

1979 WL 42778 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 25, 1979

**\*1 RE: Opinion Request**

Norman W. Stevenson, Esquire  
P. O. Drawer H  
Charleston, South Carolina 29402

Dear Mr. Stevenson:

You have asked whether the constitutional provision prohibiting dual office holding is violated where the same individual serves as a Commissioner of the St. Johns Fire District Commission and is also a member of the Advisory Committee to the South Carolina State Fire Marshall.

[Article XVII, Section 1A, of the South Carolina Constitution](#) provides that no person shall hold two offices of honor or profit at the same time. In [Sanders v. Belue](#), 78 S.C. 171, 58 S.E. 762 (1907), the Supreme Court defined a public officer for dual office holding purposes as follows:

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.

The St. Johns Fire District Commission was apparently created pursuant to [Section 6-11-10, et seq., of the Code of Laws of South Carolina](#), 1976. Section 6-11-100, which sets forth the powers and duties of the Commissioners, clearly makes membership on this Commission a public office within the [Sanders](#) case. See Attorney General Opinion dated July 15, 1975, a copy of which is attached.

However, the Advisory Committee to the South Carolina State Fire Marshall was apparently created by Executive Order 78-25 of Governor Edwards, not by statute. Therefore, a member of this Advisory Committee is not a public officer within the meaning of [Sanders](#). See Attorney General Opinion dated April 11, 1972, a copy of which is attached.

Therefore, it is the opinion of this Office that an individual may serve on the Advisory Committee to the South Carolina State Fire Marshall and as a Commissioner on the St. Johns Fire District Commission, without violating [Article XVII, Section 1A, of the South Carolina Constitution](#).

Sincerely,

James W. Johnson, Jr.  
Assistant Attorney General

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