

1979 WL 42995 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 16, 1979

*1 Honorable Tom S. Gettys
Messrs. Gettys & McFadden
Attorneys at Law
Post Office Box 707, C.S.S.
Rock Hill, South Carolina 29730

Dear Tom:

I appreciate your sending me a copy of the Resolution adopted on March 31, 1979, by District 775 of Rotary.

In response to the Resolution, I am enclosing herewith a copy of the opinion with which it is concerned. In that opinion, I stated that the matter of individual appearances before organizations was not considered, but that its determination would be held in abeyance until an appropriate inquiry had been raised concerning the application of the statute which was adopted by the General Assembly last year. A subsequent opinion was issued to Lieutenant Governor Nancy Stevenson, and a copy of that opinion is enclosed. While the letter to the Lieutenant Governor is based on the separation of powers of our Constitution, I also note in it that:

‘Additionally, I am of the opinion that the intent and purpose of the statute are not aimed at single appearances by representatives of State agencies who appear before various bodies for the purpose of speaking on the activities of the entities which they represent. The necessity for such appearances is dictated by governmental duties and obligations which are imposed upon officers and employees within the governmental structure. This conclusion is premised also upon First Amendment rights, as well as upon discussions which I have had with the sponsors of the legislation now codified as [Section 11-9-15 of the Code](#).’

The only complaint I have with regard to the Resolution is its tenor, which apparently considers that the ruling of this Office is the basis for the prohibition against State-funded functions held at segregated places. In fact, the reason for the prohibition is the statute itself, which, in clear words, prohibits such State-funded functions of State organizations and agencies. The members of Rotary, of which I am one myself, were correct, however, in forwarding their Resolution to the President of the Senate and the Speaker of the House, as those bodies are the ones which enacted the law, and I merely construe this application in a manner which I think is legally correct.

As a Rotarian, I would urge that persons who are concerned with the statute contact their Representatives in the House and Senate and urge action by them; on the other hand, if they feel that my construction of the statute is incorrect, I will be most pleased to receive and consider any legal reasons why they may feel that it is incorrect. I must respectfully point out, however, that the effect which the statute has is something which should be directed to those who pass the law.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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