

# 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)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

JON A. LUND  
ATTORNEY GENERAL



JOHN W. BENOIT, JR.  
RICHARD S. COHEN  
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04330

September 4, 1974

Mr. Donald H. Burns  
Deputy Sheriff  
Somerset County Courthouse  
Skowhegan, Maine

Dear Mr. Burns:

In answer to your letter under date of July 27, 1974, addressed to this office, please be advised that it remains the position of this office that a person may not hold the office of Deputy Sheriff and, at the same time, be either a Justice of the Peace or Notary Public. We maintain the same position with regard to game wardens and other major law enforcement officials.

A strict construction of the Maine Constitution, Article III, sec. 2, which prohibits a person in the executive, legislative or judicial departments of our government from performing any of the functions attributable to either of the others, leads to this conclusion.

Frankly, there has been an erosion of this strict interpretation in recent years, and a strong case can be made for the conclusion that there is no authentic incompatibility when a person holds the office of Deputy Sheriff and at the same time serves as either a Justice of the Peace or Notary Public. Absent such a ruling by our Law Court, we do not feel constrained to adopt such a position at this time, however.

In an informal opinion of this office under date of June 25, 1974 we have advised that there is no conflict inconsistent with the public interest if a person is a Justice of the Peace and a Shoreland Code Enforcement Officer. We do not, however, further expand said opinion to include all law enforcement officials.

Very truly yours,

A handwritten signature in cursive script that reads "Phillip M. Kilmister".

PHILLIP M. KILMISTER  
Assistant Attorney General

PMK/bls