

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

Inter-Departmental Memorandum Date March 20, 1975

To David E. Redmond, Member

Dept. Executive Council

From David Roseman, Assistant

Dept. Attorney General

Subject Justices of Peace and Notaries Public

I have your recent request to know the differences in powers of justices of the peace and notaries public. The powers of a justice of the peace are set forth in the statutes. 4 M.R.S.A. § 1001, states that, "Justices of the peace shall exercise their powers and duties and shall be commissioned to act within and for every county." Based upon the authority granted by many different statutes, a justice of the peace possesses numerous and varied powers. It would not be practicable to merely list these powers here, as they are clearly listed in the note below 4 M.R.S.A. § 1001 (under "Cross References") and in the General Index to the Revised Statutes under "Justices of the Peace."

The powers that a notary public possesses are also set forth in the statutes. 4 M.R.S.A. § 953 states that, "Any notary public . . . may do all things that justices of the peace are or may be authorized to do and shall have the same territorial jurisdiction." Therefore, it may be said generally that a notary public has the same powers that a justice of the peace has. In addition, a notary public possesses certain powers which a justice of the peace does not. Again it would not be practicable to list every such power. However, a few examples will help to illustrate. A notary public, under certain circumstances, has the right to open a safe deposit box and to reseal the contents, while a justice of the peace has no such power. See 10 M.R.S.A. § 3751. A notary public also has the power to record losses sustained at sea and to present a bill of exchange for acceptance or payment. See 4 M.R.S.A. §§ 952, 953.

There are also certain powers which the Legislature has by express terms conferred upon both notaries public and justices of the peace. For example, 19 M.R.S.A. § 121 states that, "Every justice of the peace and every notary public residing in this State may solemnize marriages therein."

If you have a question whether a specific power is exercised by a justice of the peace or a notary public, or both, please do not hesitate to contact this Office.

*David Roseman*

DAVID ROSEMAN  
Assistant Attorney General