

may legally contract with, or fill an order for supplies for the Livingston Park Commission, of which you are a duly appointed member. You have asked us to advise you what the law is.

Section 5164, R. C. M., 1935, provides in part:

"\* \* \* No park commissioner shall be interested in any contract made by the board or by its authority, or in the furnishing of any supplies for the use of the board."

Section 444 Id., also provides:

"Members of the legislative assembly, state, county, city, town, or township officers, must not be interested in any contract made by them in their official capacity, or by any body or board of which they are members."

Section 10827 Id., reads:

"Every officer or person prohibited by the laws of this state from making or being interested in contracts, or from becoming a vendor or purchaser at sales, or from purchasing scrip, or other evidences of indebtedness, who violates any of the provisions of such laws, is punishable by a fine of not more than one thousand dollars, or by imprisonment in the county jail or state prison not more than five years, and is forever disqualified from holding any office in this state."

Since you own stock in the Livingston Hardware Company, you are to that extent interested in any contract the company makes or in any orders that it receives from the Livingston Park Commission. In view of the foregoing we are compelled to advise that if the contracts are made with, or the purchases are made by the Livingston Park Commission, the above statutes would be applicable.

We do not know what form of city government the City of Livingston has. If for example, it is a commission form of government then under the provisions of Section 5383 Id., the Park Commission has no power to make contracts and may serve only in an advisory capacity. If the contracts are made with, or the orders given by

#### Opinion No. 152.

#### Cities and Towns—Park Commissioners—Contracts for Supplies, Park Commissioners May Not Be Interested in.

HELD: A park commission of a city or town may not purchase supplies from a corporation in which one of the park commissioners is a stockholder.

October 17, 1939.

Mr. Edward F. Parriott  
c/o Livingston Hardware Company  
Livingston, Montana

Dear Mr. Parriott:

You ask whether the Livingston Hardware Company, of which you are the president and general manager,

the council in a commission form of government, the above sections, of course, would not be applicable. They apply only to the situation where the board makes the purchases.