

1982 WL 189253 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 16, 1982

\*1 John C. Patrick, III, Esquire  
Staff Counsel  
House of Representatives  
Labor, Commerce and Industry Committee  
Post Office Box 11867  
Columbia, South Carolina 29211

Dear Mr. Patrick:

You have asked the opinion of this Office on the question of whether a person serving as a member of the South Carolina House of Representatives would violate the dual office holding provisions of Article III, Section 24 and Article VI, Section 3 by also serving as an aide to a United States Congressman. Since this Office has previously concluded that federal offices come within the scope of the dual office holding provisions of the Constitution only when specifically included, the focus of this response will be upon Article III, Section 24. See, 1960 Op. Att'y. Gen. No. 62, at 155 (copy attached hereto).

It is provided in Article III, Section 24 that '[n]o person shall be eligible to a seat in the General Assembly while he holds any office or position of profit or trust under this State, the United States of America, or any of them. . . .' Although an aide to a United States Congressman would probably be considered an employee rather than an officeholder, the prohibition of Article III, Section 24 extends beyond the holding of offices to include positions of profit or trust. The South Carolina Supreme Court has never ruled upon the meaning of this phrase, but an examination of the Journal of the South Carolina Constitutional Convention of 1895 reveals that the original resolution calling for a provision of this type was limited to the holding of offices. It appears that the inclusion of 'positions' was made in committee, since the Legislative Article as reported out by committee included this additional term. This indicates that some affirmative action was taken to have the original proposed prohibition against the simultaneous holding of offices broadened to include positions with the state or federal government as well.

We have located a case in which the Supreme Court of the State of Alaska had the occasion to interpret a nearly identical provision in its State Constitution. In [Begich v. Jefferson](#), 441 P.2d 27 (1968), it was concluded that the phrase 'position of profit' found in the constitutional provision that no legislator may hold any other office or position of profit under the State or the United States indicated a legislative intention to prohibit legislators from holding any other salaried non-temporary employment for the federal or state government. This case is not binding upon the State of South Carolina, but in light of its precedential value, the constitutional history of the provision, and our own reading of Article III, Section 24, the best interpretation is that Article III, Section 24 prohibits members of the General Assembly from holding any other employment for the State of South Carolina, the United States Government, or any other governmental power.

Based on the foregoing, it is the opinion of this Office that it would constitute a violation of [Article III, Section 24 of the South Carolina Constitution](#) for a member of the South Carolina House of Representatives to serve as an aide to a United States Congressman if that position is salaried and non-temporary.

Very truly yours,

\*2 Helen T. Zeigler  
Staff Attorney

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