August 9, 1982

ATTORNEY GENERAL OPINION NO. 82-171

Nadine Stutzman
Register of Deeds
Republic County Courthouse
2330 M Street
Belleville, Kansas 66935

Re: Counties and County Officers -- Register of Deeds -- Eligibility to Serve on City Library Board

Synopsis: Neither K.S.A. 12-1222 nor the common law doctrine of incompatibility of offices precludes a person from simultaneously being the county register of deeds and a member of a city's library board. Cited herein: K.S.A. 12-1218 and 12-1222.

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Dear Ms. Stutzman:

You have requested an opinion from this office regarding whether you may serve simultaneously as Republic County Register of Deeds and as a member of the Belleville City Library Board. Belleville is the county seat of Republic County.

K.S.A. 12-1222 states in relevant part:

"[N]o person holding any office in the municipality shall be appointed a member [of the library board] while holding such office."

(Emphasis added.)

K.S.A. 12-1218(a) defines "municipality" to mean county, township, or incorporated city. We think the clear import of the above-emphasized language is to prohibit the appointment of the officers of a municipality to the library board of the same municipality. Were this not the case, the legislature
might have used the adjective "any" rather than "the." Having chosen the word "the" the prohibition is limited.

Hence, it is our opinion that the language of K.S.A. 12-1222 is intended to preclude an officer of a municipality from being appointed to the library board of such municipality. However, the statute does not preclude a county officer from serving on a city library board.

Moreover, we do not believe the common law doctrine of incompatibility of offices precludes such simultaneous office holding. We find nothing inconsistent in the functions of these two offices, such that it would be contrary to public policy considerations for one person to hold both offices. Abry v. Gray, 58 Kan. 148 (1897); Dyche v. Davis, 92 Kan. 971 (1914).

Therefore, it is our opinion that one person may simultaneously hold the offices of county register of deeds and member of a city library board.

Very truly yours,

Robert T. Stephan
ATTORNEY GENERAL OF KANSAS

Robert Vinson Eye
Assistant Attorney General

RTS:BJS:RVE:hle