

COUNTY CENTRAL COMMITTEE  
MEMBERS:

SPECIAL ROAD DISTRICT  
COMMISSIONER:

County Central Political Committee elected  
officials.

Membership not incompatible with holding an  
elective county or municipal office. Position  
of special road commissioner not incompatible  
with elective position of alderman or council-  
man of a municipality under Secs. 233.170-

October 30, 1952 10/31/52 233.315, RSMo 1949.



Mr. Andrew J. Higgins  
Prosecuting Attorney  
Platte County  
Platte City, Missouri

Dear Mr. Higgins:

This will acknowledge receipt of your request for an official  
opinion of this department which reads as follows:

"1. Are members of the county central  
political committee officers in such a  
sense as to render such membership incom-  
patible with holding a county or municipal  
office?"

"2. Is the position of special road commissioner,  
acting under Sections 233.170-233.315, RSMo. 1949,  
inclusive, incompatible with the position of alder-  
man or councilman of a municipality?"

In answer to the first question, the Supreme Court of Missouri  
in State v. Hamilton, 240 S.W. 445, l.c. 447, said as follows:

"Not only therefore, by our rulings, but in  
harmony with those in the jurisdiction from  
whence we derived our law, we are authorized  
in holding that the position held by a political  
committeeman elected under the authority of the  
statutes is such as to entitle his position to  
be classified as in the nature of that of a  
public officer."

The holding by the court of course classified the office of  
county central committee member a public office.

The Supreme Court of Missouri states the rule regarding in-  
compatibility of public office in State ex rel. v. Bus, 135 Mo. 325,  
l.c. 338, where it says:

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"At common law the only limit to the number of offices one person might hold was that they should be compatible and consistent. The incompatibility does not consist in a physical inability of one person to discharge the duties of the two offices, but there must be some inconsistency in the functions of the two; some conflict in the duties required of the officers, as where one has some supervision of the other, is required to deal with, control, or assist him."

It does not appear to us, using the foregoing rule as a measure, that the office of a party central committee member is incompatible with holding county or municipal office, unless the Constitution or statutes of Missouri by their terms prohibit it.

We therefore are of the opinion that members of a county central political committee are not officials in such a sense as to render such membership incompatible with holding a county or municipal office.

The answer to your question regarding the special road commissioner, to whom you refer, is one of a special road district not under township organization such as is contemplated by Sections 233.170 to 233.315, inclusive, RSMo 1949, we, in this answer, are of the opinion that the position of a special road commissioner of a special road district organized under these sections is not incompatible with that of alderman or councilman of a municipality within such district. The rule is the same here in answer to this question as it was in the Bus case in answer to the first question.

#### CONCLUSION

It is, therefore, the opinion of this department that:

(1) The office of a party central committee member is not incompatible with the same individual member holding county or municipal office, unless specifically prohibited by statute or the Constitution of Missouri.

(2) The position of special road commissioner in special road districts in counties not under township organization as contemplated by Sections 233.170 to 233.315, inclusive, supra, is not incompatible with the position of alderman or councilman of a municipality within such district.

APPROVED:

  
J. E. TAYLOR  
Attorney General

Respectfully submitted,

A. BERTRAM ELAM  
Assistant Attorney General

ABE:mw