

**Opinion No. 51-5418**

September 11, 1951

**BY:** JOE L. MARTINEZ, Attorney General

**TO:** Honorable Faugh H. Bowden Justice of the Peace Eunice, New Mexico

{\*124} Forgive my delay in replying to your letter in regard to the possibility of your friend, Alex Woodell, serving as Mayor of Eunice as well as County Commissioner.

The Supreme Court of New Mexico ruled, in the case of State ex rel Chapman v. Truder, 35 N.M. 49, that the Mayor of Las Vegas could also serve as District Attorney. The ruling turned on the fact that the two offices were not incompatible either by the general nature of the functions to be performed or by conflicting statutory duties.

Opinion No. 3196, rendered by this office on June 27, 1939, held that a County Commissioner could also hold another public office, so long as that office did not require the performance of duties incompatible with those required of him as Commissioner. In that opinion the case of Haymaker v. State ex rel McCain, 22 N.M. 400 was cited, wherein the Supreme Court defined incompatibility as follows:

"Incompatibility between offices is an inconsistency between the functions thereof, as where one is subordinate to the other, or where a contrariety and antagonism would result in the attempt by one person to faithfully and impartially discharge the duties of both."

An examination of our statutes with reference to the duties of County Commissioner and the duties of Mayor of any incorporated municipality reveals no conflicts or inconsistencies so as to make it impossible, in my opinion, for one person to serve in both offices.

I trust this answers your inquiry fully.

With kindest personal regards, I am