

1974 WL 27662 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 11, 1974

*1 The Honorable Irene K. Rudnick
Member
House of Representatives
Aiken County
Box 544
Aiken, South Carolina 29801

Dear Irene:

Thank you for your letter of February 26 concerning the resignation of a member of the Board of Commissioners, which resignation was destroyed by the other members of the Board.

It is my opinion that the resignation could have been withdrawn before its acceptance, and the resignation was apparently not accepted in this instance. It appears to me, therefore, that he is presently serving in a valid capacity. Once accepted, it could not have been withdrawn. [Jernigan v. Stickley](#), 80 S.C. 64. The same problem has come up on a number of occasions, sometimes involving withdrawal of names on an annexation petition. You may remember that Roger Scott submitted his resignation as a member of the Senate, but it was not accepted, and apparently was not tendered in earnest. The same situation occurred when Albert Watson sought to resign as a member of the United States House of Representatives, but conditioned it upon his successor having been elected. I advised Governor Russell then that the resignation must not be conditionally tendered to be effective, but that if the gentleman wished to resign, he should do so unequivocally, have his resignation accepted, and then the appropriate procedure for filling the vacancy could have been followed.

It is my opinion that this resignation could have been withdrawn, as it apparently was, prior to its acceptance.

I have received an additional inquiry with respect to the Ethics Ordinance and will advise you on that issue as soon as practicable.

I appreciate your courteous assistance on last Monday and I must apologize to Mr. Rudnick for referring to you as 'Krugman.' Your maiden name, however, popped into my mind, probably from force of habit.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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