

1976 S.C. Op. Atty. Gen. 322 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4462, 1976 WL 23079

Office of the Attorney General

State of South Carolina

Opinion No. 4462

September 23, 1976

*1 G. Werber Bryan, Esquire

County Counsel

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Dear Mr. Bryan:

You have requested the opinion of this office as to whether the Sumter County governing body is empowered to redefine the territorial jurisdiction of magistrates. As you noted in your letter, this power has been exercised by the General Assembly.

The question you raise is whether such acts by the General Assembly redefining magistrates' jurisdiction in the counties amounts to special legislation prohibited by Art. VIII, § 7, of the State Constitution.

My opinion is that jurisdiction over magistrates and their functions are duties belonging to the State and the General Assembly and not to the counties. Thus, provisions affecting magistrates' jurisdiction are governed by Art. V, § 23.

Art. VIII, § 7, is designed to prevent the usurpation of county power by the General Assembly. [Knight v. Salisbury](#), 262 S.C. 565, 206 S.E.2d 875. For example, legislation regarding public schools, though wholly within one county, is not prohibited by Art. VIII, § 7, inasmuch as public education is a state function under Art. XI, § 3. [Moye v. Caughman](#), 265 S.C. 140, 217 S.E.2d 36.

Art. V, § 23, gives the General Assembly the power to set the criminal and civil jurisdictions of magistrates, and this includes authority over territorial jurisdiction. See § 43-1, 43-61, 43-62 and 43-91. See also [Holloway v. Holloway](#), 203 S.C. 339, 27 S.E.2d 457; and [Baker v. Irvine](#), 61 S.C. 114, 39 S.E.2d 252, interpreting provisions in the prior Constitution similar to the present Art. V, § 23. The General Assembly has not been mandated by any constitutional amendment to confer on county governing bodies the authority here in question.

Based on the foregoing, it is the opinion of this office that the authority over magistrates' territorial jurisdiction remains in the General Assembly.

Yours very truly,

Edward E. Poliakoff

Assistant Attorney General

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