



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

March 14, 1990

Mr. David Motley  
County Attorney  
County of Kerr  
323 Earl Garrett  
Kerrville, Texas 78028

LO-90-10

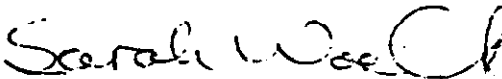
Dear Mr. Motley,

You ask whether a district clerk may serve as a county law librarian.

Article XVI, section 40, of the Texas Constitution prohibits one person from holding more than one office of emolument, except in specified circumstances. Because a county law librarian would not exercise any sovereign function of government,<sup>1</sup> however, the position of county law librarian is not an office within the meaning of article XVI, section 40. See Attorney General Opinion JM-1083 (1989); JM-862 (1988); JM-519 (1986).

The common law doctrine of incompatibility prevents one person from holding two positions if the duties are inconsistent, in conflict, or one is subordinate to the other. Attorney General Opinion JM-1047 (1989). We are aware of no way in which the positions of district clerk and county law librarian would be incompatible.

Yours very truly,

  
Sarah Woelk, Chief  
Letter Opinion Section

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1. In asking about the county law librarian, we assume you are not referring to the county librarian, who holds a position provided for by statute. Local Gov't Code § 323.005. We do not consider here whether a county librarian appointed under section 323.005 holds an office for purposes of article XVI, section 40.

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