

fore, the functions which the councilman performs are additional functions placed upon him as a councilman and are not those of a separate and distinct office.

A somewhat similar situation was before the Supreme Court of Alabama in the case of *Taylor vs. Davis, et al.*, 212 Ala. 282; 102 So. 433. In that case the Legislature had created a budget commission, composed of the Governor, the Attorney General and the State Auditor, and the question was raised as to whether this was giving a separate office to those officers within the inhibition of the constitution of Alabama which prohibits any one holding two offices of profit. These officers were given additional compensation for their services as members of the budget commission. In disposing of the contention made, the Supreme Court said:

"The members of the budget commission are not holding two offices of profit within the meaning of Section 280 of the Constitution. When, in the exigencies of government, it is necessary to create and define new duties, the legislative department has the discretion to determine whether additional offices shall be created, or these duties shall be attached to and become *ex officio* duties of existing offices. The power extends to the consolidation of offices resulting in abolishing one and attaching its powers and duties to the other. It matters not that the name commission or board is given to the body created. The officers named in the budget bill could be called the Governor's counsel or cabinet when engaged in the joint duties imposed upon them by virtue of their respective offices."

Applying this principle to the situation you present, it seems to me that the councilmen are performing additional duties required by law of them as councilmen, when they serve as members of the board of trustees of the firemen's pension fund. It follows that they are not occupying another public office or employment within the meaning of the charter provision.

In view of what has been said, I am of the opinion that a councilman, who is chosen to act as one of council's representatives on the board of trustees of the firemen's pension fund, is not holding another public office or employment within the meaning of the charter provision that members of council shall not hold any public office or employment except that of notary public or member of the state militia.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1523.

APPROVAL, BONDS OF VILLAGE OF CROOKSVILLE, PERRY COUNTY
—\$24,000.00.

COLUMBUS, OHIO, February 14, 1930.

Industrial Commission of Ohio, Columbus, Ohio.