

1977 S.C. Op. Atty. Gen. 253 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-320, 1977 WL 24659

Office of the Attorney General

State of South Carolina

Opinion No. 77-320

October 13, 1977

\*1 Honorable Ralph H. Ellis

State Senator

Box 235

Little River, South Carolina 29506

Dear Senator Ellis:

With regard to the procedures that may be followed in connection with the suspension of Magistrate George W. Harrelson, I advise as follows:

The Governor has suspended Magistrate Harrelson under a provision of the Constitution which provides, in part, that he shall then 'appoint one in his stead until he shall have been acquitted.'

If Judge Harrelson is acquitted, he will be automatically restored to his position; if he is convicted, the office will then become vacancy. In such event, the interim appointee will be confirmed to serve such period of time as explained in the following possible contingencies.

The Governor, in my opinion, must appoint an interim magistrate and must submit an appointment to the Senate at its next session, following a conviction.

The Governor may submit to the Senator the name of any individual he chooses, who may or may not be the individual named by him as interim magistrate, but he is bound to act during the next session of the Senate.

If the Governor should appoint John Doe as interim magistrate, submit John Doe's name to the Senate and, should the Senate reject John Doe, upon conclusion of the General Assembly, a vacancy would exist. The Governor could fill the vacancy but he could not appoint John Doe.

If the Governor should appoint John Doe as interim magistrate, but submit no name to the Senate at the next session, the office would be vacant at the end of the session. John Doe would not be eligible to appointment for such vacancy.

If the Governor should appoint John Doe and he is confirmed by the Senate, he would hold the office until the expiration of Judge Harrelson's present term.

If John Doe is appointed an interim magistrate, but Richard Roe's name is submitted to the Senate at its next session and the Senate rejects it, it is my opinion that John Doe or another person may be appointed at the end of the session to serve as interim magistrate until the next session of the Senate.

In any circumstances, the interim appointee will serve until the end of the next session unless, of course, another person has been appointed and confirmed by the Senate.

The views herein are based on consideration of the case of [State v. Bowden](#), 92 S.C. 393, and relevant statutes and constitutional provisions.

Very truly yours,

Daniel R. McLeod  
Attorney General

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