

1981 WL 158180 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 12, 1981

**\*1 Re: Opinion Request**

Honorable Archibald Hardy  
House of Representatives  
327-B, Solomon Blatt Building  
Columbia, South Carolina 29211

Dear Representative Hardy:

You have asked whether one who simultaneously serves on the Greenville County Recreation Commission and holds a State Constable's Commission violates the Constitutional provision which prohibits an individual from holding two offices of honor or profit at the same time.

In [Sanders v. Belue](#), 78 S.C. 171, the Supreme Court stated:

One who is charged by law with duties involving an exercise of some part of the sovereign power, either small or great in the performance of which the public is concerned, and which are continuing and not occasional or intermittent, is a public officer.

This office has on numerous occasions stated that one who holds a constable's commission is an officer for dual office holding purposes. See e.g. 1973 Attorney General Opinion 3455.

The Greenville County Recreation Commission has the authority, inter alia, to levy taxes. Clearly one who sits on this Commission would be a public officer. See also, 1971 Attorney General Opinion, p. 87.

Accordingly, it is the opinion of this office that one with a state constable's commission who serves on the Greenville County Recreation Commission violates the dual office holding provision.

If a person continues to hold an office on the date he enters another office, he is deemed to have vacated the former office. [State v. Butz](#), 9 S.C. 156.

Very truly yours,

James W. Johnson, Jr.  
Assistant Attorney General

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