

MAINE STATE LEGISLATURE

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Public Officials: Serving in Two Offices

January 25, 1978

Honorable Ross A. Green
House of Representatives
State House
Augusta, Maine 04333

Dear Representative Green:

I am responding to your oral request for an opinion of this office on a question relating to potential legislation. You have asked whether we believe there would be any legal problems presented by legislation which would prohibit an individual from holding two public offices at the same time. The example you gave was simultaneous service as a State Legislator and member of a local city council. It is our opinion that legislation prohibiting such practice would not pose legal problems.

The power of the Legislature to enact legislation is very broad, being limited only by the express terms or necessary implications of the federal or state constitutions. Baxter v. Waterville Sewerage District, 146 Me. 211 (1951). Therefore, legislation of the type you propose would be legally permissible unless constitutionally prohibited. Our review of both the federal and state constitutions has failed to disclose any such restriction. Indeed, the Maine Constitution itself contains restrictions as to holding public office. Article IV, Part Third, Sections 10 and 11, and Article IX, Section 2, Constitution of Maine. Furthermore, statutes similar to the legislation you suggest already exist with regard to specific county officials, e.g. county commissioners (30 M.R.S.A. § 51) and county treasurers (30 M.R.S.A. § 601).

Please continue to call on us whenever we may be of assistance.

Sincerely,

S. KIRK STUDSTRUP
Assistant Attorney General

SKS:mfe