

1980 WL 120583 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 7, 1980

***1 Re: Terms of Office for Circuit Judges**

The Honorable Heyward McDonald
Senator
Richland, Chester and Fairfield Counties
P. O. Box 142
604 Senate State Office Building
Columbia, South Carolina 29202

Dear Senator McDonald:

I was advised by a member of your staff that you desired an opinion on the above-referenced matter, if possible, prior to your committee's meeting on January 9, 1980. The question posed in your letter of December 27, 1979, was when do the terms of office commence for Circuit Judges elected prior to January 1, 1977. My legal research revealed no statute, court decision, or previous Attorney General's opinion on this precise point. Moreover, there is no uniform rule that has been applied in other jurisdictions where the commencement of the terms of office is not provided by law.

It should be noted, however, that [Section 14-5-110 of the South Carolina Code](#) of Laws, 1976, prior to the 1977 amendment, provided as follows:

The Circuit Judges of this State, upon their election, shall qualify by taking the oath required by the Constitution of this State before a justice of the Supreme Court, the President of the Senate, the Speaker of the House of Representatives, a circuit judge, a clerk of the Supreme Court, a clerk of the Court of Common Pleas or a probate judge of the county, and shall forthwith enter upon their duties. Such oath of office must be filed in the office of the Secretary of State. (Emphasis added)

Since this section provides that the circuit judge shall enter upon his duties after taking his oath, it is probable that his term of office would commence upon the date of his qualification. Mr. McLeod will not be in the office until Thursday, January 10, 1980, and I cannot issue a formal opinion until I have discussed this matter with him. Therefore, please accept this letter as an interim response to your letter of December 27, 1979.

With cordial best wishes, I am

Very truly yours,

Richard B. Kale, Jr.
Senior Assistant Attorney General

1980 WL 120583 (S.C.A.G.)