

MAINE STATE LEGISLATURE

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September 24, 1973

Honorable Lawrence P. Greenlaw, Jr.
State Representative
Stonington, Maine 04681

Dear Representative Greenlaw:

In your letter of September 10, 1973, you ask whether a State Representative may at the same time serve as a town manager.

The Constitution of Maine, Article IV, Part 3, section 11, provides in part that no person holding an office of profit under the State shall have a seat in either house during his continuing in such office.

A town manager is an appointee of the municipality, and performs duties for the municipality. He is not holding an "office of profit under the State" unless he is charged with duties under State law for which he is entitled to compensation, such as in the case of a municipal assessor. (See Op. Atty. Gen. February, 1971). His duties under the Town Manager Law (30 M.R.S.A. § 2317) are purely of a municipal nature, and in 30 M.R.S.A. § 2312, said law specifically provides that "a town manager may not serve as moderator, selectman, assessor or member of the school committee."

In view of these considerations, it is apparent that a town manager is not holding an office of profit under the State within the meaning of the above-mentioned provision of the Constitution, and we adhere to Op. Atty. Gen. March 21, 1940, which ruled that a town manager may at the same time serve as a member of the State Legislature.

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This opinion does not attempt to deal with the questions of conflict which would be bound to arise on many of the issues which would confront a manager-legislator.

Yours very truly,

JON A. LUND
Attorney General

JAL/jwp

Enclosures

NOT A FORMAL OPINION