

1975 S.C. Op. Atty. Gen. 27 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 3953, 1975 WL 22251

Office of the Attorney General

State of South Carolina

Opinion No. 3953

January 28, 1975

***1 In re: Governor's Constables Without Compensation, Dual Office Holding**

Honorable J. P. Strom

Chief

State Law Enforcement Division

Post Office Box 21398

Columbia, South Carolina 29221

Dear Chief Strom:

You have inquired whether or not the following persons may be commissioned by the Governor as constables without compensation under provisions of Section 53-3, 1962 Code of Laws of South Carolina, as amended:

State Highway Patrolman County Police Officers Deputies Sheriff Municipal Policemen Private Security Guards

Article 2, Section 2, Constitution of South Carolina, reads in part:

‘But no person shall hold two offices of honor or profit at the same time: - - -.’

The South Carolina Supreme Court has held [[State v. Buttz, 9 S.C. 156](#)] that when a person qualifies for a second ‘office’ he vacates his first ‘office’ as a matter of law.

This Office has heretofore voiced the opinion on numerous occasions that all the persons about whom you inquire, except private security guards, are ‘officers’ within the meaning of Article 2, Section 2. Since Governor's constables without compensation have full police power, they are also ‘officers’. It follows that the subject persons may not also be Governor's constables without compensation without vacating the first ‘office’. They may not hold both positions at the same time.

Act 387 of 1973 [Section 13] grants to private security guards full police power while on the premises they are employed to guard. This makes them Article 2, Section 2, ‘officers’ within such areas. They, also, are constitutionally prohibited from holding the position of Governor's constable without pay.

Yours very truly,

Joseph C. Coleman

Deputy Attorney General

1975 S.C. Op. Atty. Gen. 27 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 3953, 1975 WL 22251