

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

extracurricula activities of public secondary schools.

QUESTIONS:

1. Does the State Board of Education have any jurisdiction and control over the policies and activities of the State Principals' Association?
2. Does this Association have the legal right to operate in accordance with its constitution and bylaws?

ANSWERS:

1. No.
2. Yes.

REASON:

We must look into the statutes to see if any governmental agency is given power to supervise and control this type of corporation. We are constantly aware of governmental supervision or limitation of the activities of corporations. The legislature has the authority to give supervision or some control of private corporations, within well defined limits, to a governmental agency.

We must look at the education laws (20 M.R.S.A.) to see if such a corporation is within the jurisdiction of the State Board of Education. We can find nothing in Title 20, Education, which gives the State Board any jurisdiction or control over extracurricula activities of students in the public schools. As a matter of fact, the statutes appear to contain little or no reference to such activities in the public schools.

Even those sections devoted to the powers and duties of superintendents (20 M.R.S.A. § 161) and school committees (20 M.R.S.A. § 473) do not even hint at the existence of extracurricula activities in public schools.

Lacking any reference to such activities, we must conclude that the first question shall be answered in the negative. The second question, insofar as it relates to jurisdiction and control by the State Board of Education, is answered in the affirmative.

GEORGE C. WEST
Deputy Attorney General

December 16, 1969
Environmental Improvement
Commission

Donaldson Koons, Chairman

Incompatibility of offices

SYLLABUS:

A member of the Environmental Improvement Commission maintaining a private engineering practice, employed by a municipality, and appointed under 38 M.R.S.A. § 361 to represent municipal interests, is not disqualified from serving on the commission, but must disqualify himself from participating in proceedings before the commission which involve his employer or his clients.

FACTS:

An individual has been appointed to the Environmental Improvement Commission to fill one of the two membership positions for municipal interests. 38 M.R.S.A. § 361. The individual maintains a consulting engineering practice and in addition is employed by a municipality as town engineer.

QUESTION:

Is the subject individual disqualified from serving as a member of the Environmental Improvement Commission because of his outside practice and employment?

ANSWER:

No. However, the individual should disqualify himself from voting, as a member of the Commission, on matters involving his clients and his employer.

OPINION:

38 M.R.S.A. § 361 specifically provides that the members of the commission shall represent certain defined interests – manufacturing interests of the State, municipalities, the public and conservation. The commission is charged with numerous regulatory and enforcement powers in the environmental field, any one of which may at some point affect any one of such interests. If an individual was to be disqualified from taking any action as a member of the commission merely because he was appointed to represent a particular interest as the statute envisions, the commission would be paralyzed. We cannot conceive that the legislature intended such a result.

However, in the case of the member under consideration, there may be instances where his employer, or one of his clients, comes within the regulatory or enforcement purview of the commission. In such event a conflict of interest would arise, and the member must disqualify himself from participating in the proceedings.

ROBERT G. FULLER, JR.
Assistant Attorney General

January 8, 1970
Inland Fisheries and Game

C. Keith Miller, Business Manager

Interest on Fish and Game Moneys Deposited with State Treasurer

SYLLABUS:

While moneys received by the Department of Inland Fisheries and Game may be used in payment of rent for office space, interest earned on funds of the department invested by the State Treasurer must, in accordance with 5 M.R.S.A. § 135, be credited to the General Fund and may not be used in payment of such rent.