



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Joe Fultz
County Attorney
Grimes County
Anderson, Texas

Dear Mr. Fultz:

Opinion No. O-5109
Re: Whether or not the offices of County Attorney and independent school district trustee are incompatible.

We have your letter of inquiry of date February 18, 1941, asking us to render an opinion on the following question:

Is the office of County Attorney incompatible with the office of independent school district trustee?

Dual office holding is expressly forbidden by Section 40, Article XVI of the Constitution where both offices are civil offices of emolument. Dual office holding is forbidden to an extent at least by Section 33 of Article XVI wherein the accounting officers of the State are forbidden to issue or pay a warrant upon the treasurer for the payment of salary or compensation to a civil officer, who at the same time holds another office of honor, trust, or profit under the United States or the State of Texas. The further rule is adhered to as a matter of public policy that one may not hold two civil offices that are in their nature and functions incompatible. Thomas, et al., vs. Abernathy County Line Independent School District, 290 S.W. 152.

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Your splendid brief which accompanies your letter of inquiry shows conclusively, we think, that the offices of County Attorney and of trustee of an independent school district within the same county are incompatible. We agree with your views upon this point.

So that, it necessarily follows that your question should be answered in the affirmative.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Ocie Speer
Ocie Speer
Assistant

OS:ew

APPROVED MAR 5, 1941

George B. Mason

ATTORNEY GENERAL OF TEXAS

