

1978 S.C. Op. Atty. Gen. 92 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-65, 1978 WL 22546

Office of the Attorney General

State of South Carolina

Opinion No. 78-65

March 31, 1978

\*1 The Honorable William E. Knotts, Jr.

Member

South Carolina Senate

15 West Street

Williston, South Carolina 29853

Dear Senator Knotts:

You have inquired as to the time at which the General Election may be held for the office of Sheriff of Bamberg County following the death of the late Sheriff Strickland in March 1978.

In my opinion, Section 23-11-40 is controlling as to the length of the term for which an individual appointed by the Governor to fill the vacancy created by the death of Sheriff Strickland will hold. The Secretary of State's records show that Sheriff Strickland was elected in November 1976. By the provisions of Section 23-11-10, elections for sheriffs are held in each county at the General Election in each presidential election year. The person appointed to fill the vacancy will, under the provisions of Section 23-11-40, hold office 'until the next General Election for county sheriff,' and this event will occur in 1980. The person appointed to fill the vacancy will therefore hold office until the General Election 1980.

The situation in this case is parallel to that occurring in the case of [Privette v. Grinnell](#), 191 S.C. 376, 4 S.E.2d 305. In that case, Sheriff Coker was elected at the General Election 1936 and died in 1938. Grinnell was appointed by the Governor to fill the vacancy. It was held that Grinnell was entitled to hold the office until the General Election in the year 1940 and that a purported election, held in 1938, at the time of the General Election at which Privette was elected, was of no effect. It is my conclusion that the person appointed by the Governor to fill the vacancy would hold until the General Election of 1980.

With respect to the holding of an advisory referendum to determine the wishes of a person to be voted upon by the electorate in Bamberg County, it is my opinion that such an advisory procedure can be conducted under the provisions of the Home Rule Act, which authorizes counties to conduct referenda.

With best wishes,

Cordially,

Daniel R. McLeod

Attorney General

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