

MAINE STATE LEGISLATURE

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C art. 3
Conflict of interest - Legislators

F

March 29, 1976

Honorable Barry J. Hobbins
House of Representatives
State House
Augusta, Maine

Dear Barry:

This is in response to your letter of March 10 inquiring as to any possible conflicts which might exist if you, as a Legislator, appeared in court as a third year law student as permitted by L.D. 2007 (P.L. 1975, c. 636).

Your appearing in court itself would create no conflict. As you are aware, there are a number of Legislators who are lawyers. Thus, if you appeared to represent indigents on behalf of an organization approved pursuant to Rule 90, Maine Rules of Civil Procedure, there would be no conflict.

The question of conflict would come up, however, should you appear on behalf of the State. Article III, § 2 of the Maine Constitution prohibits any person belonging to one of the three departments of government - legislative, executive and judicial - from exercising "any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted." Appearing in court on behalf of the State whether working through this office or a District Attorney's office would constitute exercise of power of the executive branch as your power to act for the State would be derivative of the constitutional power of the Attorney General. Thus your position as a Legislator would create a constitutionally prohibited conflict which would prevent you from acting for the State in the courts.

I understand your desire to gain legal experience in the third year law student program. Therefore, this opinion is issued with some regret, but I believe it is compelled by the clear language of our Constitution. I do hope that you may find an opportunity to gain experience representing indigents through private groups.

Sincerely,

JOSEPH E. BRENNAN
Attorney General

JEB:mfe