

1981 S.C. Op. Atty. Gen. 93 (S.C.A.G.), 1981 S.C. Op. Atty. Gen. No. 81-70, 1981 WL 96596

Office of the Attorney General

State of South Carolina

Opinion No. 81-70

July 23, 1981

*1 Ms. Dorothy A. Manigault
Executive Assistant for Legal Affairs
Office of the Governor
Post Office Box 11450
Columbia, South Carolina 29211

Dear Ms. Manigault:

Your letter of July 21, 1981, encloses a copy of an indictment rendered against William D. Avant, Jr., of Horry County, charging him with the offense of embezzlement. The offense charged relates to the alleged embezzlement of funds entrusted by the South Carolina National Guard to Mr. Avant and the appropriation of those amounts to his own use and purpose.

In my opinion, the offense charged alleges the embezzlement of public funds to private use. Pursuant to [Article VI, Section 8, of the Constitution of this State](#), the Governor, in such event, has the mandatory duty imposed on him of suspending Mr. Avant from office and appointing one in his stead until he shall have been acquitted; in case of conviction, the position shall be declared vacant and the vacancy filled as may be provided by law.

[Article VI, Section 8](#), additionally provides that the Governor may suspend an officer indicated for an offense involving moral turpitude until such officer shall have been acquitted.

In my opinion, therefore, the Governor has the mandatory duty imposed upon him of suspending Mr. Avant from office and appointing another person to serve in his stead until he shall have been acquitted. The Governor has the additional authority under the same provision of the Constitution to suspend, in his discretion, any officer of the State, except members and officers of the legislative and judicial branches, who has been indicted by a grand jury for a crime involving moral turpitude. Under either of these constitutional provisions, the Governor is fully empowered to act in the case of Mr. Avant, but in this particular case, because of the offense alleged, the Governor has imposed upon him the mandatory duty of suspending Mr. Avant from office until he shall have been acquitted.

This identical question was the subject of an opinion directed to former Governor John C. West dated June 6, 1973, and the views expressed herein are there reflected. A copy of that opinion is enclosed herewith.

Very truly yours,

Daniel R. McLeod
Attorney General

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