

1976 S.C. Op. Atty. Gen. 350 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4492, 1976 WL 23109

Office of the Attorney General

State of South Carolina

Opinion No. 4492

October 14, 1976

*1 The Honorable Earle Morris
Comptroller General
State of South Carolina
Wade Hampton Office Building
Columbia, South Carolina

Dear Mr. Morris:

You have requested that we advise you as to whether or not the Governor of the State of South Carolina may designate or appoint a person to sign payrolls, disbursement vouchers and all other documents relating to the normal operation of the Department of Agriculture until such time as the successor to the late Commissioner of Agriculture, William L. Harrelson, has been chosen and appointed by the Governor.

The power of appointment is not inherent. 63 AM.JUR.2d Public Officers and Employees § 91. Any power of appointment possessed by the Governor must be derived either from the Constitution or from statutes. The Governor's appointment powers exist only insofar as they have been expressly conferred either by the Constitution or the laws of the State. 38 AM.JUR.2d Governor § 5.

Inasmuch as we can find no constitutional or statutory provision expressly authorizing the Governor of South Carolina to designate a person to perform ministerial duties for a State department during a time when that department is without a department head, we do not believe that the Governor can validly appoint or designate a person to perform such duties for the Department of Agriculture.

Moreover, we do not believe that the late Commissioner's clerk [see, S. C. Code Annot. § 3-4 (1962)] can continue to act for the Commissioner. His authority terminated upon the death of his principal, the Commissioner. 64 AM.JUR.2d Public Officers and Employees § 483; cf., S. C. Code Annot. § 65-1750 (1962).

Best wishes,

C. Tolbert Goolsby, Jr.

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