

1975 WL 29691 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 11, 1975

*1 Honorable John Bradley
State Capitol
Columbia, South Carolina 29211

Dear Representative Bradley:

You have requested an opinion from this office as to whether or not it would constitute dual office holding for a person to hold the office of mayor and magistrate.

Article XVII, Section 1A of the Constitution of South Carolina (1895) (as amended) provided that ‘ . . . no persons shall hold two offices of honor or profit at the same time . . . ’ In [Sanders v. Belue](#), 78 S.C. 171 at 174, 58 S.E. 762 (1907), the South Carolina Supreme Court defined ‘public officer’ as one who is charged by law with duties involving an exercise of some part of the sovereign power, whether small or great, in the performance of which the public is concerned, and which are continuing and are not occasional or intermittent.’ Under this definition both the office of mayor and magistrate would constitute an office within the constitutional prohibition.

Therefore, it would be the opinion of this office that a person could not simultaneously hold the position of mayor and magistrate.

Very truly yours,

Treva G. Ashworth
Assistant Attorney General

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