

1979 S.C. Op. Atty. Gen. 156 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-109, 1979 WL 29113

Office of the Attorney General

State of South Carolina

Opinion No. 79-109

September 13, 1979

***1 SUBJECT: Municipal Corporations, Public Officers**

Occupation of the offices of city attorney and municipal judge by the same individual would violate Constitutional restrictions against dual office holding.

TO: R. CARROLL DAVIS

Mayor

Town of Cowpens

Tyrone Courtney, Esquire

City Attorney

Town of Cowpens

QUESTION PRESENTED:

Would the holding of the position of city attorney and municipal judge by the same individual violate Constitutional restrictions against dual office holding?

AUTHORITIES:

[South Carolina Constitution, Article XVII, Section 1A](#);

[Section 5-7-230, Code of Laws of South Carolina \(1976\)](#);

1974-75 Ops.Atty.Gen., No. 4173; and

1977 Ops.Atty.Gen., No. 77-137.

DISCUSSION:

The [South Carolina Constitution, Article XVII, Section 1A](#), prohibits the holding of two offices for honor or profit at the same time. It has previously been the opinion of this office that the position of part-time municipal judge constitutes an office in the Constitutional sense, and that the acceptance of a second office would violate the Constitutional restrictions on dual office holding. 1974-75 Ops.Atty.Gen., No. 4173, p. 230. It has also been the opinion of this office in the past that [Section 5-7-230 of the Code of Laws of South Carolina \(1976\)](#), makes the position of municipal attorney an office subject to Constitutional restrictions on dual office holding. 1977 Ops.Atty.Gen., No. 77-137, p. 114.

CONCLUSION:

The holding of the offices of city attorney and municipal judge by the same individual would violate State Constitutional restrictions set forth in [Article XVII, Section 1A](#), against dual office holding.

Richard B. Kale, Jr.

Assistant Attorney General

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