Street  
Bangor, Maine 04401

Dear Mr. Gallagher:

This will acknowledge receipt of your letter of December 2nd asking if a Deputy Sheriff may also be a Bail Commissioner at the same time. Revised Statutes, Chapter 126, section 34 says:

"The Superior Court sitting in each county shall appoint from the number of Justices of the Peace resident in the county, one or more Bail Commissioners, who shall hold office during the pleasure of the court."

This means that a Bail Commissioner must first be a Justice of the Peace. In years past this office has indicated on a number of occasions that a Deputy Sheriff cannot be a Justice of the Peace. There would be a conflict of interest in those two positions. A Deputy Sheriff is sworn to enforce the law. A Justice of the Peace under the State Constitution has been considered a judicial officer and may have to sit in judgment of a person who has been arrested by a Deputy Sheriff. Therefore, a Deputy cannot be a Justice of the Peace.

Inasmuch as a Bail Commissioner must be a Justice of the Peace, it follows that a Deputy Sheriff cannot be a Bail Commissioner.

Very truly yours,

George C. West  
Deputy Attorney General

GCW:H