

1983 WL 181818 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 28, 1983

\*1 Mr. Arthur Magill  
301 College Street  
Greenville, South Carolina 29601

Dear Mr. Magill:

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 person to serve concurrently as a member of the South Carolina Museum Commission and as a State Constable.

It is provided in [Article XVII, § 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 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 \(1907\)](#). 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, 266 S.E.2d 61 \(1980\)](#).

This Office has previously concluded on numerous occasions that persons holding constable commissions are officers for dual office holding purposes. [See, 1973 Op. Att’y. Gen. No. 3455; 1968 Op. Att’y. Gen. No. 2555; Opinion dated October 27, 1977 \(copies enclosed\)](#).

The South Carolina Museum Commission is created pursuant to [§§ 60-13-10, et seq., Code of Laws of South Carolina, 1976](#), and the powers of the Commission are provided in § 60-13-40 thereof. The Commission is authorized, [inter alia](#), to create and operate a State Museum, to make rules and regulations for its government and the administration of the museum, to control the expenditure of public funds which it is appropriated, to accept gifts, bequests and endowments for purposes consistent with Commission objectives, and to adopt policies designed to fulfill the duties and objectives of the Commission. These functions involve an exercise of the sovereign power of the State so that the members of the Commission would hold offices for dual office holding purposes. The same result has been reached with respect to the Greenville County Museum Commission. [See, Opinion dated April 14, 1980 to David Merline \(copy enclosed\)](#).

Based on the foregoing, it is the opinion of this Office that a person serving concurrently as a State Constable and as a member of the State Museum Commission would be in violation of the dual office holding provisions of the South Carolina Constitution. Very truly yours,

Helen T. Zeigler  
Assistant Attorney General

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