

1984 WL 249902 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 11, 1984

\*1 Albert L. Flowers  
Chairman  
Darlington County Democratic Party  
143 Spring Street  
Darlington, South Carolina 29532

Dear Mr. Flowers:

Your recent letter addressed to Mr. Medlock has been referred to me for reply. You have inquired if a Magistrate's Constable may serve as a poll manager at the June 12 Democratic primary.

It has been the prior consistent opinion of this Office that a constable holds a public office. It has also been the opinion of this Office that a poll manager is a public officer by virtue of the oath of office he takes before accepting his duties. South Carolina Code of Laws, 1976, Section 7-13-70. Both positions are offices which exercise part of the sovereignty of the State; therefore, the holding of both offices would constitute dual office holding.

Additionally, this Office has previously held that a magistrate should not serve as a poll manager in that the Code of Judicial Conduct would make such a practice highly questionable. The same rationale may be equally applicable to a magistrate's constable and may, therefore, present an ethics problem in a magistrate's constable serving as a poll manager.

It is the opinion of this Office that a magistrate's constable serving as a poll manager would be holding two offices and would violate the dual office holding provisions of the South Carolina Constitution. Additionally, his holding of these two offices might constitute activity prohibited by the ethical provisions of the Code of Judicial Conduct. Therefore, in order to avoid any questions regarding his ability to properly serve as a poll manager, it would be preferable for a constable not to hold the position of poll manager.

Sincerely,

Treva G. Ashworth  
Senior Assistant Attorney General

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