

1975 WL 29505 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 13, 1975

\*1 Sgt. M. W. Roscoe  
c/o Cheraw Police Department  
258 Second Street  
Cheraw, South Carolina 29520

Dear Mr. Roscoe:

In review of your letter of January 1, 1975, it appears that you raise three questions upon the facts presented to wit; whether or not you may hold the position as a State Constable, although you are employed by the Cheraw Police Department, when does your commission expire as a State Constable, and what are the duties of a State Constable? As per your first inquiry, a person serving as City Policeman and also State Constable would be in violation of our dual office holding provision. (1966-68 Ops.Att'y.Gen. No. 2324 p. 147) Your second inquiry may also be answered summarily. Your commission as a State Constable expires sixty (60) days after the appointing governor's term. Section 53-3, Code of Laws of South Carolina, 1962, as amended. (1964-65 Ops.Att'y.Gen. No. 1851 p. 108) As regards your final inquiry, the circumstances as you have outlined them would warrant that the question be passed over. I have reference to an opinion of this Office to the effect that once the second office is accepted a vacancy is created in the office previously held. (1960-62 Ops.Att'y.Gen. No. 1024 p. 86) Therefore, the question as regards your duties as a State Constable is moot. Please find enclosed a copy of all the materials herein cited.

With Kindest regards,

Herman L. Moore  
Law Clerk

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