

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

Oct. 10, 1974

Roberta M. Weil, Commissioner

Business Regulation

Jon A. Lund, Attorney General

Attorney General

You have requested our opinion whether it would be permissible for the Banking Superintendent to teach and receive compensation for a course on "Financial Institutions" during the second semester at the University of Maine in view of that portion of 9 M.R.S.A. § 1 which provides: "He shall engage in no other business or profession." We understand the course would meet for two hours during the day, and that the Superintendent would apply the time spent in connection with his teaching activities against his vacation allotment.

Any answer to the question at this juncture would not be free from doubt. We have not been able to find any reported decision which would provide a clear precedent one way or the other, and there is no legislative history which significantly aids in resolving the question. We do note, parenthetically however, that the salary of the Superintendent was recently raised significantly to \$24,000.

The phrase "business or profession" is susceptible of broad interpretation, or of narrow meaning, depending upon the particular context and the intent of the legislature. See Conner v. City of University Park, 142 S.W.2d 706, 715 (Tex. Civ. App. 1940). Quite clearly, the legislature sought by the language under consideration to place comprehensive limitations on the outside activities of the Superintendent. The purpose of the restriction evidently reflects a policy determination that the nature of the office and the scope of responsibilities require the full attention of the Superintendent without the distractions or complications which necessarily flow from outside commitments.

On the other hand, the close relationship between the subject matter of the proposed course and the official duties of the Superintendent, coupled with the broader public benefit

October 10, 1974

Page 2

which may result from such a limited and high order outside engagement may well be held by a court to not be subject to the statutory prohibitions.

In view of the uncertainties, however, we suggest that the proper course would be to seek legislative clarification by appropriate statute or resolve, prior to assuming any outside activities for compensation. Action taken prior to such a clarification would, in our view, involve a risk of creating at least the appearance of impropriety, if not impropriety itself.

See generally: Miller v. Walley, 84 So. 466, 122 Miss. 521; McNabb v. Louisiana Department of Public Safety, 250 So.2d 150; Partain v. Maddox, 182 S.E.2d 450, 227 Ga. 623; State v. Hinshaw, 198 N.W. 634, 197 Iowa 1265.

JON A. LUND
Attorney General

JAL:pu