

1978 S.C. Op. Atty. Gen. No. 78-19 (S.C.A.G.), 1978 WL 34618

Office of the Attorney General

State of South Carolina

January 30, 1978

*1 The Honorable John W. Matthews, Jr.
Member
House of Representatives
Route 1
Box 159-B
Bowman, South Carolina 29018

The Honorable Earl M. Middleton
Member
House of Representatives
211 Amelia Street
Orangeburg, South Carolina 29115

Gentlemen:

I have written you previously on January 3, 1977, stating that the next General Election for the office of coroner in Orangeburg County would be held in 1979, and on January 13, 1977, I attempted to correct this error by stating that the date of the election should have been in November 1978. I regret very much that each of these dates is incorrect and that the proper date for the election of coroner in Orangeburg County is on the General Election date 1980.

The reason this was called to my attention is because of a similar inquiry from Spartanburg County, and in researching that problem, I found the letters which I had written to you. Accordingly, I am writing to set this matter straight at as early a date as possible.

The facts, as I understand them, are that the former coroner Joe A. Dickey was re-elected in the General Election of 1976 and would have succeeded himself to a term beginning on January 4, 1977, had his death not occurred. He died, however, on December 31, 1976, before he could assume office. The Governor then appointed Mr. Stroman to fill the unexpired term until the next General Election. Coroners are elected under the Constitution for a term of four years and the statute provides that:

"In the event of a vacancy in the office of coroner, the Governor may fill the office by appointment, as provided in § 4-11-20." § 17-5-50.

Section 4-11-20 provides, in pertinent part:

"In the event of a vacancy in any of the offices of any county of the State, the Governor may appoint some suitable person who—shall hold the office to which he has been appointed:

'(1) If it be an elective office, until the next general election for such office if the term of such office be fixed by the State Constitution—.' "

With respect to the office of coroner, the term of office is fixed by the Constitution at four years. As this statute is construed by the Supreme Court of South Carolina in the case cited below, the Governor cannot fill the term for less

than the term fixed by the Constitution. Consequently, the next General Election for filling the office of coroner will not be held until 1980.

A copy of an opinion directed to Spartanburg County in the same circumstances is herewith enclosed for your information.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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