

1974 WL 27557 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 23, 1974

***1 In Re: Orangeburg Sheriff's Posse, Bond Requirements**

Honorable J. K. Westbury
Clerk of Court
County Courthouse
Orangeburg, South Carolina

Dear Mr. Westbury:

You have inquired as to whether or not a person may held the positions of 'unpaid member of the Shoriff's Hossed and Governor's Constable (without pay) at the same time, and you make the same inquiry regarding an 'unpaid member of the Sheriff's Posse' and a game warden without pay.

If the 'Orangeburg Sheriff's Posse' is created by statute and the members of such body are empowered by statute with general law enforcement authority, the peartion is an 'office' within the meaning of Article 2, Section 2, of the Constitution of South Carolina, prohibiting any person from holding 'two offices of honor or profit at the same time'. Governor's Constable (without pay) is also such an 'office'. It follows that no person may hold both positions at the same time.

When any person accepts appointment or election to a second 'office', he thereby vacates title to the first 'office'. [Walker v. Harris](#), 170 S.C. 242, 170 C.E. 270. This follows by operation of law, and possession of two commissions would not operate to void the Constitutional provision.

On the other hand, where membership in a 'sheriff's posse' is strictly honorary, *i.e.*, not pursuant to specific statute, members thereof have no police power and, therefore, hold no 'office' within the meaning of Article 2, Section 2. Such persons may constitutionally hold the position of Governor's Constable (without pay).

The foregoing applies also to the positions of 'game warden without pay' and Governor's Constable (without pay).

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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