

1975 WL 28866 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 28, 1975

\*1 Mr. Robert O. Conoley  
City Attorney  
18 Beattie Place  
Greenville, S. C. 29601

Dear Mr. Conoley:

Deputy Attorney General J. C. Coleman has asked me to reply to your letter concerning the legality of the situation where municipal police officers also hold licenses as private security guards. The question thus posed breaks down to the authority these officers may have to act within and without the city limits and additionally whether such authority subjects them to the dual office holding provisions of the South Carolina Constitution.

The questions may be best answered by division into two categories:

(1) Authority Within the City—

Where a law enforcement officer acts as a private security guard within the geographical limits of the governmental entity from which he derives his power he is exempt from the operation of the South Carolina Private Detective and Private Security Agencies Act. (Section 56-646.1, *et seq.*, 1962 Code of Laws, as amended.)

Section 56-646.15 states in pertinent part:

(a) This chapter does not apply to:

(1) An officer or employee of the United States of America, or of this State or a political

If the officer accepts a commission from another city or county he would be subject to dual-office holding under S. C. Constitution, Article XVII, Section 1A. This would constitute the holding of two offices under the constitutional proscription. 1972 Op.A.G. 168, cf. [Edge v. Town of Cayce](#), 187 S.C. 171, 197 S.E. 216; 1965 Op.A.G. 100; 1966 Op.A.G. 159; 1967 Op.A.G. 147.

If the officer accepts a commission or a license under the Security Guards Act it is our opinion that he would also be in violation of Article XVII, Section 1A. Section 56-646.13 grants to the licenses the authority and powers of sheriffs to affect arrests on the property concerned. This would apparently confer the power to exercise a portion of the sovereignty within the contemplation of the rule enunciated in [Sanders v. Belue](#), 78 S.C. 171, 58 S.E. 762:

‘One who is charged by law with duties involving an exercise of some part of the sovereign power, either small or great, in the performance of which the public is concerned, and which are continuing, and not occasional or intermittent, is a public officer.’ (p. 174 of 78 S.C.).

If the officer accepts the license under the Act he would thereby subject himself to forfeiture of his first office. [Walker v. Harris](#), 170 S.C. 242, 170 S.E. 270.

I hope this will be of aid to you.

Yours truly,

Cameron B. Littlejohn, Jr.

Law Clerk

1975 WL 28866 (S.C.A.G.)

---

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.