

1973 WL 26956 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 6, 1973

***1 re: State Constable's Commission-Mr. C. Lem Harper**

Honorable J. P. Strom
Chief
South Carolina Law Enforcement Division
Post Office Box 1166
Columbia, South Carolina 29202

Dear Chief:

Thank you for your letter of October 3 concerning the issuance of a commission as Constable without compensation to Mr. C. Lem Harper.

I have been advised by Mr. Harper that he has received his commission and I had previously apprised-him as to the status of the position of non-pay Constable insofar as dual officeholding is concerned.

Whether this position constitutes an office is a matter which has not been determined by the Supreme Court of South Carolina, although we have attempted to secure such an adjudication. It is my opinion that it most probably constitutes an office, but I recognize that there is a valid legal basis for questioning this conclusion. Consequently, those persons who seek appointment as a non-pay Constable, and who occupy a previous office, should be advised of the doubtful status in which they may find themselves. If they undertake to hold both positions, they do so with full awareness of the possibility of a dual officeholding conflict.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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