

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date June 18, 1969

To James S. Erwin, Attorney General

Dept. Attorney General

From Robert G. Fuller, Jr., Assistant

Dept. Attorney General

Subject: Incompatibility of positions

Question: Is the office of Attorney General incompatible with the office of trustee of a non-profit Maine Corporation?

5 M.R.S.A. § 194 provides as follows:

"The Attorney General shall enforce due application of funds given or appropriated to public charities within the State and prevent breaches of trust in the administration thereof."

The situation would arise, for example, where an individual, as Attorney General, could be called upon to exercise his powers under this section against a charity of which he was trustee. Such a situation would present an obvious incompatibility, since "an antagonism would result in the attempt by one person to discharge the duties of both offices." People ex rel. Ryan v. Greene, 58 N.Y. 295, cited in Howard v. Harrington, 114 Me. 443 (1916).

Accordingly, my answer to the question presented is: Yes, if the corporation is a public charity.



ROBERT G. FULLER, JR.
Assistant Attorney General

RGF, Jr./mf

STATE OF MAINE

Inter-Departmental Memorandum Date June 16, 1969

To For assignment Dept. _____

From _____ Dept. _____

Subject _____

The General wishes to have a memorandum prepared concerning the question of a possible conflict between the office of Attorney General and the office of trustee of a non-profit corporation such as an incorporated academy or hospital.

6-19-69
OK
AMN

6-19-69
OK
JB

DEPARTMENT OF THE ATTORNEY GENERAL

MEMO FROM



John
ASSISTANT ATTORNEY GENERAL

6-19-69
JGP



DEPARTMENT OF THE ATTORNEY GENERAL

MEMO FROM

Bob

ASSISTANT ATTORNEY GENERAL

John; George;

for review Bob 6-19-69

I agree with the example but not
the answer. All non-profit corporations
are ~~not~~ "public charities." (See me re this)

GCW