

STATE OF NEW HAMPSHIRE
BALLOT LAW COMMISSION

Petition

Of

Robert Kingsbury
(BLC 2002-2)

RECEIVED

SEP 20 2002

**NEW HAMPSHIRE
SECRETARY OF STATE**

On September 13, 2002 the Ballot Law Commission (“the Commission”) held a public hearing on Robert Kingsbury’s claim that attorneys and their spouses should not be allowed to run for political office because to do so is a violation of the separation of powers as enemerated at Part I, article 37 of the Bill of Rights of the New Hampshire Constitution.

At the hearing, Mr. Kingsbury testified that because attorneys are officers of the court, they are a part of the judicial branch of government and therefore should not be permitted to run for, nor hold, any office in the legislative branch of government.

The Commission finds that Attorney General v. Meader 80 NH 292 (1922) is the controlling authority in this matter. In Meader, the plaintiff challenged Meader’s ability to serve as a member of the legislature and a supervisor of the checklist for the city of Rochester. The plaintiff claimed as a state representative Meader was required to exercise legislative functions and that as a supervisor of the checklist he was called upon to exercise judicial powers. In Meader, the Court ruled that it is not unconstitutional for official’s to hold different offices having both judicial and executive functions. They ruled, and the Commission concurs, that “all that is meant by the language there (meaning article 37, of the New Hampshire Constitution) used is that one department of the state government shall not interfere with another department, or usurp its powers and authority; that the legislative,

executive and judicial departments should be separate and independent of each other so far as the efficient administration of the state government will permit". The Court further noted that Article 37 was not intended to "limit the offices officials should hold; because in articles 92, 93 and 94 of the constitution that subject is fully considered." The Court further stated "In those articles certain officials are inhibited from holding offices. But the inhibitions in these articles do not include the offices held by Meader, and there is nothing in the constitution that prohibits him from holding the offices to which he was elected by the suffrage of the people."

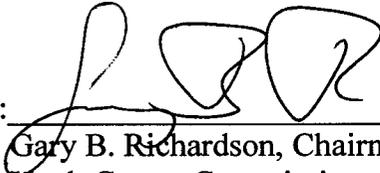
In this case, as in Meader, there is no constitutional bar to attorneys holding offices in the legislative branch.

As such, the Petition is hereby dismissed.

NEW HAMPSHIRE BALLOT LAW COMMISSION

Date: 9/20/02

By: _____


Gary B. Richardson, Chairman
Hugh Gregg, Commissioner
Emily Gray Rice, Commissioner

STATE OF NEW HAMPSHIRE

BALLOT LAW COMMISSION

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NEW HAMPSHIRE
SECRETARY OF STATE

ORDER

On February 5, 2004 the Ballot Law Commission ("the Commission") received a Petition in the form of a letter from Robert Kingsbury ("the Petitioner").

In his letter, the Petitioner requests that the Commission bar attorneys and their spouses from holding public office in the State of New Hampshire other than within the court system. Petitioner also requested that any Commissioners who are attorneys recuse themselves from this matter. Because the main issue is a jurisdictional one, the Commissioners decline to do so.

We begin by noting that on September 20, 2002 the Ballot Law Commission ruled on this issue and stated there is no constitutional bar to attorneys holding offices in the legislative branch.

The Ballot Law Commission also notes that as of January 1, 2004 the Ballot Law Commission does not have jurisdiction over the issue Petitioner raises. See RSA 665:6.

THEREFORE, Petitioner's Order is hereby dismissed for lack of jurisdiction.

New Hampshire Ballot Law Commission

Date: _____

3/3/04



Gary Francoeur
Charles Chandler
Warren C. Henderson
Christopher H.M. Carter
Anne Coughlin