

1974 S.C. Op. Atty. Gen. 297 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3873, 1974 WL 21372

Office of the Attorney General

State of South Carolina

Opinion No. 3873

October 21, 1974

*1 The Honorable Grady L. Patterson, Jr.
State Treasurer
Post Office Box 11778
Columbia, South Carolina 29211

Dear Mr. Patterson:

You have inquired as to whether the position of Assistant Adjutant General in the Air National Guard is an office within the meaning of the dual officeholding provision of the Constitution of South Carolina.

Article VI, Section 3 of the Constitution prohibits the holding of two offices of honor or profit at the same time and contains an express proviso exempting members of the militia from such dual officeholding prohibition. The proviso reads:

‘Provided, that this limitation shall not apply to officers in the militia, notaries public, or delegates to a constitutional convention.’

Section 44–6, Code of Laws for South Carolina, 1962, as amended, provides:

‘The militia of the State shall be divided into two classes, the National Guard and the unorganized militia.’

See also Section 44–21.

Membership in the National Guard is thus excluded from the dual officeholding provision and you may occupy the position of Assistant Adjutant General for Air National Guard while at the same time serving as State Treasurer without conflicting with the dual officeholding provision of the Constitution of this State.

Very truly yours,

Daniel R. McLeod
Attorney General

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