

Mr. Louis J. Grasmick, Peters Lumber Co., Inc. (continued)

My own examination of the law convinces me, however, that Governor Ritchie's opinion, in the light of court decisions occurring thereafter, was too restrictive, and I do not feel that Judge Sobeloff's opinion is applicable to your situation, because Judge Sobeloff was (a) considering a contract with a paid official and (b) the paid official's company was the contracting party with the City, so that there could be little question but that the City was directly concerned. In short, Judge Sobeloff's opinion sheds little light on your case.

Statutes designed to prohibit contractual relationships between a municipality and officers and employees thereof serve a commendable purpose. They proceed from the self-evident truth that no man can serve two masters, and they seek to protect the public from the dangers flowing from an attempt to depart from this principle. At the same time, when such statutes are sought to be applied to sales to a contractor or subcontractor, other policy considerations come into play. The City of Baltimore, for example, has a large number of unpaid commissions, boards and agencies and, over a period of years, the City has benefited greatly from the talents and expertise of the members thereof who have been willing to devote their expert knowledge to public business, in large part, without compensation. To the extent that the law will permit, it seems to me to be desirable that such statutes not be construed to deprive the City of the services of its expert civic-minded citizens by requiring them to conduct their business interests in such manner as to deprive them of a legitimate livelihood, where the more basic public interest of preventing fraud is not ever seriously in jeopardy.

The cases decided since Governor Ritchie's opinion, while they do not discuss the consideration set forth above, support the view that suppliers to general contractors or subcontractors are not covered by conflict of interest statutes unless specifically made so. Typical of them is the decision in Finn v. State, 114 N.E. 9