

1972 S.C. Op. Atty. Gen. 128 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3310, 1972 WL 20450

Office of the Attorney General

State of South Carolina

Opinion No. 3310

May 9, 1972

***1 Since being a member of the Broadway Lake Commission constitutes holding an office, an individual holding the office of Mayor of Honea Path and also being a member of the Broadway Lake Commission constitutes dual office holding in violation of the South Carolina Constitution.**

Member

House of Representatives

Anderson County

You have inquired as to whether or not an individual holding the office of Mayor of Honea Path and also being a member of the Broadway Lake Commission constitutes dual office holding. It would appear to go without further comment that the office of Mayor would constitute an office as set forth in the Constitution of this State. Therefore, the question actually is whether or not being a member of the Broadway Lake Commission in Anderson also would constitute an office, thereby possibly putting an individual in a position of dual office holding, as prohibited by the South Carolina Constitution.

The Broadway Lake Commission was created in 1941 by the General Assembly (Section 51–211, et seq., 1962 Code of Laws of South Carolina). When looking as to the creation, appointment and membership of the Commission, as well as its powers and duties, it would appear that a member of that Commission would in fact be a holder of a ‘public office,’ which has been created by law and which involves the exercise of some portion of the sovereign power of this State or involves performance of which the public is concerned and which duties are continuing in nature and not occasional or intermittent. *Willis v. Aiken County*, 203 S. C. 96, 26 S. E. 2d 313.

From the above, it would appear that a person holding both offices would constitute dual office holding.

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