

1974 WL 27460 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 24, 1974

**\*1 In Re: City Attorney Acting as City Recorder**

Honorable Julian Dickerson  
Mayor-Elect  
York, South Carolina

Dear Mr. Dickerson:

You have inquired whether or not a city attorney may be elected to the position of city recorder and function in both capacities.

If the position of city attorney is created by State statute or city ordinance, and the duties of the position make it an 'office', rather than mere employment, it would be violative of the dual office holding provision of the State Constitution for one person to hold both offices.

Even if not prohibited by dual office holding provisions, it is doubtful that a city attorney, who is, at least, legal advisor to the police and other personnel of the executive branch of municipal government, could establish the necessary 'judicial detachment' as a matter of law to meet requirements set forth by recent decisions of the United States Supreme Court.

Although this Office is not aware of a case directly in point, it is the opinion of this Office, based on the rationale of Coolidge v. New Hampshire, 39 LW 4795, that it would not be proper for a city attorney to act in the dual capacity of city trial judge.

Very truly yours,

Joseph C. Coleman  
Deputy Attorney General

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