

MAINE STATE LEGISLATURE

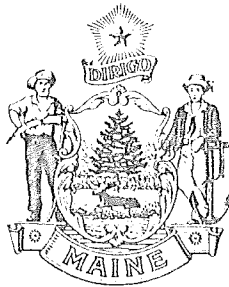
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June 18, 1980

Honorable G. William Diamond
RR #1
Windham Center Road
Windham, Maine 04082

Dear Representative Diamond:

You have asked whether the Cumberland County Register of Deeds is a full-time position and, if so, what limitations apply to the Register's ability to pursue other activities. Based upon our research and analysis of the controlling statute, we conclude that the Register of Deeds is a full-time office and that the Register cannot undertake any activity for compensation which would significantly impede his attendance and performance during the business hours of the Registry.

Title 33, Maine Revised Statutes Annotated, Section 604 provides, in pertinent part:

All registers, except in the western district of Oxford County, shall devote their entire time to the duties of the office.

Neither the statute nor the courts have defined the term "entire time." However, a basic principle of statutory interpretation is that the plain meaning of the statutory language controls except where such interpretation would result in a manifest absurdity.

The language in question plainly contemplates that the office of Register of Deeds be a full-time position with the Register in attendance at virtually all times during office

hours except as his duties require otherwise.^{1/} Equally clearly, the Legislature, in enacting Public Law 1915, Chapter 141 from which the current section derives, did not intend to preclude a Register of Deeds from maintaining a part-time vocation so long as the activity did not significantly impede his ability to be present during office hours performing his official duties.

This interpretation is supported by the House debate on the bill which appears in the Maine Legislative Record, 1915, 625-27. Specifically, Representative Sanborn, in discussing the then common practice whereby Registers researched titles for private attorneys, stated:

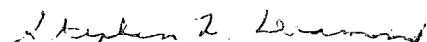
Now, that is not one of his duties and he would not do it for me at the expense of leaving other work which he was obliged to do; he is required to give his entire time to the duties of the office. . . . but it is true that a great many of the Registers of Deeds do work of this sort evenings and out of office hours, and they do it for the purpose of picking up a dollar here and there, which is absolutely legitimate work. . . . these little fees that the Registers are able to pick up where the work does not interfere with their regular work is a matter of great convenience to the public and to the attorneys, and it is only fair that they should be paid for that. 626-27.

^{1/} We do not mean to imply that the Register must be physically present in the Registry every minute that it is open for business. Occasional absences, which do not interfere with the Register's ability to discharge his duties, would presumably not result in a violation of the statute. Whether those absences were excessive, so as to amount to non-compliance with the "entire time" requirement, would depend on the facts of the particular case. In short, this issue is not governed by hard and fast legal rules, but would require a court to make a common sense assessment of the facts.

The Legislature thus did not intend to completely bar Registers from performing other activities for compensation as long as those other activities "do not interfere with their regular work."

I hope this answers your questions sufficiently, but please do not hesitate to contact us if you have further questions.

Very truly yours,



STEPHEN L. DIAMOND
Deputy Attorney General

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