

1975 WL 28978 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 2, 1975

*1 The positions of city councilman and state constable are both state offices and cannot both be held by the same person at the same time.

P. L. Conwell
Chief of Police
Gray Court, South Carolina

QUESTION PRESENTED:

Can an individual serve as city councilman and state constable at the same time?

STATUTES, CASES INVOLVED:

South Carolina Constitution, Article XVII, Section 2 A; [Sanders, et al., v. Belve, et al.](#), 78 S.C. 171, 58 S.E. 762; [Edge v. Town of Cayce](#), 187 S.C. 197 S.E. 216; Section 47-112 and Section 43-301; Code of Laws of South Carolina, 1962, as amended.

DISCUSSION OF ISSUE:

An individual elected to the Gray Court, South Carolina city council pursuant to S. C. Code Section 47-112, cannot also be, at the same time, a S. C. State constable under S. C. Code Section 43-301.

Article XVII, Section 1 A, of the South Carolina Constitution provides that no person shall hold two offices of honor or profit at the same time. Clearly the positions of city councilman and state constable are both public officers within the general criteria of the [Sanders](#) and [Edge](#) cases, *supra*. Those criteria are as follows:

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.

CONCLUSION:

One of the offices will have to be selected; both cannot be held at the same time by the same person in harmony with the S. C. Constitution.

George C. Beighley
Staff Attorney

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