

1975 WL 29815 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 15, 1975

*1 The Honorable Allen R. Carter
Member
South Carolina Senate
Post Office Box 487
Charleston, South Carolina

Dear Senator Carter:

Your letter of May 9, 1975, inquires whether an individual serving as a member of the Cooper River Park and Playground Commission may also serve as a member of Parks and Recreation Board of the City of North Charleston without violating the dual officeholding provisions of the Constitution.

The Cooper River Park and Playground Commission is created by statute (Section 51-261, Code of Laws, 1962, as amended by Act No. 418 of 1973 (73 Acts 730)).

It is my opinion that members of the Cooper River Park and Playground Commission are officers within the meaning of the constitutional provision.

The Parks and Recreation Board of the City of North Charleston is created by an ordinance of the City of North Charleston (Title 24, Code of the City of North Charleston). Four of the members of the Board are appointed by the Mayor and Council of the City of North Charleston and the ordinance creating the Board provides that the seven members of the statutorily created Cooper River Park and Playground Commission shall serve as members ex officio.

The City Board is vested with general advisory powers, according to the information furnished me, and, in my opinion, those powers do not include any authority that can be characterized as an exercise of a portion of the sovereignty. In my view, the members of the City Board are not officers in the constitutional sense.

I therefore advise that, in my opinion, no dual officeholding conflict is presented by membership upon both Boards.

Even if the City Board should be assumed to possess sovereign powers and other indicia of an office, it is my opinion that the ex officio status given to members of the Cooper River Park and Playground Commission would make the dual officeholding provision inapplicable. The case cited below sustains this view.

In my opinion, no dual officeholding provision is violated by service upon the two Boards in the manner set forth above.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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