

1983 WL 181841 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 11, 1983

\*1 Mr. Philip G. Grose, Jr.  
State Reorganization Commission  
Post Office Box 11488  
Columbia, South Carolina 29211

Dear Mr. Grose:

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 member of the State Reorganization Commission appointed by the Governor to hold a State Constable's Commission.

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.W.2d 61 \(1980\)](#).

This office has previously concluded that the members of the Reorganization Commission who are appointed by the Governor hold offices within the meaning of the dual office holding provisions of the Constitution. [See, Op. Att'y. Gen. dated March 13, 1980 to Mr. Cleveland \(copy enclosed\)](#). This conclusion is based upon the fact that statutes establishing the Commission give the Commission members numerous powers which involve an exercise of the sovereign power of the State.

This office has also concluded on a number of 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 \(copies enclosed\)](#).

Based on the foregoing, it is the opinion of this office that it would be a violation of the dual office holding provisions of the South Carolina Constitution for a gubernatorial appointee to the State Reorganization Commission to also hold a State Constable's Commission.

Very truly yours,

Helen T. Zeigler  
Assistant Attorney General

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