

1979 WL 42822 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 23, 1979

*1 The Honorable James R. Metts
Sheriff of Lexington County
521 Gibson Road
Lexington, South Carolina 29072

Dear Sheriff Metts:

You have asked the opinion of this Office on whether a mayor's holding of a deputy sheriff's commission would constitute dual office holding.

[Article XVII, § 1A of the South Carolina Constitution](#) states that ‘ . . . no person shall hold two offices of honor and profit at the same time.’ Also see Article VI, § 3. For this provision to be violated, a person must hold simultaneously two public offices which have duties involving an exercise of some part of the State's sovereign power. [Sanders v. Belue](#), 78 S.C. 171, 58 S.E. 762 (1907).

The position of mayor is an elective office created pursuant to the statutes of this State. [Article VIII, § 9, South Carolina Constitution](#); Title 5, Code of Laws of South Carolina, 1976, as amended. These same authorities demonstrate that the exercise of the duties of this office involves a substantial exercise of the sovereign power of this State. Title 5, Sections 5-7-10 to 5-7-290, Code. Therefore, it is an office within the meaning of [Article XVII, § 1A](#). 1975-1976 Op. Atty. Gen., No. 4465, p. 327.

The position of deputy sheriff is appointive, and the exercise of its duties involves an exercise of the sovereign power of this State. Title 23, Chapters 13 and 15, Code. Therefore, it also is a public office within the prohibition of [XVII, § 1A](#). 1974-1975 Op. Atty. Gen., No. 3997, p. 67.

Based on the foregoing reasons, it is the opinion of this Office that the simultaneous holding of the offices of mayor and deputy sheriff would contravene the provision of the South Carolina Constitution prohibiting dual office holding.

Sincerely,

James M. Holly
State Attorney

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