

Officers, When May Hold Two Offices at the Same Time.

In the absence of an express provision of the constitution or statutes prohibiting a person from holding two offices at the same time, they may do so, provided, that the duties to be performed by the incumbent are not inconsistent or incompatible but no county officer can be appointed or act as the deputy of another officer of the same county, except in cases where the pay of the officer so appointed amounts to a sum less than \$75.00 per month.

January 15, 1911.

Mr. H. C. Patterson,
Chairman, Board of County Commissioners,
Dillon, Montana.

Dear Sir:

In confirmation of my oral opinion expressed over the telephone to the sheriff of your county, and in reply to your letter of January 10th, you are advised that there is no legal objection to Mr. Scully, who is now public administrator of your county being appointed to and holding the office of deputy sheriff of your county. Section 7 of Article X, of the Constitution designates certain persons who are prohibited from holding certain other offices at the same time, but in the absence of an express provision in the constitution and statutes prohibiting a person from holding two offices at the same time, they may do so provided that the duties to be performed by the incumbent of such an office are not inconsistent or incompatible.

(See Opinions of the Attorney General, 1905-06, Vol. 1,
p. 67; Opinions of Attorney General 1906-8, Vol. 2, pp. .
12 and 13.)

It is true that Section 344 of the Revised Codes provides that "No county officer must be appointed or act as the deputy of another officer of the same county, except in cases where the pay of the officer so appointed amounts to a sum less than \$75.00 per month." This section would not prevent the public administrator from acting as deputy sheriff, because he is paid by fee and has no regular fixed salary, and we have no other express statutory provision prohibiting such an officer from being appointed as a deputy sheriff.

Respectfully submitted,

ALBERT J. GALEN,

Attorney General.