

1974 WL 27509 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 18, 1974

*1 Mr. William K. Cox
Attorney at Law
Post Office Box 244
Woodruff, South Carolina 29388

Dear Bill:

I have looked into the question of whether the City Attorney for the City of Woodruff is an officer within the meaning of the dual officeholding provision of the State Constitution. I find that Section 47-327, which is apparently applicable to Woodruff (see Section 47-325.5), and which provides:

‘Any such town council may, if in its judgment it is necessary, elect a recorder, manager, attorney, and such other officers for the town as the council may from time to time find necessary or proper to have in the administration of the affairs of the town—.’

I have looked at the transcript of the Joe Anderson case tried in 1964 where Judge Hemphill held that the County Attorney was subject to prosecution as an official of the County under [18 U.S.C.A. 242](#), although some opinions of Mr. Callison, issued in 1952, were called to his attention. I have also looked at [Darling v. Brunson, 94 S.C. 207](#), in which the Supreme Court held that the secretary of a board of health was an officer, although the point may not have been argued strenuously in that case. The statute merely prescribed that the board of health should elect a secretary who should keep the minutes of the meetings and perform other functions as the board might prescribe. See also Section 50-1 which defines ‘public officers’ and which the Court has construed not to be an exclusive definition.

The net result is that the City Attorney for Woodruff is most probably an officer in my opinion. I do not think there is any doubt but that you are an officer as a member of the Board of Trustees of the Medical University.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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