



The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

September 18, 1997

The Honorable William H. O'Dell  
Senator, District No. 4  
Box 540  
Ware Shoals, South Carolina 29692

RE: Informal Opinion

Dear Senator O'Dell:

Attorney General Condon has forwarded your recent opinion request to me for reply. You have asked whether a dual office holding situation would arise if an individual currently serving as mayor was appointed to serve as a magistrate.

Article XVII, Section 1A of the State Constitution provides that "no person may hold two offices of honor or profit at the same time ...," with exceptions specified for an officer in the militia, member of a lawfully and regularly organized fire department, constable, or notary public. For this provision to be contravened, a person concurrently must hold 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. 762 (1907). Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its 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).

This Office has concluded on numerous occasions that one who serves as a mayor of a municipality would hold an office for dual office holding purposes. Ops. Atty. Gen. dated April 9, 1997, November 2, 1994, July 28, 1993, February 25, 1992 and September 21, 1989.

*Request Letter*

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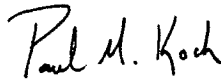
This Office has also determined on numerous occasions that an individual who serves as a magistrate would hold an office for dual office holding purposes. Ops. Atty. Gen. dated July 8, 1991, June 19, 1987, September 23, 1980 and February 20, 1980.

Based on the foregoing, if an individual serves simultaneously as Mayor and Magistrate, the dual office holding prohibitions of the State Constitution would be contravened.

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,

A handwritten signature in cursive script that reads "Paul M. Koch".

Paul M. Koch

Assistant Attorney General