

1977 WL 37307 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

APRIL 12, 1977

\*1 Membership on the County Grass Roots Citizens Advisory Committee is not an office within the constitutional proscriptions on dual office holding.

Honorable Frank H. McGill  
Senator

#### QUESTION PRESENTED

Does the position as Member on the County Grass Roots Citizens Advisory Committee constitute an office within the Constitutional sense?

#### STATUTES, CASES, ETC.

South Carolina Constitution, Article XVII, Section 1A and Article VI, Section 3;

[Sanders, et al. v. Belue, et al.](#), 78 S.C. 171, 58 S.E. 762;

[Edge v. Town of Cayce](#), 187 S.C. 172, 197 S.E. 216; \$Executive Order of the Governor filed February 3, 1976, #76-4.

#### DISCUSSION

Article XVII, Section 1A and Article VI, Section 3, of the South Carolina Constitution provide that no person shall hold two offices of honor or profit at the same time. An office has been defined by the South Carolina Supreme Court in [Sanders, supra](#), 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. (Emphasis added)

The 'Grass Roots Committees' were formed as an extension of the Office of Rural Development. The facts as presented to this Office indicate that the 'Grass Roots Committees' serve in an advisory function whose purpose is to facilitate citizen participation in rural development. The Office of Rural Development was created by Executive Order of the Governor, identified as #76-4. Previous opinions of this Office have been that a member of an office created by Executive Order is not an officer unless there is state statutory or constitutional authority for such action by the Governor. No such authority has been found authorizing the creation of this Office of Rural Development.

A position created at the discretion of the Governor and alterable at his will is considered merely an organizational arm of the Governor's office for administrative purposes and is not a legal entity or office. One holding a position on the County Grass Roots Citizens Advisory Committee is not 'charged by law with the duties involving an exercise of some part of the sovereign power . . .' [Sanders, supra](#).

CONCLUSION

Membership on the 'Grass Roots Committees' is not an office subject to the constitutional restrictions on dual office holding.

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