

MAINE STATE LEGISLATURE

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Me. Const. Art. III sec 2
Justices of the Peace; Law enforcement officers incompatibility
Notary Public " " " " " "

September 1, 1977

To: Doris Hayes, Deputy Secretary of State
From: Joseph E. Brennan, Attorney General
Re: Incompatibility of Offices: Law Enforcement Officers as
Justices of the Peace or Notaries Public

This responds to your request for an opinion dated August 10, 1977, on the question of whether an incompatibility exists between the offices of Justice of the Peace and Notary Public and the offices of sheriff, deputy sheriff, constable, and other law enforcement officers*, such that those law enforcement officers may not be commissioned as Notaries Public or Justices of the Peace.

This office's most recent opinions on the subject above, dated September 4, 1974, and January 20, 1975, reaffirm our position that the above-named offices are incompatible under the separation of powers provision of the Maine Constitution, Article III, Section 2.

In the September 4, 1974, opinion we stated:

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 a Notary Public. We maintain the same position with regard to game wardens and other major law enforcement officials.

It is the well-established opinion of this office, therefore, that the offices of Justice of the Peace and Notary Public are incompatible with the offices of Sheriff, Deputy Sheriff, Constable and other major law enforcement officers.*

JEB:jg

JOSEPH E. BRENNAN
Attorney General

* For purposes of clarity we construe the term "law enforcement officer" to be limited to police officer with full and general powers of arrest within their territorial jurisdiction.