

1976 WL 30468 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 24, 1976

\*1 Representative John I. Rogers, III  
Post Office Box 47  
Bennettsville, South Carolina 29512

Dear Representative Rogers:

You have requested an opinion from this Office as to whether or not an employee of Marlboro County can continue that employment if he is elected to membership on the Marlboro County Council.

While Act No. 283 of 1975, the 'home rule' legislation, does not prohibit the practice [cf., § 47-47 of Act No. 283 prohibiting a mayor or city councilman from holding any other municipal office or municipal employment while serving his term], the South Carolina Supreme Court has repeatedly held that an individual cannot legally be placed in the position of both master and servant. In [McMahan v. Jones, 94 S.C. 362 \(1913\)](#), wherein the State Supreme Court declared that the policy of the State was to prohibit bodies charged with the administration of public duties from employing their own members, Mr. Justice Hydrick wrote:

No man in the public service should be permitted to occupy the dual role of master and servant; for as master, he would be under the temptation of exacting too little of himself, as servant; and as servant, he would be inclined to demand too little of himself, as master. There would be constant conflict between self-interest and integrity. [94 S.C. at 365](#).

See also, [Duncan v. City of Charleston, 60 S.C. 558 \(1901\)](#); [Sanders v. Belue, 78 S.C. 171 \(1907\)](#).

The opinion of this Office is, therefore, that a Marlboro County employee cannot continue that employment while he serves as a Marlboro County councilman.

With kind regards,

Karen LeCraft Henderson  
Assistant Attorney General

1976 WL 30468 (S.C.A.G.)

---

End of Document

© 2016 Thomson Reuters. No claim to original U.S. Government Works.