

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

February 5, 1973

Mr. John F. Hoyt
Civil Engineer
Fort Fairfield, Maine

Dear Mr. Hoyt:

You have asked this office if there would be a conflict of interest if "The Register of Probate were to be appointed by said Aroostook County Commissioners as Chief Administrative Officer for Aroostook Co."

Title 30, Section 2 of the Maine Revised Statutes, states in part that:

"one member of the board, designated by the board as chief administrative officer . . ."

Thus, the chief administrative officer must be one of the County Commissioners and appointed by said County Commissioners.

Article III, Section 1 of the Maine Constitution states that:

"The powers of this government shall be divided into three distinct departments, the legislative, executive and judicial."

Section 2 of the same Article states that:

"No person or person, belonging to one of these departments, shall exercise any of the powers properly belonging to either of the other. . ."

The Register of Probate, being a part of the Judicial Branch of Government, and the County Commissioners, being a part of the Executive Branch of Government, are two separate and distinct branches of government, and as such a person holding an office of one branch of government, cannot hold an office, at the same time, in another branch of government. There would be a definite conflict of interest under the Constitution of Maine.

Mr. John F. Hoyt

-2-

February 5, 1973

This same conflict is present if the County Commissioners were to hire an assistant to do ministerial tasks, if that assistant was holding an office in some other branch of government, i.e. if the Register of Probate was to be hired to hold the additional position of an assistant to the County Commissioners.

I trust that this satisfactorily answers your questions, and if you have further questions, please do not hesitate to contact me.

Very truly yours,

P. J. PERRINO, JR.
Assistant Attorney General

PJPJr:mfe