

2098

COMPATIBILITY—BOOKKEEPER, OFFICE OF COUNTY AUDITOR AND VILLAGE CLERK—§§325.17, 733.26 R.C.—COMPATIBLE.

**SYLLABUS:**

There is no impropriety in one person being employed as bookkeeper by the county auditor pursuant to Section 325.17, Revised Code, while serving at the same time as a village clerk elected under the provisions of Section 733.26, Revised Code.

Columbus, Ohio, May 8, 1958

Hon. Calvin W. Hutchins, Prosecuting Attorney  
Ashtabula County, Jefferson, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Our county auditor wishes to employ a bookkeeper who is presently serving as a village clerk.

“Will you please advise whether or not these two offices are compatible.”

At the outset we may note that there is no express statutory or constitutional prohibition against one person holding the two positions here involved. A bookkeeper may be employed by the county auditor under the authority given in Section 325.17, Revised Code, while a village clerk serves pursuant to Section 733.26, Revised Code. The most frequently applied test to determine incompatibility is stated in the case of *State, ex rel. Attorney General v. Gebert*, 12 O.C.C. (N.S.), 274. In that case it is said that offices are incompatible “when one is subordinate to, or in any way a check upon, the other, or when it is physically impossible for one person to discharge the duties of both.”

I have no knowledge of any special circumstances regarding the duties of the two positions concerned, therefore, I can find nothing in the commonly understood duties of each which, under the test laid down in the Gebert case, would cause them to be incompatible. The duties of each are distinctly separate and disrelated; one could not conceivably be subordinate to nor serve as a check upon the other.

You are advised that there is no impropriety in one person being employed as bookkeeper by the county auditor pursuant to Section 325.17, Revised Code, while serving at the same time as a village clerk elected under the provisions of Section 733.26, Revised Code.

Respectfully,  
WILLIAM SAXBE  
Attorney General