

MAINE STATE LEGISLATURE

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March 8, 1972

Honorable Joseph Sewall
Senate Chambers
State House
Augusta, Maine

Dear Senator Sewall:

In your letter of March 2, 1972, you have requested my opinion as to whether or not 17 M.R.S.A. § 3104 includes a Legislator in its proscription of State contracts. My examination of the language of that statute, judicial opinions on the subject, and the opinions of my predecessors in office leaves me with a firm conviction that it is not the intent of that statute to embrace Legislators within its ban. 17 M.R.S.A. § 3104 states:

"No trustee, superintendent, treasurer or other person holding a place of trust in any state office or public institution of the State, or any officer of a quasi-municipal corporation shall be pecuniarily interested directly or indirectly in any contracts made in behalf of the State or of the institution or of the quasi-municipal corporation in which he holds such place of trust, and any contract made in violation hereof is void."

While the words "state office," when used in their broad sense do encompass a Legislator, it is clear that this statute does not use this phrase in its broadest meaning. Such a broad construction would render several words of this statute meaningless, redundant or superfluous. The complete statutory phrase relative to "state office" reads: "... person holding a place of trust in any state office. ..." Such directly associated words so qualify the above-quoted terminal phrase

as to suggest clearly that the proscriptive compass is far narrower than the compendious phrase "state official," and that the focus is upon a special type of trust rather than upon the general public trust of the Legislator. See Sutherland, Statutory Construction, 3d. Ed., Section 4908.

Consideration of the three enumerated offices in the commencement of this statute seems to compel this construction. The statute initially proscribes such contracts which involve pecuniarily a "trustee, superintendent, treasurer." Such specific enumeration indicates an intent to embrace a restricted class.

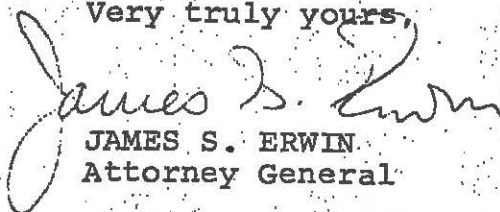
"Where general words follow specific words in an enumeration describing the legal subject, the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words." Sutherland, Statutory Construction, 3d. Ed., Section 4909.

It is clear, therefore, that the state officials encompassed in the proscriptive sweep of this statute are those of the executive and administrative class.

My predecessors in office seem to have adopted generally this construction. No opinion of the Supreme Judicial Court of Maine sitting as the Law Court has come to my knowledge which intimates a different construction. Compare O'Neil v. Flanagan, 98 Me. 426 (1904); Opinion of the Justices, 108 Me. 545 (1911); and Lesieur v. Inhabitants of Rumford, 113 Me. 317 (1915).

This opinion also conforms to that of former Chief Justice Pattangall in his letter of March 23, 1931, to then Attorney General Clement F. Robinson.

Very truly yours,


JAMES S. ERWIN
Attorney General

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