

1982 S.C. Op. Atty. Gen. 69 (S.C.A.G.), 1982 S.C. Op. Atty. Gen. No. 82-70, 1982 WL 155039

Office of the Attorney General

State of South Carolina

Opinion No. 82-70

November 19, 1982

***1 In Re: Walter M. Temple, Jr. Clerk of Court Abbeville County**

Mr. Thurmond Bishop
Messrs. Bishop and Hughston
Attorneys at Law
122 Court Square
Abbeville, South Carolina 29620

Dear Mr. Bishop:

As I mentioned to you by telephone, I feel the most appropriate authority to investigate the affairs of the Clerk of Court's Office is the Court Administrator, Honorable Louis Rosen. I will, therefore, forward your letter to him, and if there is anything he wishes from this Office, he may, of course, call upon us.

You ask in your letter also with regard to the status of the Clerk of Court with respect to the application of the dual officeholding provisions of our State Constitution.

The Clerk is subject to the normal dual officeholding provisions of the Constitution applicable generally to State officers. I have heretofore for many years expressed the view that insofar as that particular dual officeholding provision is concerned, the holding of a federal office while at the same time holding a State office does not constitute dual officeholding. The basis for this conclusion is that in other instances, such as the Office of the Governor, Members of the Supreme Court and General Assembly, specific provisions prohibit the holding of those offices by one who occupies at the same time a position of honor, trust or profit 'under the laws of this State, the United States or any other power,' whereas the provisions of Article VI, Section 3, contain no such restrictions. The conclusion in my mind is that where a specific prohibition against dual officeholding is intended to be made, it is specifically so stated. The provisions of Article VI, Section 3, contain no such provision.

Therefore, it is my opinion that the Clerk of Court may hold a federal office, such as mail carrier, assuming the position of mail carrier to be an office, without violating the dual officeholding provision.

Very truly yours,

Daniel R. McLeod
Attorney General

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