

FILE

Subject:

Govt's - Officers
County Attorney

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Mike
Confidential Interest

July 2, 1974

Opinion No. 74- 214

Lawrence H. Litson
Gove County Attorney
Gove, Kansas 67736

Dear Mr. Litson:

You advise that you have been recently appointed County Attorney of Gove County, and you inquire whether this office is incompatible with your present office as member of the city council of Gove City, Kansas.

K.S.A. 19-205 provides that no person holding any state, county, township or city office shall be eligible to the office of county commissioner in any county in this state. There is no similar prohibition dealing with the office of county attorney.

An additional doctrine which is applicable is that of incompatibility of offices. In Dyche v. Davis, 92 Kan. 971 (1914), the court stated thus:

"Offices are incompatible when the performance of the duties of one in some way interferes with the performance of the duties of the other. This is something more than a physical impossibility to discharge the duties of both offices at the same time. It is an inconsistency in the functions of the two offices. It is difficult to give a definition which will have universal application." 92 Kan. at 977.

We find no inconsistency in the responsibilities and duties of the two offices.

For your own information, and to use in dealing with inquiries which you will doubtless receive on such questions in your new capacity as county attorney, we have found an article published in the November, 1970, issue of the Kansas Government Journal

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to be most helpful. I enclose a copy of it for your files.

If we can be of any further assistance to you at any time in your new office, please feel free to call upon us.

Yours very truly,

VERN MILLER
Attorney General

VM:JRM:jsm
Enc.