



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

January 12, 2005

The Honorable Lloyd B. Ward
Coroner, Barnwell County
57 Wall Street, Room 104
Barnwell, South Carolina 29812

Dear Coroner Ward:

In a letter to this office you questioned whether serving simultaneously as a state constable and as a deputy coroner would violate the dual office holding provisions of the State Constitution.

Article XVII, Section 1A of the State Constitution provides that "no person may hold two offices of honor or profit at the same time..." with exceptions specified for an officer in the militia, a member of a lawfully and regularly organized fire department, a constable and a notary public. For this provision to be contravened, a person concurrently must hold two offices which have duties involving an exercise of some portion of the sovereign power of the State. Sanders v. Belue, 78 S.C. 171, 58 S.E.762 (1907). Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its duties or salary, or require qualifications or an oath for the position. State v. Crenshaw, 274 S.C. 475, 266 S.E.2d 61 (1980).

This office has indicated on numerous occasions that the position of coroner and deputy coroner are offices for dual office holdings purposes of the State Constitution. See: Ops. Atty. Gen. dated February 5, 2004; January 22, 2001; October 16, 2000; October 23, 1991; February 10, 1984.


It is my understanding from your letter that the individual with the State constable's commission utilizes such commission in association with his duties as an inspector with the Clemson University Department of Pesticide Regulation. You indicated that as an inspector, the individual has duties of enforcing federal and state laws pertaining to the manufacture, distribution and use of pesticides, investigating pesticide misuse, conducting continuing education to the public and industry representatives on the proper usage of pesticides and providing entomological inspections for structures related to wood destroying organisms. Based upon the information you relayed in our telephone conversation, it is my understanding that the position of inspector itself carries no functions or duties which would make that position itself an office for dual office holding purposes. Instead, as referenced, the individual in question utilizes his commission as a constable in such role as an inspector and, therefore, the question exists as to whether an individual who serves as a constable occupies an office for dual office holding purposes.

The Honorable Lloyd B. Ward
Page 2
January 12, 2005

This office has noted in prior opinions that Article XVII, Section 1A and S.C. Code Ann. § 8-1-130 (Supp. 2003) specifically exclude holders of a constable's commission from considerations of dual office holding. See: Ops. Atty. Gen. dated December 15, 2003 and April 14, 1993. Consistent with such, it would not be a violation of the constitutional provision prohibiting dual office holding for an individual to serve both as a deputy coroner and as a state constable.

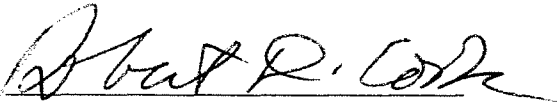
With kind regards, I am,

Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General