

1976 S.C. Op. Atty. Gen. 137 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4318, 1976 WL 22937

Office of the Attorney General

State of South Carolina

Opinion No. 4318

April 6, 1976

*1 Honorable Joyce C. Hearn
Member
House of Representatives
1316 Berkeley Road
Columbia, South Carolina 29205

Dear Mrs. Hearn:

Your letter of March 17, 1976, inquires:

‘We respectfully request your opinion as to whether Act 30–6–1952 would preclude any member of the Legislature from ever offering for a judgeship even after they go out of office, if they are serving when judgeships are created.’

Section 30–6 of the Code of Laws, 1962, provides:

‘No senator or representative shall, during the time for which he was elected, be elected by the General Assembly or appointed by any executive authority to any civil office under the dominion of this State which shall have been created during the time for which such senator or representative was elected to serve in the General Assembly.’

It is my opinion that the prohibition of the statute attaches to members of the General Assembly during their terms of office but that upon the expiration of their terms, they are not precluded from assuming such an office. There appear to be no decisions of the Supreme Court of South Carolina but the foregoing conclusion is in accord with the general authority in other jurisdictions that have passed upon the issue.

The prohibition of the statute is, therefore, directed at election or appointments which occur during the term for which the member served in the General Assembly. Following the expiration of such term, the member is eligible for election or appointment.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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