

1980 WL 120788 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 24, 1980

\*1 Edward B. Latimer, Esquire  
Assistant County Attorney  
14A Court House Annex  
Greenville, SC 29601

Dear Mr. Latimer:

You have requested an opinion from this office as to whether a person holding positions on the Greenville City Election Commission and the Greenville County Library Board of Trustees violates the dual office-holding provisions of the [South Carolina Constitution, Article VI, Section 3](#) and [Article XVII, Section 1A of the South Carolina Constitution](#) provide that no person shall hold two offices of honor or profit at the same time.

A 1907 decision defined public office 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.

[Sanders v. Belue, 78 S.C. 171, 58 S.E. 762 \(1907\)](#). The position of Greenville County Library Trustee is created by Acts Nos. 247 of 1961 and 366 of 1967. The duties of the Library Board include purchasing real and personal property, accepting donations, and, entering into agreements and contracts, all involving State funds. It is the opinion of this office that these duties involve exercise of the sovereign power, and that the classification of public office is warranted here. [See Op. Att'y Gen. March 5, 1976](#), enclosed herewith.

It also appears that a position on the Greenville City Election Commission is an 'office' within the [Sanders](#) definition. This position is created by [Section 5-15-90 of the Code of Laws of South Carolina \(1976\)](#), and the function, powers, and duties of the Commission are set forth in Section 5-15-100. Members of the Commission are to ' . . . supervise and conduct all municipal, special, and general elections . . .' Thus, they are exercising the sovereign power, and are officers.

Consequently, it is the opinion of this office that a person may not concurrently hold a position as Greenville City Election Commissioner and Greenville County Library Trustee without violating South Carolina's dual office-holding provision.

I trust this answers your question. Please do not hesitate to contact me if you need further assistance.

Very truly yours,

James W. Johnson, Jr.  
Assistant Attorney General

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