

April 3, 1944

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Mr. Dodd L. Greer
County Attorney
Holbrook, Arizona

Dear Sir:

We have your letter of March 14th wherein you ask the opinion of this office as to whether or not a County Attorney may at the same time be a City Attorney and whether a City Attorney, if he was not a County Attorney, could ethically defend criminal cases from appeal to or before the Superior Court.

The only restriction upon the holding of two public offices at the same time is that the duties of the one be not incompatible with the duties of the other. This rule was set out in *Coleman v. Lee*, 58 Ariz. 506. The volume of American Jurisprudence which you cite at Page 936 says:

" * * * It is not an essential element of incompatibility of offices at common law that the clash of duty should exist in all or in the greater part of the official functions."

Therefore if there is any clash in the duties of the two offices, under the rule laid down in *Coleman v. Lee*, one person could not hold both. Of course we do not know of any clash and that would be a matter which could be decided better by a person who is acquainted with the facts existing as to litigation or pending litigation between Navajo County and the city you have in mind. We recall well the case of *Bisbee v. Cochise County* where there was a definite clash.

It is our opinion that a City Attorney could not very well defend a person in the Superior Court on an appeal from a conviction of a violation of a city ordinance without violating some ethic or obligation owed to the city.

Very truly yours,

JOE CONWAY
Attorney General

EARL ANDERSON
Chief Assistant
Attorney General

EDWARD P. CLINE
Assistant Attorney General