

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA

March 31, 1971

Honorable Francis Brown  
House of Representatives  
State House  
Augusta, Maine

Dear Mr. Brown:

Some time ago you asked if there was any conflict of interest in a selectman being elected road commissioner and holding these two positions at the same time. I feel that there well could be a conflict.

I note that under Title 23, section 2701 of the Revised Statutes that the road commissioner, under the direction of the selectmen, shall have charge of the repairs of all highways and bridges within the towns and have authority to employ the necessary men and teams, and purchase timber, plank and other material for the repair of highways and bridges. He must give a bond to the satisfaction of the selectmen and be responsible to them for the expenditure of money and the discharge of his duties. His compensation is set by the town at the annual meeting. He renders to the selectmen monthly statements of his expenditures and receives no money from the treasury except on order of the selectmen. In other words, he works directly under the Board of Selectmen.

In Title 30, § 2251 of the Revised Statutes, we find a reference to the conflicts of interests in municipalities. Subsection 1 provides that if a selectman's vote be decisive on any question in which he has a direct or indirect pecuniary interest, such vote is void. Hence, this individual could not, being road commissioner, vote on a matter as selectman in relation to his duties as road commissioner if the other two selectmen were in disagreement.

Under subsection 2 of the same section, it is provided that a contract other than one obtained through properly advertised bid procedures made by a municipality during the term of a municipal official who has a direct or indirect pecuniary interest in it, is void. Hence, any contract which the individual as road commissioner seeks to make with the selectmen, would be void.

Honorable Francis Brown

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March 31, 1971

Under the foregoing circumstances and provisions of the statutes, it might be possible for a selectman to operate as road commissioner in a perfectly legal manner. However, my belief is that in most instances there would be a conflict of interest which would be quite evident.

Very truly yours,

George C. West  
Deputy Attorney General

GCW:H