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SPRINGFIELD

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FILE NO. S-333

COUNTIES:
Compatibility Of Offices Of
Township Assessor And Deputy
Sheriff

Honorable Clement M. Toohill
State's Attorney of DeWitt County
116 South Monroe
Clinton, Illinois 61727

Dear Mr. Toohill:

I have your recent letter in which you state
as follows:

"I have been asked by the Chairman of
the DeWitt County Board of Supervisors for
an opinion as to whether or not there is any
conflict of interest or statutory requirement
that would preclude the Assessor of a town-
ship to be the Deputy Sheriff whose principal
duties are to be the Baliff of the Circuit Court
of DeWitt County.

"May I have your opinion concerning this
matter?"

From the general rule laid down in People v. Haas, 145 Ill. App. 283, it appears that incompatibility between offices arises where the constitution or a statute specifically prohibits the occupants of either one of the offices from holding the other or where because of the duties of either office a conflict in interest may arise or where the duties of either office are such that the holder of one cannot in every instance properly and faithfully perform all the duties of the other.

A county assessor receives a fixed annual salary and "shall hold no other lucrative public office or public employment." (Ill. Rev. Stat. 1970 Supp., Chap. 120, par. 484(b).) A township assessor may receive a fixed annual salary but there is no specific prohibition against other lucrative public employment. (Ill. Rev. Stat. 1970 Supp., Chap. 120, par. 483.2.) A sheriff or deputy sheriff is not eligible for the office of county treasurer (Ill. Rev. Stat. 1969, Chap. 125, par. 20) and he cannot practice law. (Ill. Rev. Stat. 1969, Chap. 125, par. 21.)

Although the statutes contain express prohibitions against certain officers serving in another office, no statute prohibits service by a township assessor as a deputy sheriff. Our Supreme Court in People vs. Wiersema State Bank, 361 Ill. at page 85 said:

"The rule that expression of one thing or one mode of action in an enactment excludes any other even though there be no negative words prohibiting it, has been the settled law of the state since 1852."

I find no provision of the Illinois Constitution or of any statute which would prohibit a deputy sheriff from also serving as a township assessor. Also, I find nothing in the duties of these offices from which a conflict of interest could arise or which would prevent the proper performance of the duties of each office. I am, therefore, of the opinion that the offices of township assessor and deputy sheriff are compatible.

Very truly yours,

A T T O R N E Y G E N E R A L