

MAINE STATE LEGISLATURE

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January 23, 1923.

To Honorable Percival P. Baxter, Governor of Maine
Re: Qualifications of Treasurer of State

. . .Section 3 of Part Fourth of Article V of the Constitution states that

"The treasurer shall not, during his continuance in office, engage in any business of trade or commerce, or as a broker, nor as an agent or factor for any merchant or trader."

This language is so plain that it is hard to understand how more than one interpretation can be put upon it, but apparently it has been construed at times by office holders not to mean what it says.

The construction of this section has never been before our courts, nor so far as I can find, has similar language been construed by any court, but the dictionary definitions of the words "trade", "commerce", "merchant" and "trader" are such as to indicate that one holding the office of treasurer of the State of Maine is prohibited from engaging during his term of office in any business, and by that is meant any occupation or employment pursued as a calling, not of course including the learned professions, in which a person is engaged for procuring subsistence or for profit.

In Huston v. Goudy, 90 Me. 128, it was held that one who bought and sold lumber, and sold mowing machines on a commission was a "trader" within the meaning of the term used in the statute; and in Gower v. Jonesboro, 83 Me. 142, the court construed "trade" as embracing "any sort of dealings by way of sale or exchange"; in State vs. Littlefield, 112 Me. 217, the court said:

"Business, in a legislative sense, is that which occupies the time, attention, the labor of men for the purposes of livelihood or for profit, a calling for the purpose of a livelihood."

These definitions applied to the language of the Constitution seem to settle the matter beyond question.

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