

1977 WL 37314 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 20, 1977

***1 In Re: Daniel Graham**

The Honorable Frank H. McGill
State Senator
Box 759
Kingstree, South Carolina 29556

Dear Senator McGill:

You have requested the opinion of this Office on the following facts:

All individual was appointed a member of the Williamsburg County Recreation Commission on October 28, 1975. This position constitutes an office within the meaning of the constitutional provision relating to dual officeholding. He apparently never qualified as a member of the Commission by taking the oath required nor was he commissioned as a member by the Secretary of State. He was subsequently appointed as Deputy Coroner for Williamsburg County in January 1977. As indicated in an opinion of this Office dated March 31, 1977, this position similarly constitutes an office within the meaning of the dual officeholding provision of the Constitution.

The failure to receive a commission or to take the oath of office does not vitiate the qualification to act as a member of the Recreation Commission. See [Verner v. Seibels](#), 60 S.C. 572, and an opinion of this Office cited below.

This individual therefore, in the opinion of this Office, was in violation of the dual officeholding provisions of the Constitution when he accepted the position of Deputy Coroner while at the same time holding the the previous office of member of the Williamsburg County Recreation Commission. The acceptance of a second office automatically created a vacancy in the first one held and therefore the position of member of the Recreation Commission was vacated by the individual upon his acceptance of the position of Deputy Coroner. The vacancy thus created is not a physical vacancy but the individual is required to continue in office until his successor has been appointed and qualified. [Rogers v. Coleman](#), 246 S.C. 32.

A vacancy exists in the position now held by the individual on the Recreation Commission and it is in order that this vacancy be filled in the manner provided by the law creating the Commission (75 Acts 191).

Very truly yours,

Daniel R. McLeod
Attorney General

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