

# MAINE STATE LEGISLATURE

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April 25, 1969

Mr. Richard E. Kierstead  
Box 454  
Boothbay Harbor, Maine 04538

Dear Mr. Kierstead:

This will acknowledge receipt of your letter of April 24, 1969. You have made a statement that the local Town Clerk is a Justice of the Peace, Deputy Sheriff and Notary Public. You also state that this person has been nominated to fill a vacancy as a County Commissioner of Lincoln County. You ask if it is legal for the above positions to be held concurrently.

Normally, this office does not answer legal questions asked by private citizens. We are limited by law to giving advice and opinions, on questions of law, to the Governor and Council, the respective branches of the legislature, and to department heads.

It has been the practice of this office, however, to render its opinion on the question of incompatibility of office in order to prevent some problems from becoming greater and more widespread.

We have on many occasions indicated that a person may not hold the office of Deputy Sheriff and either Justice of the Peace or Notary Public. The holding of these positions is incompatible. The individual whom you mentioned in your letter, although he may be acting in all of these capacities, is either a Deputy Sheriff or a Notary Public or Justice of the Peace. He cannot be all of them. If he was appointed a Deputy Sheriff this past January, and his commissions as Notary Public and Justice of the Peace predated that appointment, then he actually is no longer a Notary Public or Justice of the Peace. By the acceptance of the appointment as a Deputy, he automatically relinquished his Notary Public and Justice of the Peace commissions.

April 25, 1969

I would be of the opinion that if he accepts an appointment as a County Commissioner and qualifies for that job, he would then automatically vacate his office as Deputy Sheriff. I believe there would be a conflict between these two positions. After all, as County Commissioner he must approve any bills submitted by a Deputy Sheriff for acting in that capacity within the county. He would be in the position of approving his own bills, which would not be proper.

There would be no conflict between being a County Commissioner and Notary Public and Justice of the Peace. However, if he has relinquished those two positions by acceptance of his office of Deputy Sheriff, he would have to obtain new commissions as Notary Public and Justice of the Peace.

Very truly yours,

George C. West  
Deputy Attorney General

GCW:H