

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**

January 8, 1975

Mr. Richard P. Needham
119 Bennoch Road
Stillwater, Maine 04489

Dear Mr. Needham:

This will respond to your letter dated January 2, 1975, inquiring whether it is permissible for a Legislator to also simultaneously serve as a municipal police officer and as a Justice of the Peace. For the reasons which follow, it is my opinion that it is not permissible to hold all three offices simultaneously.

Article III, §§ 1 and 2 of the Maine Constitution, provides, respectively:

"Section 1. The powers of this government shall be divided into three ~~distinct~~ departments, the legislative, executive and judicial.

"Section 2. No person or persons, belonging to one of these departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted."

By virtue of these provisions the offices of Legislator (belonging to the legislative branch), police officer (belonging to the executive branch) and justice of the peace (judicial branch) are constitutionally incompatible, and a person holding one may not at the same time hold either of the others. Howard v. Harrington, 114 Me. 443, 96 A. 769 (1916). Opinion of the Justices, 3 Me. 384 (1825).

If I may be of any further assistance, please let me know.

Very truly yours,

JOSEPH E. BRENNAN
Attorney General

11/24
JEB/ec

See opinion dated 1-28-76