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COUNTY — SOLDIERS' RELIEF COMMISSION — SECTION  
5901.02, RC—MEMBER OF COMMISSION—DEPUTY SHERIFF  
—OFFICES OR EMPLOYMENT NOT INCOMPATIBLE.

SYLLABUS:

The office of member of a county soldiers' relief commission, created under authority of Section 5901.02, Revised Code, is not incompatible with the office, or employment, of deputy sheriff.

Columbus, Ohio, July 10, 1956

Hon. Alva J. Russell, Prosecuting Attorney  
Summit County, Akron, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Will you kindly give us your opinion as to whether the position of members of the County Soldiers' Relief Commission and the office of Deputy Sheriff in the same County are compatible.

“The members of the Soldiers' Relief Commission are instituting a program of rehabilitation for those jailed for nonsupport and affecting their relief rolls. They desire to take County Jail prisoners to various business establishments for interviews in an attempt to locate work for their clients. These removals from Jail now require a Deputy Sheriff to accompany the prisoner. There will be no compensation paid as Deputy Sheriff.

“The members of the Commission, if appointed, intend to

post the required bond and an indemnification bond in favor of the Sheriff from their funds.”

There is, of course, no specific constitutional or statutory provision in Ohio relative to the incompatibility of public offices generally. Further, the special statutes relating to these offices do not provide incompatibility between them. If these offices are incompatible, it must be as a consequence of the common-law rule.

The Ohio common-law rule on this subject is stated in *State ex rel. Attorney General v. Gebert*, 12 C. C., N. S., 274, which reads at page 275 :

“Offices are considered 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.”

This rule is expanded, with additional case citations, in 32 Ohio Jurisprudence, 908, Section 48.

Physical impossibility to perform the duties of more than one office ordinarily arises from the necessity for the officeholder to devote his full time and service to one office. I find no provision in the statutes dealing with the offices of sheriff and deputy sheriff which would require a deputy sheriff to devote his full-time service to the office. Neither does the office of member of a soldiers' relief commission require full-time service. It was so stated in Opinion No. 1401, Opinions of the Attorney General for 1952, page 329. You will note that Section 5901.02, Revised Code, requires the commissioners to meet only annually, with such additional meetings as necessity may require.

An examination of the statutes pertaining to the sheriff and to the soldiers' relief commission does not reveal any provisions which would constitute one superior or subordinate to the other, nor which would provide either any form of check upon the other. The two offices appear to be entirely independent of each other, and any contact between them would be merely incidental.

I am of the opinion, therefore, that the office of member of a county soldiers' relief commission, created under authority of Section 5901.02, Revised Code, is not incompatible with the office, or employment, of deputy sheriff.

Respectfully,

C. WILLIAM O'NEILL  
Attorney General