

1977 WL 37312 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 15, 1977

*1 Senator Ralph Ellis
P. O. Box 235
Little River, South Carolina 29566

Dear Senator Ellis:

You have requested an opinion from this Office as to whether or not the effect of the Circuit Court order in [Booth et al. v. Grissom et al., app'l. dismissed, 217 S.E.2d 223 \(1975\)](#), has been to invalidate certain provisions of Act No. 1269 of 1974 [58 STAT. 2990 (1974)], Act No. 688 of 1973 [58 STAT. 1322 (1973)] and Act No. 690 of 1973 [58 STAT. 1323 (1973)]. The pertinent provisions of those acts involve the appointment by the Horry County Legislative Delegation, including the resident Senator, of the Horry County Tax Assessor, the Horry County Coordinator of Federal Funds and the Grand Strand Flood District Building Inspector, respectively. In my opinion, the Circuit Court order has not had such an effect.

The Circuit Court order declared, *inter alia*:

5. That the provisos contained in Act No. 1269 of the 1974 Acts and Joint Resolutions and in Section 10 of Act No. 1432 (the 1974 Supply Bill) implementing Act No. 1269 reserving for the members of the Legislative Delegation functions of powers doctrine, as enumerated in the Complaint, be, and the same hereby are, declared to be unconstitutional and invalid in violation of Section 8 of Article I of the South Carolina Constitution; but it is further ordered that the tax assessment and equalization program established pursuant to said Act No. 1269 and said Section 10 of the Supply Bill be, and the same hereby is, permitted to continue. [Emphasis added.]

A reading of the Complaint in the Booth case reveals that the only expressly challenged provisions of Act No. 1269 of 1974 (incorporated into the 1974-75 Horry County Supply Bill as Section 10 thereof) are:

- (a) a provision providing that the Horry County Legislative Delegation shall include 'all resident members of the delegation, including the resident Senators (sic)';
- (b) a provision 'that the implementation and continuation' of the program shall be 'under the authority of the legislative delegation'; and
- (c) a provision that the County Assessor shall receive such compensation as the Legislative Delegation shall determine and shall select such other personnel 'as shall be authorized by Horry County and the legislative delegation'; . . . Complaint ¶20.

Thus, the provision of Act No. 1269 of 1974 authorizing the Horry County Legislative Delegation to appoint the Horry County Tax Assessor [§ 3 of Act No. 1269] was not declared unconstitutional by the Circuit Court order. The other two acts about which you have inquired were not even involved in the Booth case so that they are likewise unaffected by that order.

As to the constitutionality of the pertinent portions of the three pieces of legislation considered apart from the Circuit Court order, I am attaching hereto a copy of an opinion addressed to Representative Charless Hodges which is addressed to that question.

With kind regards,

*2 Karen LeCraft Henderson

Assistant Attorney General

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