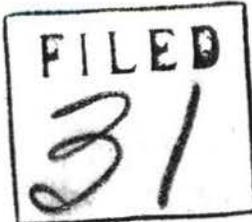


OFFICERS: Offices of county treasurer of Third Class county and treasurer of Fourth Class city not incompatible and may be held by same person.



June 8, 1956

Honorable Robert H. Frost
Member, Missouri House of Representatives
Plattsburg, Missouri

Dear Sir:

This formal opinion is rendered in reply to your letter of May 10, 1956, which, referenced to my letter of May 7, 1956, addressed to you, poses the following question:

May a county treasurer of a Third Class county in Missouri also serve as city treasurer of a Fourth Class city?

A review of the statutes applicable to county treasurers found at Chapter 54, RSMo 1949 does not disclose any prohibition against a county treasurer of a Third Class county serving also as city treasurer of a Fourth Class city. The law applicable to Fourth Class cities found at Chapter 79, RSMo 1949 discloses that the position of city treasurer is an appointive office, with provision for an officer's oath and bond being mandatory.

Missouri follows the common law doctrine that incompatible offices may not be held by one person at the same time. In the case of State ex rel. Walker v. Bus, 135 Mo. 325, l.c. 338, the Supreme Court spoke, in part, as follows, concerning the common law doctrine:

"At common law the only limit to the number of offices one person might hold was that they should be compatible and consistent. The incompatibility does not consist in a physical inability of one person to discharge the duties of the two offices, but there must be some inconsistency in the functions of the two; some conflict in the duties required of the officers, as where one has some supervision of the other, is required to deal with, control, or assist him."

Honorable Robert H. Frost

No statutory prohibition against one person holding the offices of county treasurer of a Third Class county and city treasurer of a Fourth Class city has been discovered. The statutes particularly applicable to these two offices have been read together and when applying the quoted rule from State ex rel. Walker v. Bus, supra, no incompatibility between the two offices is apparent.

CONCLUSION

It is the opinion of this office that a county treasurer of a Third Class county in Missouri may also serve as city treasurer of a Fourth Class city.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Julian L. O'Malley.

Yours very truly,

JOHN M. DALTON
Attorney General

JLG:M:hw