

1973 WL 27001 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 13, 1973

*1 Mr. E. Delance Poston
Attorney at Law
Post Office Box 95
Johnsonville, South Carolina 29555

Dear Delance:

I am sorry that I have not heretofore answered your letter of November 30 but I have been absent from the Office during the past two weeks.

You inquire as to whether or not a Town Councilman may also serve as Magistrate's Constable in the light of the dual officeholding provision of the State Constitution.

It is my opinion that the dual officeholding provision is violated by such dual occupancy. The position of Councilman is evidently an office. A Magistrate's Constable is similarly an office rather than an employment, in my opinion. The holder of such a position exercises a portion of the sovereignty and his duties, while not defined by statute except in a limited sense, are defined by common law principles. My conclusions in this respect are based also upon the previous position taken by this Office on this issue as shown by an opinion issued in 1951 and herewith enclosed.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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