

SYLLABUS:

A Chief of police of a village cannot hold the office of a county sealer of weights and measures or a county deputy sealer of weights and measures at the same time and legally be paid compensation for both positions.

Columbus, Ohio, June 7, 1963

Hon. Robert E. Dunlap
Prosecuting Attorney
Logan County
Bellefontaine, Ohio

Dear Sir:

In reply to your letter of April 30 in which you make the following inquiry:

“I am requesting your formal opinion as to whether or not a county sealer of weights and measures would be incompatible with the office of chief of police of a village within the same county?”

“The second question I am propounding is whether or not a county deputy sealer of weights and measures who also serves as a deputy county auditor would be incompatible with the office of chief of police of a village within the same county?”

The duties of a chief of police of a village are defined by Sections 737.15, 737.18 and 737.19, of the Revised Code.

Section 737.15, Revised Code, provides for the appointment of a village marshal, designated chief of police, by the mayor with the advice and consent of the legislative authority of the village.

Section 737.18, Revised Code, provides that the police force shall preserve the peace, protect persons and property and obey and enforce all ordinances of counsel and all criminal laws of the state and of the United States.

Section 319.55, Revised Code, provides that the county auditor shall be the county sealer of weights and measures and shall be responsible for the preservation of the copies of the original standards delivered to his office. The auditor shall see that all state laws

pertaining to weights and measures are strictly enforced throughout the county and shall assist generally in the prosecution of all violations of such laws.

Section 319.56, Revised Code, provides that the county sealer or his deputy shall compare all weights, measures, balances and weighing and measuring devices used in the purchase and sale of commodities. Sections 319.57 and 319.59 of the Revised Code provide for additional duties and appointments of the county sealer and his deputies.

You will note that Section 737.19 of the Revised Code designates upon the village marshal the duty of enforcement of all ordinances of the legislative authority and all criminal laws of the state and the United States. The violation of the weighing and measuring statute by use of false weights and measures is therefore one of the laws which the chief of police of a village should enforce.

Therefore, it is apparent that the duties of a chief of police of a village and a deputy sealer of weights and measures are the same insofar as the enforcing of the weights and measures laws of the state are concerned and it could be well said that in a given case he was receiving double compensation for services performed and this is contrary to public policy.

The above logic would be the same and would be applicable to your second question as to whether or not a county deputy sealer of weights and measures who also serves as a deputy county auditor would be incompatible with the office of chief of police of a village within the same county.

Opinion No. 604, Opinions of the Attorney General for 1929, page 933, approved and followed.

Therefore, I am of the opinion that a chief of police of a village cannot hold the office of a county sealer of weights and measures or a county deputy sealer of weights and measures at the same time and legally be paid compensation for both positions.

Respectfully,
WILLIAM B. SAXBE
Attorney General