

1983 WL 182001 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 15, 1983

\*1 Ms. Alice R. Copeland  
Personnel Director  
Chesterfield County Council  
County Courthouse  
Chesterfield, South Carolina 29709

Dear Mr. Copeland:

You have requested the opinion of this office on the question of whether it would be a violation of the dual officeholding provisions of the South Carolina Constitution for a member of the Chesterfield County Library Board of Trustees to also serve as the Chesterfield County Public Defender.

[Article XVII, § 1A of the South Carolina Constitution](#) provides 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, 58 S.E. 762 (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](#), 274 S.C. 475, 266 S.E.2d 61 (1980).

This office has previously determined that the position of Public Defender is not an office for dual officeholding purposes. *See*, 1982 Op. Atty. Gen., dated April 5, 1982; 1979 Op. Atty. Gen., dated April 20, 1979; 1971 Op. Atty. Gen., dated February 9, 1971; and 1975 Op. Atty. Gen., dated May 26, 1975 (copies enclosed).

The present Chesterfield County Library Board of Trustees was created pursuant to Act No. 798 of 1960 Statutes at Large. This office has previously determined that a member of the board of a county library holds an office within the meaning of the dual officeholding provisions of the Constitution. *See*, 1981 Op. Atty. Gen., dated February 11, 1981 and 1980 Op. Atty. Gen., dated July 24, 1980. (copies enclosed) <sup>1</sup>

Based on the foregoing, it is the opinion of this office that a person serving as the Chesterfield County Public Defender and as a member of the Chesterfield County Library Board of Trustees would not be violating the dual officeholding provisions of the South Carolina Constitution.

Sincerely,

Carol P. Black  
Staff Attorney

Footnotes

- <sup>1</sup> The library was created as an eleemosynary corporation, and this office has determined that ‘any connection with these private corporations would not fall under dual officeholding.’ *See*, 1977 Op. Atty. Gen., dated July 1, 1977 (copy enclosed). However, we do not have to resolve this apparent contradiction as the position of Public Defender is not considered an office.

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