

File No. 26050 Continued.

compensation does not alter the law. McQuillin in his work on Municipal Corporations, Volume 2, Section 422, says:-

"Emolument is usual but not a necessary element to constitute an office."

City Code, Article 1, Section 37, provides that it shall be unlawful for any person establishing any official relation or relations of employment to the Mayor and City Council of Baltimore, to be interested in any manner on his own personal account in work done for or estimates furnished to the City or to receive on his own personal account, except that of the City, any percentage or sum on any purchases or contracts made or entered into by the City. This section further provides that any such person found offending herein or violating in any manner the provision of Section 5 of Article 11, of the constitution (above quoted), shall be subject to a fine not exceeding \$500.00. (This code provision together with the constitutional prohibition would seem to prohibit any City official from selling to the City or entering into any contractual relations with the City, either on his own personal account or in any other way.

The question herein discussed was passed upon by former City Solicitor Bruce in an opinion dated May 18th, 1908, and recorded among the opinions of the City Solicitors in Volume 10, at page 2776; in which he held that a member of the Architectural Commission could not serve as a member of this commission as an employee of an architect selected by the said commission. Mr. Bruce based his decision primarily upon Section 5 of Article 11 of the State Constitution; he did not discuss the question at all but simply quoted the above constitutional prohibition and said this case came within its terms.

In my judgment the members of the Park Boards, the Water Board, the Finance Commission and other like Boards and Commissions are municipal officials holding office under the City and come within the provisions of the constitution and City code (above referred to) and therefore are prohibited from holding such office and at the same time from entering into contractual relations with the City on