

MAINE STATE LEGISLATURE

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DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

79-56

March 26, 1979

Honorable James R. McBreairty
Senate Chambers
State House
Augusta, Maine 04333

Dear Senator McBreairty:

You have inquired as to whether there is any incompatibility in a selectman of a town being employed as an officer of the United States Army Corps of Engineers. My review of the constitution, case law and opinions of this office discloses no provision or ruling holding such positions to be incompatible. This office in an opinion dated June 12, 1942, ruled that a state judge is permitted to serve as an officer in the United States armed forces. Similarly, in an opinion dated July 25, 1968, we said that an employee of the federal government may hold office as a selectman. Accordingly, we see no reason to now conclude that the positions delineated by you would constitute a common law incompatibility.

Whether or not these positions may result in a conflict of interest is a different question and one not asked by you. Incompatibility and conflict of interest are distinct legal principles requiring differing analysis. Any determination of the existence of a conflict would rest on an examination of particular facts.

I hope this is helpful.

Very truly yours,

JOHN M. R. PATERSON
Deputy Attorney General

JMRP/ec