

1977 S.C. Op. Atty. Gen. 236 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-309, 1977 WL 24649

Office of the Attorney General

State of South Carolina

Opinion No. 77-309

September 30, 1977

*1 The Honorable W. Brantley Harvey, Jr.
Lieutenant Governor of South Carolina
Columbia, South Carolina 29202

Dear Lieutenant Governor Harvey:

This letter is written in confirmation of my telephone conversation with you on September 28, 1977, in which I advised you that, in my opinion, you have the authority to execute documents concerning extradition of fugitives from justice during the temporary absence of the Governor from the State. Governor Edwards is presently without the limits of the State, and was so on September 28, 1977.

The governing provision of law is contained in Article IV, Section 11, of the Constitution of South Carolina, which provides: 'In the case of the removal of the Governor from office by impeachment, death, resignation, disqualification, disability, or removal from the State, the Lieutenant Governor shall be Governor. In case the Governor be impeached, the Lieutenant Governor shall act in his stead and have his powers until judgment in the case shall have been pronounced. In the case of the temporary disability of the Governor and in the event of the temporary absence of the Governor from the State, the Lieutenant Governor shall have full authority to act in an emergency.

The pertinent portion of the last sentence of the section authorizes you to act in an emergency in the stead of the Governor during his temporary absence from the State. I believe that the early rendition of fugitives from justice is essential to the administration of criminal justice. While there are no decisions of the Supreme Court of this State construing this section of the Constitution, which was ratified in 1973, I am mindful of the fact that the same committee which framed the constitutional provision set forth above also drafted and submitted to the people for ratification the Judicial Reform Amendment of our Constitution, and I feel that the views expressed herein are consonant with the intent of those individuals who prepared the constitutional sections.

I have therefore concluded and so advised you that you have the authority to execute requests for extradition during the temporary absence of the Governor from the State.

Very truly yours,

Daniel R. McLeod
Attorney General

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