

1979 WL 43501 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 6, 1979

*1 Overton G. Ganong
Deputy Director
SC Museum Commission
Post Office Box 11296
Columbia, South Carolina 29211

Dear Mr. Ganong:

This letter is in reply to the request for an opinion from Mr. Sennema, Director of the Museum Commission, in regard to whether it is necessary for the Commission to have a quorum of members in order to conduct business. If there is no statutory or other controlling provision on this point, the common law rule would apply, i.e., that no valid act can be done by a public body in the absence of a quorum. [Gaskins v. Jones](#), 198 S.C. 508, 18 S.E.2d 454 (1942). A simple majority of such a body must be present to constitute a quorum. If a quorum is present, a simple majority of the quorum is sufficient to act and bind the entire body. Id.

[Section 60-13-10 of the South Carolina Code](#) of Laws, 1976, creates the Commission and provides that it will be composed of nine (9) members who shall serve four (4) years terms and 'until successors are appointed and qualified.' A question has been raised as to whether members who have resigned, but for whom successors have not been appointed, must be counted in determining if a quorum is present. It is my opinion that since a member cannot vacate his office until his successor is appointed and qualified, members who have submitted their resignations are still members of the Commission for the purposes of determining if a quorum is present. A similar opinion was issued by the justices of the Florida Supreme Court when they opined that vacancies from death, resignation, or failure to elect cannot be deducted in determining if a quorum is present in a house of the General Assembly. Opinions of Justices, 12 Fla. 653.

If you should have any further questions in this regard, please do not hesitate to contact me.

With cordial best wishes, I am
Very truly yours,

Richard B. Kale, Jr.
Senior Assistant Attorney General

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