

1974 WL 27196 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 21, 1974

***1 In Re: Special Deputy Commissions**

Honorable Cash F. Williams
Sheriff
Greenville County
Room 113
County Court House
Greenville, South Carolina 29601

Dear Sheriff Williams:

Your letter of February 15, 1974, addressed to Attorney General McLeod has been referred to me for reply. You request the opinion of this Office as to the legality of the issuance of a 'comitatus' type sheriff's commission.

The common law right of a sheriff to call upon the entire population of the county above the age of 15 in emergencies to keep the peace or to pursue and capture felons was referred to as posse comitatus, meaning literally 'a possibility of the body of a county'. The power of a sheriff thereunder is limited to individual emergency situations, and the police power of a person designated as a member of a so-called 'posse' expires at the end of the emergency for which he was called or designated. Ref.: Black's Law Dictionary, 4th Edition, West Publishing Company.

It is the opinion of this Office, expressed many times, that a sheriff may lawfully appoint as deputies only the regular, salaried deputies for whom provision is made in the county supply bill, plus other deputies for which specific statutory provision is made—such as deputies for industrial communities under Section 53-101, 1962 Code of Laws of South Carolina. This Office knows of no authority of a sheriff to appoint an honorary or special non-pay deputy.

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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