

1983 WL 182051 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 10, 1983

\*1 Mr. William B. Smith, Jr.  
Berkeley County Coroner  
Post Office Box 726  
Moncks Corner, South Carolina 29461

Dear Mr. Smith:

You have requested the opinion of this office on the question of whether it would be a violation of the dual office holding provisions of the South Carolina Constitution for a newly-elected member of a Town Council to retain his position as a Deputy Coroner.

It is provided in [Article XVII, Section 1A of the South Carolina Constitution](#) that ‘ . . . no person shall hold two offices of honor or profit at the same time.’ For this provision to be violated, a person must hold concurrently two public 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. 672 (1907). Other relevant considerations are whether statutes or other such authority establish the position, prescribe its tenure, 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).

The position of county coroner is provided for in [Section 17-5-10, et seq. of the 1976 South Carolina Code](#) and Section 17-7-10, [et seq.](#) This office has issued numerous opinions concluding that coroners and deputy coroners hold offices within the meaning of the South Carolina Constitution. See, 1968 Op. Atty. Gen., No. 2555, p. 250; and Op. Atty. Gen., January 2, 1980 (copies enclosed). This conclusion is based upon the fact that coroners are elected public officials who perform a public function involving an exercise of the sovereign power of the State.

Members of town councils have also been held to be ‘officers’ within the meaning of the constitutional provision. See Op. Atty. Gen., August 4, 1978. (Copy Enclosed). This is also based on the fact that council members are elected public officials exercising a portion of the sovereign power of the State.

Based upon the foregoing, it is the opinion of this office that a person serving as a Town Council member and holding the office of Deputy Coroner would be in violation of the dual office holding provisions of the South Carolina Constitution.

Sincerely,

Carolyn M. Adams  
Assistant Attorney General

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