

1982 WL 189467 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 19, 1982

*1 Philip E. Wright, Esquire
Richards and Wright
Post Office Box 150
Lancaster, South Carolina 29720

Dear Mr. Wright:

You have requested the opinion of this Office on the question of whether a person serving concurrently as a State Highway Patrolman and as a member of the Lancaster County Airport Commission would be in violation of the dual office holding provisions of the South Carolina Constitution.

It is provided in [Article XVII, § 1A of the South Carolina Constitution](#) that ‘ . . . no person shall hold two offices of honor or profit at the same time.’ For this provision to be contravened, a person concurrently must hold two public offices which have duties involving an exercise of some portion of the sovereign power of the State. [Sanders v. Belue, 78 S.C. 171 \(1907\)](#). Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its tenure, duties or salary, or require qualifications or an oath for the position. [State v. Crenshaw, 266 S.E.2d 61 \(1980\)](#).

The Lancaster County Airport Commission was created by Act No. 106 of the 1965 Acts and Joint Resolutions, and the powers and duties of its members were provided for therein. Its members are given the power to administer all aeronautic laws in Lancaster County, handle all matters affecting airports in Lancaster County, receive and expend funds for such airports, exercise general authority over land acquired for airports or aeronautical purposes, and enter into contracts concerning the airports of Lancaster County. These functions involve the exercise of a portion of the sovereign power of the State, and therefore its members would be considered officers for dual office holding purposes. This conclusion is in keeping with a previous opinion of this Office which concluded that members of the Marlboro County Airport Commission, which is given powers very similar to those of the Lancaster Commission, are officeholders in the Constitutional sense. [See, 1975 Op. Atty. Gen., No. 4001](#) (copy attached).

Similarly, this Office has concluded that highway patrolmen are given the authority to exercise a portion of the sovereign power of the State, and are, therefore, to be considered officers under the South Carolina Constitution. [See, 1975 Op. Atty. Gen., No. 3953](#); and Opinion dated October 14, 1982 to Mr. Sullivan (copies attached).

Based on the foregoing, it is the opinion of this Office that a person could not serve concurrently as a highway patrolman and a member of the Lancaster County Airport Commission without violating the dual office holding provisions of the South Carolina Constitution.

Very truly yours,

Helen T. Zeigler
Assistant Attorney General

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