

**Opinion No. 186.****County Surveyor—County Assessor—  
Consolidation of Offices—Quali-  
fications of Office—County  
Commissioners.**

**HELD:** 1. The person elected to the consolidated offices of County Surveyor and County Assessor must have all the valid qualifications for filling such offices before consolidation thereof became effective.

2. The constitution having prescribed the qualifications required of a County Surveyor, the legislature was without power to supplement them by such legislation as R. C. M. 4835.

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October 14, 1935.

Mr. Lee Butler Farr  
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Your letter of October 3 is as follows:

"The county commissioners of Richland County are considering the matter of consolidating the offices of county surveyor and county assessor.

"They desire to know if this is done whether or not the candidate for such consolidated office must have the qualifications of a county surveyor under Section 4835 of the Revised Codes of 1921."

Section 5 of Article XVI of the constitution, as amended by vote of the people at the general election held on November 6, 1934, provides that the board of county commissioners may consolidate any two or more

of the following county offices, namely, county clerk, sheriff, treasurer, assessor, county superintendent of schools, county surveyor, coroner and public administrator, and combine the powers and duties of the offices so consolidated. The provisions of this section are supplemented by the provisions of Chapter 125, Laws of 1935.

When two or more offices are consolidated under a single officer he is then possessed of the powers and must perform the duties that go with such offices, and while diligent search on our part has not revealed any judicial authority on the point, still it is reasonable to assume that the person elected to the consolidated offices must have all the valid qualifications required for filling such offices before consolidation thereof became effective.

Section 4835, Revised Codes of 1921, is as follows: "A county surveyor shall be a professional engineer, not less than twenty-two years of age, who shall have been in active practice of his profession for at least three years, and who shall have had responsible charge of work as principal or assistant for at least one year; graduation from a school of engineering shall be considered as equivalent to two years of active practice."

Since the amendment of Section 10 of Article IX of the constitution in November, 1924, Section 11 of the same Article, so far as applicable here, is to the effect that any person qualified to vote at general elections and for state officers shall be eligible to any of the offices mentioned above except that of county superintendent of schools. Section 2 of Article IX of the constitution, as amended in November, 1932, prescribes the qualifications necessary to entitle a person to vote at general elections and for state officers, as follows: He must be of the age of twenty-one years or over; a citizen of the United States; a resident of the state for one year immediately preceding the election at which he offers to vote, and of the town, county or precinct for such time as the law might lay down.

The constitution having prescribed the qualifications required of a county surveyor, the legislature was without

power to supplement the constitutional pronouncement by such legislation as Section 4835, supra. (State ex rel. Chenoweth v. Acton, 31 Mont. 37; Rose v. Sullivan, 56 Mont. 480; State ex rel. Shea v. Cocking, 66 Mont. 169.)

NOTE: Opinion Vol. 14, Opinions of Attorney General, p. 11, did not consider the constitutional provisions, supra.