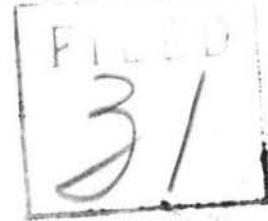


PUBLIC OFFICERS: Sec. 18, Art. IX, Constitution of Mo. does not apply to City of Brunswick or to Chariton County.

5-12

May 1, 1936.



Mr. A.L. Friesz,
Attorney at Law,
Brunswick, Missouri.

Dear Sir:

This department is in receipt of your letter of April 23 requesting an opinion as to the following state of facts:

"Will appreciate very much your legal construction on Sec. 18, Art. IX of the Constitution of Missouri, as to whether one person can at the same time fill two municipal offices, that of City Clerk and City Attorney in a third class city."

Section 18, Article IX of the Constitution of Missouri provides:

"In cities or counties having more than two hundred thousand inhabitants, no person shall, at the same time, be a state officer and an officer of any county, city or other municipality; and no person shall, at the same time fill two municipal offices, either in the same or different municipalities; but this section shall not apply to notaries public, justices of the peace or officers of the militia."

In the case of Nickelson v. City of Hardin, 282 Mo. l.c. 203, the Supreme Court of this state construed this section of our Constitution as follows:

"The question is not free from difficulty, but we are of opinion that the proper construction of the section is that it applies only in counties and cities having more than two hundred thousand inhabitants. This disposes of the only question presented by the briefs. The judgment is reversed and the cause remanded."

CONCLUSION

The City of Brunswick has a population of substantially 1715 inhabitants; the population of Chariton County is substantially 19,588. In view of the case of Nickelson v. City of Hardin, supra, Section 18 of Article IX of the Constitution of Missouri does not, in our opinion, apply to the City of Brunswick or to Chariton County.

In rendering this opinion we have merely given our construction of Section 18, Article IX as it applies to the City of Brunswick and Chariton County, and do not pass upon the propriety of a city clerk being also city attorney.

Respectfully submitted,

JOHN W. HOFFMAN, Jr.,
Assistant Attorney General.

APPROVED:

ROY MCKITTRICK,
Attorney General.

JWH:AH