

1980 S.C. Op. Atty. Gen. 55 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-27, 1980 WL 81911

Office of the Attorney General

State of South Carolina

Opinion No. 80-27

March 7, 1980

***1 In Re: Wilbur M. Sweat, Chairman Dorchester County Council [Section 8–13–410, 1976 Code](#)**

The Honorable Richard W. Riley
Governor
The State House
Columbia, South Carolina 29211

Dear Governor Riley:

On October 16, 1979, Wilbur M. Sweat, Chairman of the Dorchester County Council, was indicted by the Grand Jury of Dorchester County upon charges of misconduct in office and criminal conspiracy. I have heretofore advised you by letter dated November 1, 1979, that the offense of misconduct in office is a crime involving moral turpitude, and Mr. Sweat was thereafter suspended by you pursuant to your constitutional authority. The offense for which he was indicted was subsequently not prosseced, and on February 18, 1980, he was indicted by the Grand Jury of Dorchester County for the offense of violation of [Section 8–13–410, Code](#) of Laws, 1976. To this indictment, Mr. Sweat pled guilty on the same date. He was not suspended from office by you pursuant to this charge in that it was never directed to your attention, having arisen out of a plea bargaining arrangement.

[Section 8–13–410](#) provides:

‘No public official or public employee shall use his official position to obtain financial gain for himself.’

The term ‘moral turpitude’ is set forth in [State v. Horton, 271 S.C. 413, 248 S.E.2d 263](#), in which the Supreme Court determined that a charge of ‘hit and run’ was a crime involving moral turpitude.

In my opinion, the crime charged involves moral turpitude in that it is morally equivalent to theft or embezzlement and exhibits a disregard for the requirements of conduct imposed upon a public officer.

[Article VI, Section 8 of the Constitution of this State](#) vests in the Governor the authority to suspend from office any officer of the State (except officers of the legislative and judicial branches) who has been indicted by a grand jury for a crime involving moral turpitude. The constitutional provision provides in its concluding sentence:

‘In case of conviction, the office shall be declared vacant and the vacancy filled as may be provided by law.’

The circumstances here show that Mr. Sweat was heretofore indicted by a grand jury on charges of crimes which involved moral turpitude, and, as a result, he was suspended from office and another person appointed in his place. This indictment was not prosseced and another indictment prepared charging a crime involving moral turpitude, to which Mr. Sweat has entered a plea of guilty. No order of suspension has been entered by the Governor because of the latter indictment.

The fact that no order of suspension has been entered, but that a public officer has pled guilty of an offense involving moral turpitude, in my opinion, brings into play the last sentence of [Article VI, Section 8](#), and I advise that it is therefore appropriate that you issue an order declaring that the position of Chairman of the Dorchester County Council is vacant and directing that

the vacancy be filled as provided by law. The appropriate method of filling a vacancy on county councils is provided for in [Section 4-9-90, Code of Laws, 1976](#).

*2 In my opinion, it is not necessary that an order of suspension be issued by the Governor prior to a declaration by him of a vacancy in office following the conviction of an officeholder for a crime involving moral turpitude. The conviction of such a crime in itself is a sufficient basis for the Governor to declare the office vacant pursuant to the constitutional authority vested in him by [Article VI, Section 8 of the Constitution](#).

Very truly yours,

Daniel R. McLeod
Attorney General

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