

1977 S.C. Op. Atty. Gen. 157 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-205, 1977 WL 24547

Office of the Attorney General

State of South Carolina

Opinion No. 77-205

July 1, 1977

***1 RE: Dual-Office Holding**

Mr. J. Lee Spratt
State Director
Division of Economic Opportunity
1321 Lady Street, Rm. 311
Columbia, SC 29201

Dear Mr. Spratt:

You have inquired as to whether service on a community action agency, as a private non-profit eleemosynary corporation, constitutes an office as prohibited by Article III, Section 2 of the S. C. Constitution.

That section of the Constitution provides that 'no person shall hold two offices of honor or profit at the same time.'

In [Sanders, et al. v. Belue, et al.](#), 78 S. C. 171, 58 S.E. 762 'office' was defined as follows:

One who is charged by law with duties involving an exercise of some part of the sovereign power, either small or great, in the performance of which the public is concerned, and which are continuing and not occasional or intermittent, is a public officer.

The opinions on dual office holding previously issued by this Office have distinguished between those positions which are employment, purely advisory, or an office as per the above definition. For example, the position of County Federal Coordinator is an employment, therefore such employee could hold a position on the School Board which is an office [Letter of this office of November 25, 1975 to the Governor's Office].

'Office' to be applicable here must involve some performance of a sovereign function and be created by law.

If these community action agencies are created by law and are charged with a sovereign function with which the public is concerned, then service in such agency would constitute service in an 'office.'

As I understand your question it concerns non-profit charitable organizations which are private except that they receive public funds. Any connection with these private corporations would not fall under dual office-holding.

Sincerely,

A. Camden Lewis
Assistant Attorney General

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