

1985 WL 258996 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 17, 1985

*1 Mr. Claude Driggers
Marlboro County Supervisor
Post Office Box 419
Bennettsville, South Carolina 29512

Dear Mr. Driggers:

By your letter dated November 30, 1984, you have asked whether one person may serve simultaneously as County Attorney and as a member of the Historical Commission without contravening the dual office holding prohibitions of the Constitution of the State of South Carolina.

Article XVII, § 1A of the South Carolina Constitution provides 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. Beluc*, 78 S.C. 171, 58 S.E. 762 (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*, 274 S.C. 475, 266 S.E.2d 61 (1980).

The position of County Attorney has been found by this Office to be an office for the purposes of dual office holding. See Ops.Atty.Gen., dated February 23, 1981 and September 18, 1975, copies of which are enclosed.

A member of the Marlboro County Historic Preservation Commission does not hold an "office of honor or profit," pursuant to its enabling legislation, as you were advise by this Office in a letter dated January 17, 1985.

In conclusion, one person may most probably serve as a county attorney and on the Marlboro County Historic Preservation Commission without contravening the dual office holding prohibitions of the State Constitution.

Sincerely,

Patricia D. Petway
Assistant Attorney General

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