

1973 WL 26670 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 19, 1973

*1 Mr. William L. Fant
Attorney at Law
Post Office Box 452
Anderson, South Carolina 29621

Dear Mr. Fant:

Thank you for your letter of March 13, 1973, inquiring as to whether a city recorder may be occupying a dual officeholding capacity.

In my opinion, it is clear that even though an individual improperly serves in a dual officeholding capacity, his acts and doings in the office which is vacant in the sense that it should be filled by another are still valid unless and until his successor has been appointed or elected to that position. Even though serving in a dual officeholding capacity, he still continues as a de facto officer. This principle is recognized in [Bradford v. Byrnes](#), 221 S.C. 255, 70 S.E.2d 228, as well as [State ex rel. McLeod v. West](#), 249 S.C. 243, 153 S.E.2d 892, which dealt with the validity of actions by the General Assembly of South Carolina while it was improperly constituted.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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