

The State of South Carolina



Office of the Attorney General

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February 6, 1987

The Honorable George H. Bailey
Member, House of Representatives
100 Metts Street
St. George, South Carolina 29477

Dear Representative Bailey:

In a telephone call you questioned the status of two individuals presently serving as magistrates in Dorchester County, namely, Mr. Holcombe Bell and Rev. Robert Leeper.

According to the Senate Journal of the 1986 session of the General Assembly on June 19, 1986, the day the General Assembly adjourned sine die, a letter was sent by the Clerk of the Senate to former Governor Riley acknowledging the Governor's request to withdraw the appointments of Mr. Bell and Rev. Leeper as Dorchester County magistrates. However, pursuant to a letter dated June 24, 1986 to Secretary of State Campbell from former Governor Riley's Executive Assistant W. E. Deloach, it was stated that Mr. Bell and Rev. Leeper were being appointed on that day as magistrates for Dorchester County by the Governor. It was noted in the letter that confirmation by the State Senate would be required at the 1987 session of the General Assembly. I am enclosing copies of these letters for your information.

The appointments on June 24, 1986 would qualify as interim appointments by the Governor since the General Assembly had adjourned. Pursuant to Section 1-3-210 of the Code, vacant magisterial positions may be filled by the governor when the Senate is not in session. However, such provision further states that "(i)f the Senate does not advise and consent thereto at such next session, the office shall be vacant."

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I am also enclosing a copy of a prior opinion of this Office dated October 13, 1977 which details various scenarios which may occur in association with the filling of magisterial offices by interim appointments. Such would be applicable to the Dorchester County positions.

In conclusion, it appears that Mr. Holcombe and Rev. Leeper were appointed as interim magistrates by former Governor Riley. They may continue to serve in such capacities until the conclusion of the present session of the General Assembly, unless, of course, other individuals are appointed and confirmed by the Senate during the session. However, their names could be submitted to the Senate during this session for confirmation as magistrates for a full term.

If there is anything further, please advice.

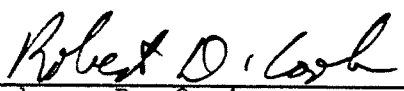
Sincerely,


Charles H. Richardson
Assistant Attorney General

CHR:lm

Enclosures

REVIEWED AND APPROVED BY:



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