

1981 WL 157899 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 5, 1981

\*1 Mr. Joe F. Watson  
Post Office Box 1061  
Spartanburg, South Carolina 29304

Dear Mr. Watson:

You have asked for an opinion from this office as to whether you may serve on the Liberty-Chesnee-Fingerville Water Commission while also serving as a member of the Spartanburg County Council.

[Section 2 of Article 2 of the South Carolina Constitution](#) provides that no person shall hold two offices of honor or profit at the same time. The general criteria applied in determining whether merely employment rather than an office is involved is whether or not some portion of the sovereignty of the State is exercised in the proper discharge of the duties of the position. [Sanders v. Belue](#), 78 S.C. 171, 58 S.E. 762.

This office has repeatedly held that the position of County Councilman is an office under the dual office holding provision of the South Carolina Constitution. See for example, the January 12, 1979 Attorney General's Opinion, attached herewith. (You will please note that Greenville County, to which the attached opinion refers, and Spartanburg County enjoy the same type of county government, pursuant to Chapter 9, Title 4 of the Code of Laws of South Carolina.)

The Liberty-Chesnee-Fingerville Water Commission was created by 1960 Act No. 1120, a copy of which is attached hereto. The duties required by the Commissioners clearly constitute an exercise of the sovereignty of the State and, consequently, the Commissioners would be considered officers.

Accordingly, you may not hold the position of Liberty-Chesnee-Fingerville Water Commissioner and Spartanburg County Council-person without violating the dual office holding provision in [Section 2, Article 2 of our Constitution](#).

I trust this answers your question. Please do not hesitate to contact me if you need further assistance.

Very truly yours,

James W. Johnson, Jr.  
Assistant Attorney General

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