

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)

*Legislative Council of interest
Legislative Court Appearance*

JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

September 19, 1977

Honorable Richard H. Pierce
42 Roosevelt Avenue
Waterville, Maine 04901

Dear Dick:

This responds to your letter of September 8, 1977, in which you seek our opinion as to whether or not there are any problems with your appearing in Maine as a witness for United Student Aid Funds.

I would advise that I see no inherent conflict of interest or incompatibility of positions between your position as a State Senator and your appearance in court as a witness for United Student Aid Funds.

Initially, I should note that there is no problem with a Legislator appearing as a witness in court in connection with his private, personal or business affairs. Such does not raise the possibility of subjecting the individual Legislator or the Legislature to the jurisdiction of the court in their official capacity. In fact, Legislators, particularly those who are lawyers, often appear before and submit themselves to the jurisdiction of the court in connection with their private business affairs.

Beyond that, in providing services to United Student Aid Funds, you are simply providing services to a business, and such does not create an inherent conflict such as would bar you from appearing for them as a witness or providing any other service whether for compensation or not.

I would note that, as the United Student Aid Funds is a creditor with interest in collecting debts, and as you would be assisting them in the process of collecting debts, it may be that there would be, in the upcoming legislative session,

a few bills relating to credit matters which you could not vote because of your position as a consultant to United Student Aid Funds.

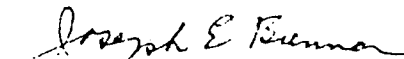
Conflicts of interest are defined at 1 M.R.S.A. § 1014 and generally involve a substantial personal financial interest in a business benefited by legislation, or an interest in business benefited by legislation which is unique and distinct from that of the general public, or a situation where a Legislator's judgment may be impaired as a result of his employment position.

By operation of 1 M.R.S.A. § 1015, where a conflict of interest exists, votes on a matter either in committee or on the floor are prohibited with regard to the matter subject to the conflict.

Pursuant to 1 M.R.S.A. § 1013, the Commission on Governmental Ethics and Election Practices has initial and primary jurisdiction to determine whether such conflicts of interest exist. They are in a better position to provide such advice than our office as such questions more often involve questions of fact than questions of law.

In closing, I want to emphasize again, that there is no conflict of interest or incompatibility of positions in your providing service as a consultant and witness to United Student Aid Funds, and serving as a Legislator. Whether a conflict of interest might exist with individual items of legislation affecting the rights and responsibilities of creditors would have to be determined on a case-by-case basis as questions come up, if any, in the next legislative session.

Sincerely,


JOSEPH E. BRENNAN
Attorney General

JEB/ec