

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
ATTORNEY GENERAL

for the calender years

1961 - 1962

This meant that the Mayor had to act as prosecutor and judge, which of course cannot be done. By analogy it would appear that the same reasoning would apply to the office of Selectman and Trial Justice. There are certain laws which require the municipal officers to be the enforcing agency, at the same time giving a Trial Justice exclusive or concurrent jurisdiction with municipal courts. Thus, you are charged with enforcing certain laws in your capacity as Selectman and at the same time required to judge the guilt or innocence of a person whom you must be charging with a violation.

This same case states that the acceptance of the second office automatically vacates the first office. I do not know in what order you accepted these two positions. It does seem to me, however, that if it is true that you are currently a Selectman of Eustis, that the acceptance of this office at the recent town meeting would have vacated the office of Trial Justice which you accepted in November 1958. However, I am only advising you on this matter and my opinion does not have the force of law. The only way this matter can be decided is by bringing the matter to the attention of the proper court in a proper action.

I felt it advisable, however, to write to you about this because you may assume to act as a Trial Justice and possibly place a man in jail when it might be entirely possible that you did not have the authority which you would be assuming. I would suggest very strongly that you talk with your attorney about this matter, solely as a protection to yourself personally.

Very truly yours,

GEORGE C. WEST

Deputy Attorney General

July 10, 1961

To: Doris M. St. Pierre, Secretary of Real Estate Commission

Re: Personnel Bulletin #1151 "Right of Way Appraiser"

This is in answer to your memorandum of June 14, 1961.

As I understand it, the Personnel Department has issued a bulletin on the qualifications of a State Right of Way Appraiser and one of the qualifications is the possession of a broker's certificate of registration issued by the Maine Real Estate Commission.

The Commission does not want to issue a license to the broker since he will not have a place of business for a private broker's practice but they agree to cooperate with the Personnel Board in giving broker's examinations and notifying the Personnel Board when an applicant has passed the broker's examination.

This procedure is within the power of the Commission but I would suggest that when the applicant takes the examination that he be informed that the only reason for giving the examination in that particular case is for a determination of his qualifications as a Right of Way Appraiser and not for the issuance of a real estate broker's license.

RICHARD A. FOLEY

Assistant Attorney General