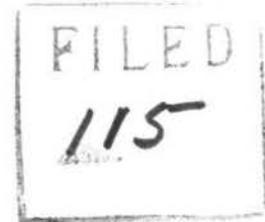


TOWNSHIPS:  
OFFICERS:  
TOWNSHIP OFFICERS:  
ELECTIONS:

The office of trustee and ex officio treasurer of a township is incompatible with the office of township collector. Section 111.091, RSMo 1969, does not authorize the county court to establish an election district which consists of two entire townships.

OPINION NO. 115

February 11, 1971



Honorable Syd Weybrew  
Prosecuting Attorney  
Daviness County  
Daviness County Court House  
Gallatin, Missouri 64640

Dear Mr. Weybrew:

This opinion is in response to your questions which are stated as follows:

"(1) May one person fill the offices of trustee, ex-officio treasurer of a township and township collector at the same time?

"(2) May a County Court under section 111.091 RSMo establish an election district which consists of two entire townships and provide a single polling place for such district?"

In response to your first question, we note that Section 65.110, RSMo 1969 provides:

"There shall be chosen at the biennial election in each township one trustee, who shall be ex officio treasurer of the township, one township collector, one township clerk, who shall be ex officio township assessor, and two members of the township board."

Honorable Syd Weybrew

Section 65.460, RSMo 1969, provides that such township trustee and ex officio treasurer shall post bond and also provides that the township collector shall give bond and security.

Section 65.490, RSMO 1969, provides in part that the township trustee and ex officio treasurer shall:

". . .receive from the township collector and the county collector or treasurer all road and bridge and other taxes due the township when collected by such officers, and shall receipt for the same, and shall account therefor in like manner as for other moneys in his hands belonging to the township."

We noted in our Opinion No. 24, dated June 10, 1955 to Dodds, copy enclosed, that at common law the only limitation on the number of offices one person might hold was that the offices must be compatible and consistent and that the offices of city collector and city treasurer are incompatible. There must be some inconsistency in the functions of the offices, some conflict in the duties required of the officers, as where one who has some supervision of the other, is required to deal with, control, or assist him. The reasoning and the rule is well stated in State ex rel. Walker v. Bus, 36 S.W. 636.

In the premises, considering that the township trustee ex officio treasurer is required under Section 65.490 to receive certain taxes and receipt for the same from the township collector, it is our view that under the common law rule these offices cannot be held by the same person because the duty of accountability creates an incompatibility.

With respect to your second question concerning Section 111.091, RSMo 1969, we note that that section provides:

"The county courts of the several counties in this state may divide any township in their respective counties into two or more election districts, or may establish two or more election precincts in any township or may establish election districts which consist of contiguous portions of two adjoining townships, and may alter such election districts and precincts, from time to time, as the convenience of the inhabitants may require."  
(Emphasis added.)

Section 1.090 with respect to the construction of statutes provides:

Honorable Syd Weybrew

"Words and phrases shall be taken in their plain or ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import."

In our view the word "portion" must be taken in its ordinary and accepted meaning. The word is defined in Ballentine's Law Dictionary, 1948 Edition p. 984 as follows:

"In its commonly accepted meaning, the word is equivalent of part, share, or division."

Other authoritative texts including constructions of the term "portion" in Words and Phrases support the definition quoted above.

We therefore conclude with respect to your second question that the legislature by enacting Section 111.091 did not intend to authorize the county court to establish an election district which consists of two entire townships.

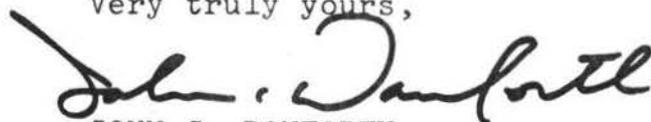
#### CONCLUSION

It is the opinion of this office that:

1. The office of trustee and ex officio treasurer of a township is incompatible with the office of township collector.
2. Section 111.091, RSMo 1969, does not authorize the county court to establish an election district which consists of two entire townships.

The foregoing opinion, which I hereby approve, was prepared by my Assistant John C. Klaffenbach.

Very truly yours,



JOHN C. DANFORTH  
Attorney General

Enclosure:

Op. No. 24  
6-10-55, Dodds